

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

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

Sub. H. B. No. 66

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

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and to repeal Sections 59.19, 89.17, and 147 of	267
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the operation of state programs, and to repeal	272
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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 101.01. That sections 9.24, 101.68, 102.02, 102.06,	274
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5743.05, 5743.071, 5743.08, 5743.10, 5743.111, 5743.112, 5743.14, 377
5743.15, 5743.16, 5743.18, 5743.19, 5743.20, 5743.32, 5743.33, 378
5743.99, 5747.01, 5747.012, 5747.02, 5747.05, 5747.08, 5747.212, 379
5747.331, 5747.70, 5747.80, 5747.98, 5747.99, 5749.02, 5907.15, 380
5919.33, 5920.01, 6109.21, 6121.04, and 6123.04 be amended; that 381
sections 181.251 (5502.63), 181.51 (5502.61), 181.52 (5502.62), 382
181.54 (5502.64), 181.55 (5502.65), 181.56 (5502.66), 3314.031 383
(3314.21), 3314.032 (3314.22), 3314.033 (3314.23), 3314.034 384
(3314.24), 3317.21 (3318.47), 3317.22 (3318.48), 3317.23 385
(3318.49), 4115.21 (4115.16), 4723.63 (4723.91), 5101.75 (173.42), 386
5101.752 (173.43), 5111.02 (5111.021), 5111.021 (5111.022), 387
5111.022 (5111.023), 5111.023 (5111.0115), 5111.112 (5111.113), 388
5111.113 (5111.114), 5111.231 (5111.232), 5111.257 (5111.258), 389
5111.81 (5111.085), 5111.88 (5111.97), 5111.97 (5111.86), 5121.01 390
(5121.02), 5121.02 (5121.03), and 5121.03 (5121.01) be amended for 391
the purpose of adopting new section numbers as indicated in 392
parentheses; that Section 41.36 of Am. Sub. H.B. 95 of the 125th 393
General Assembly be amended and that Section 41.36 of Am. Sub. 394
H.B. 95 of the 125th General Assembly be amended for the purpose 395
of codifying it as section 3323.19 of the Revised Code; that new 396
sections 3317.012, 3353.02, 3353.03, 3704.14, 4723.63, 5111.02, 397
5111.112, 5111.231, 5111.24, 5111.257, 5111.88, and 5123.048 and 398
sections 9.23, 9.231, 9.232, 9.233, 9.234, 9.235, 9.236, 9.237, 399
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3310.17, 3311.11, 3313.6410, 3314.016, 3314.061, 3314.084,	412
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5101.93, 5101.94, 5107.301, 5111.0114, 5111.027, 5111.028,	425
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5121.55, 5123.16, 5540.032, 5703.057, 5707.031, 5709.112, 5725.32, 440
5727.031, 5727.241, 5727.812, 5729.032, 5739.012, 5739.36, 441
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5751.033, 5751.04, 5751.05, 5751.051, 5751.06, 5751.07, 5751.08, 444
5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 5751.20, 5751.21, 445
5751.22, 5751.23, 5751.31, 5751.50, 5751.51, 5751.52, 5751.53, 446
5751.98, 5751.99, 5919.31, 5919.341, 6111.30, 6111.31, and 6111.32 447
of the Revised Code be enacted to read as follows: 448

Sec. 9.23. As used in sections 9.23 to 9.239 of the Revised 449
Code: 450

(A) "Allocable nondirect costs" means the amount of nondirect 451
costs allocated as a result of actual expenditures on direct 452
costs. "Allocable nondirect costs" shall be calculated as follows: 453
direct costs actually incurred for the provision of services 454
pursuant to a contract entered into under section 9.231 of the 455
Revised Code divided by the minimum percentage of money that is to 456
be expended on the recipient's direct costs, as specified in the 457
contract, minus the direct costs actually incurred. 458

(B) "Contract payment earned" means payment pursuant to a 459
contract entered into under section 9.231 of the Revised Code for 460
direct costs actually incurred in performing the contract, up to 461
the minimum percentage of money that is to be expended on the 462
recipient's direct costs, as specified in the contract, plus 463
allocable nondirect costs associated with those direct costs. 464

(C) "Direct costs" means the costs of providing services that 465
directly benefit a patient, client, or the public and that are set 466
forth in the contract entered into under section 9.231 of the 467
Revised Code. "Direct costs" does not include the costs of any 468
financial review or audit required under section 9.234 of the 469

<u>Revised Code.</u>	470
<u>(D)(1) "Governmental entity" means a state agency or a political subdivision of the state.</u>	471 472
<u>(2) "Contracting authority" of a governmental entity means the director or chief executive officer, in the case of a state agency, or the legislative authority, in the case of a political subdivision.</u>	473 474 475 476
<u>(E) "Minimum percentage of money that is to be expended on the recipient's direct costs" means the percentage of the total amount of the contract entered into under section 9.231 of the Revised Code that, at a minimum, has to be expended on the recipient's direct costs in performing the contract in order for the recipient to earn the total amount of the contract.</u>	477 478 479 480 481 482
<u>(F) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.</u>	483 484 485 486
<u>(G) "Recipient" means a person that enters into a contract with a governmental entity under section 9.231 of the Revised Code.</u>	487 488 489
<u>(H) "State agency" means any organized body, office, agency, institution, or other entity established by the laws of the state for the exercise of any function of state government.</u>	490 491 492
<u>(I) A judgment is "uncollectible" if, at least ninety days after the judgment is obtained, the full amount of the judgment has not been collected and either a settlement agreement between the governmental entity and the recipient has not been entered into or a settlement agreement has been entered into but has not been materially complied with.</u>	493 494 495 496 497 498
<u>Sec. 9.231. (A)(1) Subject to divisions (A)(2) and (3) of</u>	499

this section, a governmental entity shall not disburse money 500
totaling twenty-five thousand dollars or more to any person for 501
the provision of services for the primary benefit of individuals 502
or the public and not for the primary benefit of a governmental 503
entity or the employees of a governmental entity, unless the 504
contracting authority of the governmental entity first enters into 505
a written contract with the person that is signed by the person or 506
by an officer or agent of the person authorized to legally bind 507
the person and that embodies all of the requirements and 508
conditions set forth in sections 9.23 to 9.236 of the Revised 509
Code. If the disbursement of money occurs over the course of a 510
governmental entity's fiscal year, rather than in a lump sum, the 511
contracting authority of the governmental entity shall enter into 512
the written contract with the person at the point during the 513
governmental entity's fiscal year that at least seventy-five 514
thousand dollars has been disbursed by the governmental entity to 515
the person. Thereafter, the contracting authority of the 516
governmental entity shall enter into the written contract with the 517
person at the beginning of the governmental entity's fiscal year, 518
if, during the immediately preceding fiscal year, the governmental 519
entity disbursed to that person an aggregate amount totaling at 520
least seventy-five thousand dollars. 521

(2) If the money referred to in division (A)(1) of this 522
section is disbursed by or through more than one state agency to 523
the person for the provision of services to the same population, 524
the contracting authorities of those agencies shall determine 525
which one of them will enter into the written contract with the 526
person. 527

(3) The requirements and conditions set forth in divisions 528
(A), (B), (C), and (F) of section 9.232, divisions (A)(1) and (2) 529
of section 9.234, divisions (A)(2) and (B) of section 9.235, and 530
sections 9.233 and 9.236 of the Revised Code do not apply with 531

respect to the following: 532

(a) Contracts to which all of the following apply: 533

(i) The amount received for the services is a set fee for 534
each time the services are provided, is determined in accordance 535
with a fixed rate per unit of time or per service, or is a 536
capitated rate, and the fee or rate is established by competitive 537
bidding or by a market rate survey of similar services provided in 538
a defined market area. The market rate survey may be one conducted 539
by or on behalf of the governmental entity or an independent 540
survey accepted by the governmental entity as statistically valid 541
and reliable. 542

(ii) The services are provided in accordance with standards 543
established by state or federal law, or by rules or regulations 544
adopted thereunder, for their delivery, which standards are 545
enforced by the federal government, a governmental entity, or an 546
accrediting organization recognized by the federal government or a 547
governmental entity. 548

(iii) Payment for the services is made after the services are 549
delivered and upon submission to the governmental entity of an 550
invoice or other claim for payment as required by any applicable 551
local, state, or federal law or, if no such law applies, by the 552
terms of the contract. 553

(b) Contracts under which the services are reimbursed through 554
or in a manner consistent with a federal program that meets all of 555
the following requirements: 556

(i) The program calculates the reimbursement rate on the 557
basis of the previous year's experience or in accordance with an 558
alternative method set forth in rules adopted by the Ohio 559
department of job and family services. 560

(ii) The reimbursement rate is derived from a breakdown of 561

direct and indirect costs. 562

(iii) The program's guidelines describe types of expenditures that are allowable and not allowable under the program and delineate which costs are acceptable as direct costs for purposes of calculating the reimbursement rate. 563
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(iv) The program includes a uniform cost reporting system with specific audit requirements. 567
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(c) Contracts under which the services are reimbursed through or in a manner consistent with a federal program that calculates the reimbursement rate on a fee for service basis in compliance with United States office of management and budget Circular A-87, as revised May 10, 2004. 569
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(d) Contracts for medicaid-funded services, other than the services described in division (B)(2)(b) of this section, that are authorized by rules adopted by the department of job and family services. 574
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(e) Contracts for services that are paid pursuant to the earmarking of an appropriation made by the general assembly for that purpose. 578
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(B) Division (A) of this section does not apply if the money is transferred to a person pursuant to a contract with the United States or a governmental entity under any of the following circumstances: 581
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(1) The person receives the money directly or indirectly from the United States, and no governmental entity exercises any oversight or control over the use of the money. 585
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587

(2) The person receives the money solely in return for the performance of one or more of the following types of services: 588
589

(a) Medical, therapeutic, or other health-related services provided by a person if the amount received is a set fee for each 590
591

time the person provides the services, is determined in accordance 592
with a fixed rate per unit of time, or is a capitated rate, and 593
the fee or rate is reasonable and customary in the person's trade 594
or profession; 595

(b) Medicaid-funded services provided by a nursing home, 596
hospital, or intermediate care facility for the mentally retarded 597
for which payment is calculated on the basis of the person's cost 598
of providing the services. For purposes of division (B)(2)(b) of 599
this section, "medicaid" has the same meaning as in section 600
5111.01 of the Revised Code; "nursing home" means a nursing home 601
or home for the aging, as those terms are defined in section 602
3721.01 of the Revised Code, that is issued a license pursuant to 603
section 3721.02 of the Revised Code; "hospital" means a facility 604
that meets the operating standards of section 3727.02 of the 605
Revised Code; and "intermediate care facility for the mentally 606
retarded" has the same meaning as in section 5111.20 of the 607
Revised Code. 608

(c) Services, other than administrative or management 609
services or any of the services described in division (B)(2)(a) or 610
(b) of this section, that are commonly purchased by the public at 611
an hourly rate or at a set fee for each time the services are 612
provided, unless the services are performed for the benefit of 613
children, persons who are eligible for the services by reason of 614
advanced age, medical condition, or financial need, or persons who 615
are confined in a detention facility as defined in section 2921.01 616
of the Revised Code, and the services are intended to help promote 617
the health, safety, or welfare of those children or persons; 618

(d) Educational services provided by a school to children 619
eligible to attend that school. For purposes of division (B)(2)(d) 620
of this section, "school" means any school operated by a school 621
district board of education, any community school established 622
under Chapter 3314. of the Revised Code, or any nonpublic school 623

for which the state board of education prescribes minimum 624
education standards under section 3301.07 of the Revised Code. 625

(e) Services provided by a foster home as defined in section 626
5103.02 of the Revised Code; 627

(f) "Routine business services other than administrative or 628
management services," as that term is defined by the attorney 629
general by rule adopted in accordance with Chapter 119. of the 630
Revised Code; 631

(g) Services to protect the environment or promote 632
environmental education that are provided by a nonprofit entity or 633
services to protect the environment that are funded with federal 634
grants or revolving loan funds and administered in accordance with 635
federal law. 636

(3) The person receives the money solely in return for the 637
performance of services intended to help preserve public health or 638
safety under circumstances requiring immediate action as a result 639
of a natural or man-made emergency. 640

(C) With respect to a nonprofit association, corporation, or 641
organization established for the purpose of providing educational, 642
technical, consulting, training, financial, or other services to 643
its members in exchange for membership dues and other fees, any of 644
the services provided to a member that is a governmental entity 645
shall, for purposes of this section, be considered services "for 646
the primary benefit of a governmental entity or the employees of a 647
governmental entity." 648

Sec. 9.232. A contract entered into under section 9.231 of 649
the Revised Code shall, at a minimum, set forth all of the 650
following: 651

(A) The minimum percentage of money that is to be expended on 652
the recipient's direct costs; 653

(B) The records that a recipient must maintain to document 654
direct costs; 655

(C) If some of the recipient's obligations under the contract 656
involve the performance of any of the types of services described 657
in division (B)(2)(a), (c), or (f) of section 9.231 of the Revised 658
Code, the name and telephone number of the individual designated 659
by the governmental entity as the contact for obtaining approval 660
of contract amounts for purposes of division (A)(2)(a)(ii) of 661
section 9.235 of the Revised Code; 662

(D) The financial review and audit requirements established 663
under section 9.234 of the Revised Code and by rules of the 664
auditor of state adopted under section 9.238 of the Revised Code 665
or, with respect to any contract described in division (A)(3) of 666
section 9.231 of the Revised Code, the financial review or audit 667
requirements established for purposes of that contract; 668

(E) The provisions established by rules of the attorney 669
general adopted under section 9.237 of the Revised Code; 670

(F) Permissible dispositions of money received by a recipient 671
in excess of the contract payment earned, if the excess is not to 672
be repaid to the governmental entity. 673

Sec. 9.233. (A) A recipient shall be entitled to the contract 674
payment earned. In no event shall a recipient be entitled to more 675
than the contract payment earned. A recipient shall repay any 676
money received in excess of the contract payment earned to the 677
governmental entity or, if a different disposition is provided for 678
in the recipient's contract with the governmental entity, dispose 679
of that money in accordance with the terms of the contract. 680

(B) In order to determine the contract payment earned, all 681
financial books and records open to inspection pursuant to section 682
9.235 of the Revised Code shall be held to standards consistent 683

with generally accepted accounting principles.

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Sec. 9.234. (A) Unless otherwise explicitly provided in the
Revised Code, a recipient shall do all of the following:

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(1) With respect to any money received prior to the
performance of the recipient's obligations under the contract
entered into under section 9.231 of the Revised Code, and any
money received in excess of the contract payment earned, keep
current and accurate records of the receipt and use of the money
in a manner consistent with the contract;

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(2) With respect to any money received after the recipient
has performed its obligations under the contract entered into
under section 9.231 of the Revised Code, keep current and accurate
records of the recipient's expenditures on direct costs;

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(3) Annually provide the contracting authority of the
governmental entity with a report that includes both of the
following:

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(a) An audit report or financial review, if a financial audit
or review is required by the applicable state or federal grant
program; an audit report, if a financial audit is required by
division (B)(3) of this section; a financial review, if a
financial review is required by division (B)(2) of this section; a
financial review, if a financial review is required by division
(B)(1) of this section and is not waived; or financial statements,
major categories of expenditure of the money, and a summary of the
activities for which the recipient used the money;

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(b) Any other information that may be required by the
contract.

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(B) If a financial audit or review is not otherwise required
with respect to a contract, the following apply:

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(1) A recipient that, pursuant to one or more contracts

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entered into under section 9.231 of the Revised Code, receives 714
money totaling at least one hundred thousand dollars but less than 715
three hundred thousand dollars in any fiscal year shall have a 716
financial review performed for each fiscal year in which it 717
receives that amount of money in accordance with the financial 718
review standards of the American institute of certified public 719
accountants. The financial review shall be performed by an 720
independent public accounting firm. The financial review contract 721
between the recipient and the firm shall provide that the state is 722
an intended third-party beneficiary of the contract. 723

This financial review requirement may be waived, however, if 724
the contracting authority of each governmental entity from which 725
the recipient received money that fiscal year pursuant to a 726
contract entered into under section 9.231 of the Revised Code 727
agrees to the waiver. 728

(2) A recipient that, pursuant to one or more contracts 729
entered into under section 9.231 of the Revised Code, receives 730
money totaling at least three hundred thousand dollars but less 731
than five hundred thousand dollars in any fiscal year shall have a 732
financial review performed for each fiscal year in which it 733
receives that amount of money in accordance with the financial 734
review standards of the American institute of certified public 735
accountants. The financial review shall be performed by an 736
independent public accounting firm. The financial review contract 737
between the recipient and the firm shall provide that the state is 738
an intended third-party beneficiary of the contract. 739

(3) A recipient that, pursuant to one or more contracts 740
entered into under section 9.231 of the Revised Code, receives 741
money totaling five hundred thousand dollars or more in any fiscal 742
year shall have a financial audit performed for each fiscal year 743
in which it receives that amount of money according to generally 744
accepted auditing standards by an independent public accounting 745

firm. The audit contract between the recipient and the firm shall 746
provide that the state is an intended third-party beneficiary of 747
the contract. The audit shall comply with rules adopted by the 748
auditor of state under section 9.238 of the Revised Code. An audit 749
performed pursuant to the federal "Single Audit Act of 1984," 98 750
Stat. 2327, 31 U.S.C. 7501 et seq., as amended, is sufficient if 751
the state is an intended third-party beneficiary of the audit 752
contract. 753

(C)(1) An audit conducted by the auditor of state pursuant to 754
any other provision of the Revised Code is sufficient for purposes 755
of division (B) of this section. 756

(2) The references in division (B) of this section to fiscal 757
year mean the recipient's fiscal year. 758

(D) Nothing in this section shall be construed to limit in 759
any way the authority of the auditor of state to conduct audits 760
pursuant to any other provision of the Revised Code. 761

Sec. 9.235. (A)(1) Subject to division (A)(2) of this 762
section, the financial books and records of a recipient, and the 763
financial books and records of any person with which the recipient 764
contracts for the performance of the recipient's obligations under 765
the recipient's contract with the governmental entity, shall be 766
open to inspection by the governmental entity and by the state 767
from the time the recipient first applies for payment under the 768
contract. If the recipient is paid before the performance of its 769
obligations under the contract, the financial books and records of 770
the recipient and of any person with which the recipient contracts 771
for the performance of the recipient's obligations shall be open 772
to inspection from the first anniversary of the payment or from 773
any earlier date that the contract may provide. 774

(2) Division (A)(1) of this section does not apply to any 775

person that contracts with the recipient solely for the 776
performance of some of the recipient's obligations under the 777
recipient's contract with the governmental entity that directly 778
benefit the recipient's patients or clients, if either of the 779
following applies: 780

(a) The services provided by the person are any of the types 781
of services described in division (B)(2)(a), (c), or (f) of 782
section 9.231 of the Revised Code and the full amount of the 783
person's contract constitutes direct costs for the recipient and 784
is reasonable and customary in the person's trade or profession. 785
For purposes of division (A)(2)(a) of this section, the amount of 786
the person's contract with the recipient shall be considered 787
"reasonable and customary in the person's trade or profession" if 788
any of the following applies: 789

(i) The amount is equal to or less than the maximum amount 790
for those services specified in the recipient's contract with the 791
governmental entity. 792

(ii) The amount was approved by the governmental entity after 793
the recipient entered into the contract with the governmental 794
entity. 795

(iii) A maximum amount for those services was specified in 796
the recipient's contract with the governmental entity, the 797
recipient's original contract with a person for the performance of 798
those services was subsequently canceled or otherwise unfulfilled, 799
the recipient entered into a replacement contract with another 800
person, and the amount of that contract is not more than 801
twenty-five per cent above the maximum amount for the services 802
specified in the recipient's contract with the governmental 803
entity. 804

(b) The services provided by the person are any of the types 805
of services described in division (B)(2)(b), (d), or (e) of 806

section 9.231 of the Revised Code.

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(B)(1) Subject to division (B)(2) of this section, if a recipient contracts with another person for the performance of some or all of the recipient's obligations under the recipient's contract with the governmental entity, the recipient shall be entitled to claim spending by the other person as direct costs only to the extent the other person has spent money on direct costs in the performance of the recipient's obligations and only if the other person complies with all of the terms and conditions relating to the performance that the recipient is required to comply with under the contract with the governmental entity.

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(2) The conditions set forth in division (B)(1) of this section do not apply with respect to any person described in division (A)(2) of this section.

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(C)(1) Nothing in this section shall be construed as making any record of the receipt or expenditure of nonpublic money a public record for purposes of section 149.43 of the Revised Code.

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(2) Division (C)(1) of this section does not limit in any way the authority of the auditor of state to conduct audits or other investigations when public money is commingled with nonpublic money.

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Sec. 9.236. (A) A recipient is liable to repay to the governmental entity any money received in excess of the contract payment earned.

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(B)(1) A governmental entity may bring a civil action for the recovery of money due to the governmental entity from a recipient under division (A) of this section. In such an action, any person with which the recipient has contracted for the performance of the recipient's material obligations to a group of beneficiaries under the recipient's contract with the governmental entity may be made

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a party defendant if the person is unable to demonstrate to the 837
satisfaction of the governmental entity that the person has 838
materially complied with the terms of the contract with the 839
recipient. In such a case, the person may be made a party 840
defendant and the governmental entity may obtain a judgment 841
against the person in accordance with division (B)(2) of this 842
section. 843

(2) If a governmental entity obtains a judgment against a 844
recipient in a civil action brought under division (B)(1) of this 845
section and the judgment is uncollectible, the governmental entity 846
may recover from the person with which the recipient contracted an 847
amount not exceeding the lesser of the following: 848

(a) The unsatisfied amount of the judgment; 849

(b) The total amount received by the person from the 850
recipient minus the total amount spent by the person on direct 851
costs for services actually performed and retained by the person 852
as allocable nondirect costs associated with those direct costs. 853

(C) If a governmental entity, pursuant to this section, 854
obtains a judgment against a recipient or against a person with 855
which the recipient contracted and that judgment debtor does not 856
voluntarily pay the amount of the judgment, that judgment debtor 857
shall be precluded from contracting with a governmental entity to 858
the extent provided in divisions (A) and (B) of section 9.24 of 859
the Revised Code for a debtor against whom a finding of recovery 860
has been issued. 861

(D) In addition to other remedies provided in divisions (A) 862
to (C) of this section, a governmental entity may void a contract 863
between a recipient and another person for the performance by the 864
other person of the recipient's obligations under the recipient's 865
contract with the governmental entity to the extent that the other 866
person has not yet performed its obligations under the contract or 867

cannot demonstrate that the money it received was expended on 868
direct costs or retained as allocable nondirect costs. 869

(E) If a recipient is liable to repay money to a governmental 870
entity under this section and the judgment obtained by the 871
governmental entity against the recipient is uncollectible, then 872
in addition to other remedies provided in divisions (A) to (C) of 873
this section, and after the governmental entity has obtained a 874
judgment against any necessary third party, the governmental 875
entity may void any of the following contracts: 876

(1) A contract made not more than one hundred eighty days 877
before the judgment against the recipient became uncollectible 878
between the recipient and a director, trustee, or officer of the 879
recipient or a business in which a director, trustee, or officer 880
of the recipient has a material financial interest, if either of 881
the following applies: 882

(a) The recipient has paid substantial value for property 883
received and the property can be returned to the other person. If 884
the property has experienced only normal wear and tear, the person 885
shall be liable to the governmental entity for the full amount the 886
recipient paid for the property. Otherwise, the person shall be 887
liable to the governmental entity only for the market value of the 888
property. 889

(b) The person with which the recipient contracted has 890
received money that the recipient obtained pursuant to the 891
contract with the governmental entity and the money was not 892
expended on direct costs or retained as allocable nondirect costs. 893
In such a case, the governmental entity may void the contract to 894
the extent the money was not expended on direct costs or retained 895
as allocable nondirect costs, and the person shall be liable to 896
the governmental entity for that amount. 897

(2) A contract made not more than one hundred eighty days 898

before the judgment against the recipient became uncollectible 899
between the recipient and an employee of the recipient or a 900
business in which an employee of the recipient has a material 901
financial interest, if the employee has direct knowledge of the 902
use of the money that the recipient obtained pursuant to the 903
contract with the governmental entity and either division 904
(E)(1)(a) or (b) of this section applies; 905

(3) A contract between the recipient and another person 906
pursuant to which the recipient has paid or agreed to pay money to 907
the other person, to the extent that the other person has not yet 908
performed its obligations under the contract; 909

(4) A contract made not more than one year before the 910
judgment against the recipient became uncollectible between the 911
recipient and a person other than the governmental entity if the 912
other person has not given or agreed to give consideration of 913
reasonable and substantial value for the consideration given by 914
the recipient. 915

Sec. 9.237. The attorney general shall adopt rules in 916
accordance with Chapter 119. of the Revised Code governing the 917
terms of any contract entered into under section 9.231 of the 918
Revised Code. The rules shall set forth all of the following: 919

(A) A definition of permissible components of direct costs, 920
including a list of expenditures that may never be included in 921
direct costs and a nonexclusive list of expenditures that may be 922
included in direct costs pursuant to agreement of the parties; 923

(B) Permissible methods by which a recipient may keep records 924
documenting direct costs and how long those records must be 925
retained; 926

(C) Remedies not inconsistent with section 9.236 of the 927
Revised Code in the event of a breach of the contract; 928

(D) Terms to be included in contracts between recipients and persons other than the governmental entity, including the notice of the remedies available to the governmental entity if the money under the contract with the governmental entity is not expended on direct costs or retained as allocable nondirect costs or, with respect to any contract described in division (A)(3) of section 9.231 of the Revised Code, is not earned under the terms of the contract with the governmental entity; 929
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(E) Any other provisions that the attorney general considers necessary to carry out the purposes of sections 9.23 to 9.236 of the Revised Code. 937
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Sec. 9.238. (A) The auditor of state shall prescribe a single form of the financial reviews required by divisions (B)(1) and (2) of section 9.234 of the Revised Code to be used for all governmental entities. 940
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(B) The auditor of state may adopt rules in accordance with Chapter 119. of the Revised Code governing the form and content of the audit reports required by division (B)(3) of section 9.234 of the Revised Code and may prescribe a single form of the report to be used for all governmental entities. Upon request made by a recipient, the auditor of state shall, to the extent possible, require all governmental entities that have entered into a contract with that recipient under section 9.231 of the Revised Code to accept a particular audit report. 944
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Sec. 9.239. (A) There is hereby created the government contracting advisory council. The attorney general and auditor of state shall consult with the council on the performance of their rule-making functions under sections 9.237 and 9.238 of the Revised Code and shall consider any recommendations of the council. The director of job and family services shall annually 953
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<u>report to the council the cost methodology of the medicaid-funded</u>	959
<u>services described in division (A)(3)(d) of section 9.231 of the</u>	960
<u>Revised Code. The council shall consist of the following members</u>	961
<u>or their designees:</u>	962
<u>(1) The attorney general;</u>	963
<u>(2) The auditor of state;</u>	964
<u>(3) The director of administrative services;</u>	965
<u>(4) The director of aging;</u>	966
<u>(5) The director of alcohol and drug addiction services;</u>	967
<u>(6) The director of budget and management;</u>	968
<u>(7) The director of development;</u>	969
<u>(8) The director of job and family services;</u>	970
<u>(9) The director of mental health;</u>	971
<u>(10) The director of mental retardation and developmental</u>	972
<u>disabilities;</u>	973
<u>(11) The director of rehabilitation and correction;</u>	974
<u>(12) The administrator of workers' compensation;</u>	975
<u>(13) The executive director of the county commissioners'</u>	976
<u>association of Ohio;</u>	977
<u>(14) The president of the Ohio grantmakers forum;</u>	978
<u>(15) The president of the Ohio chamber of commerce;</u>	979
<u>(16) The president of the Ohio state bar association;</u>	980
<u>(17) The president of the Ohio society of certified public</u>	981
<u>accountants;</u>	982
<u>(18) The executive director of the Ohio association of</u>	983
<u>nonprofit organizations;</u>	984
<u>(19) The president of the Ohio united way;</u>	985

<u>(20) One additional member appointed by the attorney general;</u>	986
<u>(21) One additional member appointed by the auditor of state.</u>	987
<u>(B) If an agency or organization represented on the council</u>	988
<u>ceases to exist in the form it has on the effective date of this</u>	989
<u>section, the successor agency or organization shall be represented</u>	990
<u>in its place. If there is no successor agency or organization, or</u>	991
<u>if it is not clear what agency or organization is the successor,</u>	992
<u>the attorney general shall designate an agency or organization to</u>	993
<u>be represented in place of the agency or organization originally</u>	994
<u>represented on the council.</u>	995
<u>(C) The two members appointed to the council shall serve</u>	996
<u>three-year terms. Original appointments shall be made not later</u>	997
<u>than sixty days after the effective date of this section.</u>	998
<u>Vacancies on the council shall be filled in the same manner as the</u>	999
<u>original appointment.</u>	1000
<u>(D) The attorney general or the attorney general's designee</u>	1001
<u>shall be the chairperson of the council. The council shall meet at</u>	1002
<u>least once every two years to review the rules adopted under</u>	1003
<u>sections 9.237 and 9.238 of the Revised Code and to make</u>	1004
<u>recommendations to the attorney general and auditor of state</u>	1005
<u>regarding the adoption, amendment, or repeal of those rules. The</u>	1006
<u>council shall also meet at other times as requested by the</u>	1007
<u>attorney general or auditor of state.</u>	1008
<u>(E) Members of the council shall serve without compensation</u>	1009
<u>or reimbursement.</u>	1010
<u>(F) The office of the attorney general shall provide</u>	1011
<u>necessary staff, facilities, supplies, and services to the</u>	1012
<u>council.</u>	1013
<u>(G) Sections 101.82 to 101.87 of the Revised Code do not</u>	1014
<u>apply to the council.</u>	1015

Sec. 9.24. (A) Except as may be allowed under division (F) of 1016
this section, no state agency and no political subdivision shall 1017
award a contract as described in division (G)(1) of this section 1018
for goods, services, or construction, paid for in whole or in part 1019
with state funds, to a person against whom a finding for recovery 1020
has been issued by the auditor of state on and after January 1, 1021
2001, if the finding for recovery is unresolved. 1022

A contract is considered to be awarded when it is entered 1023
into or executed, irrespective of whether the parties to the 1024
contract have exchanged any money. 1025

(B) For purposes of this section, a finding for recovery is 1026
unresolved unless one of the following criteria applies: 1027

(1) The money identified in the finding for recovery is paid 1028
in full to the state agency or political subdivision to whom the 1029
money was owed; 1030

(2) The debtor has entered into a repayment plan that is 1031
approved by the attorney general and the state agency or political 1032
subdivision to whom the money identified in the finding for 1033
recovery is owed. A repayment plan may include a provision 1034
permitting a state agency or political subdivision to withhold 1035
payment to a debtor for goods, services, or construction provided 1036
to or for the state agency or political subdivision pursuant to a 1037
contract that is entered into with the debtor after the date the 1038
finding for recovery was issued. 1039

(3) The attorney general waives a repayment plan described in 1040
division (B)(2) of this section for good cause; 1041

(4) The debtor and state agency or political subdivision to 1042
whom the money identified in the finding for recovery is owed have 1043
agreed to a payment plan established through an enforceable 1044
settlement agreement. 1045

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

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

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

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

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

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

(D) The auditor of state shall maintain a database, accessible to the public, listing persons against whom an unresolved finding for recovery has been issued, and the amount of the money identified in the unresolved finding for recovery. The auditor of state shall have this database operational on or before

January 1, 2004. The initial database shall contain the 1077
information required under this division for calendar years 2001, 1078
2002, and 2003. 1079

Beginning January 15, 2004, the auditor of state shall update 1080
the database by the fifteenth day of every January, April, July, 1081
and October to reflect resolved findings for recovery that are 1082
reported to the auditor of state by the attorney general on the 1083
first day of the same month pursuant to division (C) of this 1084
section. 1085

(E) Before awarding a contract as described in division 1086
(G)(1) of this section for goods, services, or construction, paid 1087
for in whole or in part with state funds, a state agency or 1088
political subdivision shall verify that the person to whom the 1089
state agency or political subdivision plans to award the contract 1090
has no unresolved finding for recovery issued against the person. 1091
A state agency or political subdivision shall verify that the 1092
person does not appear in the database described in division (D) 1093
of this section or shall obtain other proof that the person has no 1094
unresolved finding for recovery issued against the person. 1095

(F) The prohibition of division (A) of this section and the 1096
requirement of division (E) of this section do not apply with 1097
respect to the companies or agreements described in divisions 1098
(F)(1) and (2) of this section, or in the circumstance described 1099
in division (F)(3) of this section. 1100

(1) A bonding company or a company authorized to transact the 1101
business of insurance in this state, a self-insurance pool, joint 1102
self-insurance pool, risk management program, or joint risk 1103
management program, unless a court has entered a final judgment 1104
against the company and the company has not yet satisfied the 1105
final judgment. 1106

(2) To medicaid provider agreements under Chapter 5111. of 1107

the Revised Code ~~or payments or provider agreements under~~ 1108
~~disability assistance medical assistance established under Chapter~~ 1109
~~5115. of the Revised Code.~~ 1110

(3) When federal law dictates that a specified entity provide 1111
the goods, services, or construction for which a contract is being 1112
awarded, regardless of whether that entity would otherwise be 1113
prohibited from entering into the contract pursuant to this 1114
section. 1115

(G)(1) This section applies only to contracts for goods, 1116
services, or construction that satisfy the criteria in either 1117
division (G)(1)(a) or (b) of this ~~division~~ section. This section 1118
may apply to contracts for goods, services, or construction that 1119
satisfy the criteria in division (G)(1)(c) of this section, 1120
provided that the contracts also satisfy the criteria in either 1121
division (G)(1)(a) or (b) of this ~~division~~ section. 1122

(a) The cost for the goods, services, or construction 1123
provided under the contract is estimated to exceed twenty-five 1124
thousand dollars. 1125

(b) The aggregate cost for the goods, services, or 1126
construction provided under multiple contracts entered into by the 1127
particular state agency and a single person or the particular 1128
political subdivision and a single person within the fiscal year 1129
preceding the fiscal year within which a contract is being entered 1130
into by that same state agency and the same single person or the 1131
same political subdivision and the same single person, exceeded 1132
fifty thousand dollars. 1133

(c) The contract is a renewal of a contract previously 1134
entered into and renewed pursuant to that preceding contract. 1135

(2) This section does not apply to employment contracts. 1136

(H) As used in this section: 1137

(1) "State agency" has the same meaning as in section 9.66 of the Revised Code. 1138
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(2) "Political subdivision" means a political subdivision as defined in section 9.82 of the Revised Code that has received more than fifty thousand dollars of state money in the current fiscal year or the preceding fiscal year. 1140
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(3) "Finding for recovery" means a determination issued by the auditor of state, contained in a report the auditor of state gives to the attorney general pursuant to section 117.28 of the Revised Code, that public money has been illegally expended, public money has been collected but not been accounted for, public money is due but has not been collected, or public property has been converted or misappropriated. 1144
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(4) "Debtor" means a person against whom a finding for recovery has been issued. 1151
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(5) "Person" means the person named in the finding for recovery. 1153
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(6) "State money" does not include funds the state receives from another source and passes through to a political subdivision. 1155
1156

Sec. 9.241. (A) As used in this section: 1157

(1) "Governmental entity" and "a judgment is uncollectible" have the same meanings as in section 9.23 of the Revised Code. 1158
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(2) "Recipient" means a person that enters into or is awarded a contract with a governmental entity for the provision of goods, services, or construction. 1160
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(B) A recipient is liable to repay to the governmental entity any money received but not earned under the terms of the contract with the governmental entity. 1163
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1165

(C)(1) A governmental entity may bring a civil action for the 1166

recovery of money due to the governmental entity from a recipient 1167
under division (B) of this section. In such an action, any person 1168
with which the recipient has contracted for the performance of the 1169
recipient's material obligations under the recipient's contract 1170
with the governmental entity may be made a party defendant if the 1171
person is unable to demonstrate to the satisfaction of the 1172
governmental entity that the person has materially complied with 1173
the terms of the contract with the recipient. In such a case, the 1174
person may be made a party defendant and the governmental entity 1175
may obtain a judgment against the person in accordance with 1176
division (C)(2) of this section. 1177

(2) If a governmental entity obtains a judgment against a 1178
recipient in a civil action brought under division (C)(1) of this 1179
section and the judgment is uncollectible, the governmental entity 1180
may recover from the person with which the recipient contracted an 1181
amount not exceeding the lesser of the following: 1182

(a) The unsatisfied amount of the judgment; 1183

(b) The total amount received by the person from the 1184
recipient minus the total amount earned by the person under the 1185
terms of the recipient's contract with the governmental entity. 1186

(D) If a governmental entity, pursuant to this section, 1187
obtains a judgment against a recipient or against a person with 1188
which the recipient contracted and that judgment debtor does not 1189
voluntarily pay the amount of the judgment, that judgment debtor 1190
shall be precluded from contracting with a governmental entity to 1191
the extent provided in divisions (A) and (B) of section 9.24 of 1192
the Revised Code for a debtor against whom a finding of recovery 1193
has been issued. 1194

(E) In addition to other remedies provided in divisions (B) 1195
to (D) of this section, a governmental entity may void a contract 1196
between a recipient and another person for the performance by the 1197

other person of the recipient's obligations under the recipient's 1198
contract with the governmental entity to the extent that the other 1199
person has not yet performed its obligations under the contract. 1200

(F) If a recipient is liable to repay money to a governmental 1201
entity under this section and the judgment obtained by the 1202
governmental entity against the recipient is uncollectible, then 1203
in addition to other remedies provided in divisions (B) to (D) of 1204
this section, and after the governmental entity has obtained a 1205
judgment against any necessary third party, the governmental 1206
entity may void any of the following contracts: 1207

(1) A contract made not more than one hundred eighty days 1208
before the judgment against the recipient became uncollectible 1209
between the recipient and a director, trustee, or officer of the 1210
recipient or a business in which a director, trustee, or officer 1211
of the recipient has a material financial interest, if either of 1212
the following applies: 1213

(a) The recipient has paid substantial value for property 1214
received and the property can be returned to the other person. If 1215
the property has experienced only normal wear and tear, the person 1216
shall be liable to the governmental entity for the full amount the 1217
recipient paid for the property. Otherwise, the person shall be 1218
liable to the governmental entity only for the market value of the 1219
property. 1220

(b) The person with which the recipient contracted has 1221
received money that the recipient obtained pursuant to the 1222
contract with the governmental entity and has used the money other 1223
than for the performance of the contract. In such a case, the 1224
governmental entity may void the contract to the extent that the 1225
person has used the money other than for the performance of the 1226
contract, and the person shall be liable to the governmental 1227
entity for that amount. 1228

(2) A contract made not more than one hundred eighty days before the judgment against the recipient became uncollectible between the recipient and an employee of the recipient or a business in which an employee of the recipient has a material financial interest, if the employee has direct knowledge of the use of the money that the recipient obtained pursuant to the contract with the governmental entity and either division (F)(1)(a) or (b) of this section applies; 1229
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(3) A contract between the recipient and another person pursuant to which the recipient has paid or agreed to pay money to the other person, to the extent that the other person has not yet performed its obligations under the contract; 1237
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(4) A contract made not more than one year before the judgment against the recipient became uncollectible between the recipient and a person other than the governmental entity if the other person has not given or agreed to give consideration of reasonable and substantial value for the consideration given by the recipient. 1241
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(G) This section does not apply with respect to any contract entered into by a governmental entity under section 9.231 of the Revised Code that is subject to section 9.236 of the Revised Code. 1247
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Sec. 101.391. (A) There is hereby created the joint legislative committee on medicaid technology and reform. The committee may review or study any matter that it considers relevant to the operation of the medicaid program established under Chapter 5111. of the Revised Code, with priority given to the study or review of mechanisms to enhance the program's effectiveness through improved technology systems and program reform. 1250
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(B) The committee shall consist of five members of the house 1258

of representatives appointed by the speaker of the house of 1259
representatives and five members of the senate appointed by the 1260
president of the senate. Not more than three members appointed by 1261
the speaker of the house of representatives and not more than 1262
three members appointed by the president of the senate may be of 1263
the same political party. 1264

Each member of the committee shall hold office during the 1265
general assembly in which the member is appointed and until a 1266
successor has been appointed, notwithstanding the adjournment sine 1267
die of the general assembly in which the member was appointed or 1268
the expiration of the member's term as a member of the general 1269
assembly. Any vacancies occurring among the members of the 1270
committee shall be filled in the manner of the original 1271
appointment. 1272

(C) The committee has the same powers as other standing or 1273
select committees of the general assembly. The committee may 1274
employ an executive director. 1275

Sec. 101.68. (A) Within Subject to division (D) of this 1276
section, within thirty days of the convening of the first regular 1277
session of the general assembly, each agency required to submit 1278
reports or similar documents to the general assembly pursuant to 1279
section 103.43, 3301.07, 5139.33, 5501.07, 5537.17, or 5593.21 of 1280
the Revised Code shall send written notice to each member of the 1281
general assembly in order to determine whether the member desires 1282
to personally receive the reports or similar documents as they are 1283
made available by the agency. If the member desires to personally 1284
receive the reports or similar documents as they become available, 1285
the member shall send a written request to the agency within 1286
thirty days of receiving the notice. 1287

(B) Whenever any statute or rule requires that a report, 1288
recommendation, or other similar document be submitted to the 1289

general assembly under a law not cited in division (A) of this 1290
section, to the members of the general assembly, to one house of 1291
the general assembly, or to the members of one house of the 1292
general assembly, the requirement shall be fulfilled by the 1293
submission of a copy of the report, recommendation, or document to 1294
the director of the legislative service commission, the president 1295
of the senate, the minority leader of the senate, the speaker of 1296
the house of representatives, and the minority leader of the house 1297
of representatives if both houses of the general assembly or their 1298
members are specified, or to the director of the legislative 1299
service commission, the president of the senate, and the minority 1300
leader of the senate if only the senate or its members are 1301
specified, or to the director of the legislative service 1302
commission, the speaker of the house of representatives, and the 1303
minority leader of the house of representatives if only the house 1304
of representatives or its members are specified. This division 1305
does not apply to items required to be distributed to members of 1306
the general assembly pursuant to section 103.14, 149.04, 149.07, 1307
or 149.17 of the Revised Code. 1308

(C) Each month the legislative service commission shall 1309
provide to each member of the senate and to each member of the 1310
house of representatives a list of all reports, recommendations, 1311
and documents submitted to the officers of the general assembly 1312
under division (B) of this section. The list shall include a short 1313
and accurate description of the content, length, and form of each 1314
report, recommendation, or document submitted, as well as a 1315
statement setting forth the number printed, if applicable, and the 1316
cost of preparation. Each member may request from the legislative 1317
service commission a copy of any report, recommendation, or 1318
document on the list, and the legislative service commission shall 1319
comply with any such request. 1320

(D) Notwithstanding any provision of the Revised Code to the 1321

contrary, whenever any statute or rule requires that an agency 1322
submit a report, recommendation, or other similar document to the 1323
general assembly or otherwise as described in division (B) of this 1324
section in a paper, book, or other hard copy format, the report, 1325
recommendation, or other document, to the extent technologically 1326
feasible, shall be submitted to the general assembly or otherwise 1327
as described in division (B) of this section through electronic 1328
means, rather than in the hard copy format, and shall be displayed 1329
by the agency on a web site it maintains. 1330

Sec. 102.02. (A) Except as otherwise provided in division (H) 1331
of this section, all of the following shall file with the 1332
appropriate ethics commission the disclosure statement described 1333
in this division on a form prescribed by the appropriate 1334
commission: every person who is elected to or is a candidate for a 1335
state, county, or city office and every person who is appointed to 1336
fill a vacancy for an unexpired term in such an elective office; 1337
all members of the state board of education; the director, 1338
assistant directors, deputy directors, division chiefs, or persons 1339
of equivalent rank of any administrative department of the state; 1340
the president or other chief administrative officer of every state 1341
institution of higher education as defined in section 3345.011 of 1342
the Revised Code; the executive director and the members of the 1343
capitol square review and advisory board appointed or employed 1344
pursuant to section 105.41 of the Revised Code; the chief 1345
executive officer and the members of the board of each state 1346
retirement system; each employee of a state retirement board who 1347
is a state retirement system investment officer licensed pursuant 1348
to section 1707.163 of the Revised Code; the members of the Ohio 1349
retirement study council appointed pursuant to division (C) of 1350
section 171.01 of the Revised Code; employees of the Ohio 1351
retirement study council, other than employees who perform purely 1352
administrative or clerical functions; the administrator of 1353

workers' compensation and each voting member of the workers' 1354
compensation oversight commission; the chief investment officer of 1355
the bureau of workers' compensation; all members of the board of 1356
commissioners on grievances and discipline of the supreme court 1357
and the ethics commission created under section 102.05 of the 1358
Revised Code; every business manager, treasurer, or superintendent 1359
of a city, local, exempted village, joint vocational, or 1360
cooperative education school district or an educational service 1361
center; every person who is elected to or is a candidate for the 1362
office of member of a board of education of a city, local, 1363
exempted village, joint vocational, or cooperative education 1364
school district or of a governing board of an educational service 1365
center that has a total student count of twelve thousand or more 1366
as most recently determined by the department of education 1367
pursuant to section 3317.03 of the Revised Code; every person who 1368
is appointed to the board of education of a municipal school 1369
district pursuant to division (B) or (F) of section 3311.71 of the 1370
Revised Code; all members of the board of directors of a sanitary 1371
district that is established under Chapter 6115. of the Revised 1372
Code and organized wholly for the purpose of providing a water 1373
supply for domestic, municipal, and public use, and that includes 1374
two municipal corporations in two counties; every public official 1375
or employee who is paid a salary or wage in accordance with 1376
schedule C of section 124.15 or schedule E-2 of section 124.152 of 1377
the Revised Code; members of the board of trustees and the 1378
executive director of the tobacco use prevention and control 1379
foundation; members of the board of trustees and the executive 1380
director of the southern Ohio agricultural and community 1381
development foundation; and every other public official or 1382
employee who is designated by the appropriate ethics commission 1383
pursuant to division (B) of this section. 1384

The disclosure statement shall include all of the following: 1385

(1) The name of the person filing the statement and each 1386
member of the person's immediate family and all names under which 1387
the person or members of the person's immediate family do 1388
business; 1389

(2)(a) Subject to divisions (A)(2)(b) and (c) of this section 1390
and except as otherwise provided in section 102.022 of the Revised 1391
Code, identification of every source of income, other than income 1392
from a legislative agent identified in division (A)(2)(b) of this 1393
section, received during the preceding calendar year, in the 1394
person's own name or by any other person for the person's use or 1395
benefit, by the person filing the statement, and a brief 1396
description of the nature of the services for which the income was 1397
received. If the person filing the statement is a member of the 1398
general assembly, the statement shall identify the amount of every 1399
source of income received in accordance with the following ranges 1400
of amounts: zero or more, but less than one thousand dollars; one 1401
thousand dollars or more, but less than ten thousand dollars; ten 1402
thousand dollars or more, but less than twenty-five thousand 1403
dollars; twenty-five thousand dollars or more, but less than fifty 1404
thousand dollars; fifty thousand dollars or more, but less than 1405
one hundred thousand dollars; and one hundred thousand dollars or 1406
more. Division (A)(2)(a) of this section shall not be construed to 1407
require a person filing the statement who derives income from a 1408
business or profession to disclose the individual items of income 1409
that constitute the gross income of that business or profession, 1410
except for those individual items of income that are attributable 1411
to the person's or, if the income is shared with the person, the 1412
partner's, solicitation of services or goods or performance, 1413
arrangement, or facilitation of services or provision of goods on 1414
behalf of the business or profession of clients, including 1415
corporate clients, who are legislative agents. A person who files 1416
the statement under this section shall disclose the identity of 1417

and the amount of income received from a person who the public 1418
official or employee knows or has reason to know is doing or 1419
seeking to do business of any kind with the public official's or 1420
employee's agency. 1421

(b) If the person filing the statement is a member of the 1422
general assembly, the statement shall identify every source of 1423
income and the amount of that income that was received from a 1424
legislative agent during the preceding calendar year, in the 1425
person's own name or by any other person for the person's use or 1426
benefit, by the person filing the statement, and a brief 1427
description of the nature of the services for which the income was 1428
received. Division (A)(2)(b) of this section requires the 1429
disclosure of clients of attorneys or persons licensed under 1430
section 4732.12 of the Revised Code, or patients of persons 1431
certified under section 4731.14 of the Revised Code, if those 1432
clients or patients are legislative agents. Division (A)(2)(b) of 1433
this section requires a person filing the statement who derives 1434
income from a business or profession to disclose those individual 1435
items of income that constitute the gross income of that business 1436
or profession that are received from legislative agents. 1437

(c) Except as otherwise provided in division (A)(2)(c) of 1438
this section, division (A)(2)(a) of this section applies to 1439
attorneys, physicians, and other persons who engage in the 1440
practice of a profession and who, pursuant to a section of the 1441
Revised Code, the common law of this state, a code of ethics 1442
applicable to the profession, or otherwise, generally are required 1443
not to reveal, disclose, or use confidences of clients, patients, 1444
or other recipients of professional services except under 1445
specified circumstances or generally are required to maintain 1446
those types of confidences as privileged communications except 1447
under specified circumstances. Division (A)(2)(a) of this section 1448
does not require an attorney, physician, or other professional 1449

subject to a confidentiality requirement as described in division 1450
(A)(2)(c) of this section to disclose the name, other identity, or 1451
address of a client, patient, or other recipient of professional 1452
services if the disclosure would threaten the client, patient, or 1453
other recipient of professional services, would reveal details of 1454
the subject matter for which legal, medical, or professional 1455
advice or other services were sought, or would reveal an otherwise 1456
privileged communication involving the client, patient, or other 1457
recipient of professional services. Division (A)(2)(a) of this 1458
section does not require an attorney, physician, or other 1459
professional subject to a confidentiality requirement as described 1460
in division (A)(2)(c) of this section to disclose in the brief 1461
description of the nature of services required by division 1462
(A)(2)(a) of this section any information pertaining to specific 1463
professional services rendered for a client, patient, or other 1464
recipient of professional services that would reveal details of 1465
the subject matter for which legal, medical, or professional 1466
advice was sought or would reveal an otherwise privileged 1467
communication involving the client, patient, or other recipient of 1468
professional services. 1469

(3) The name of every corporation on file with the secretary 1470
of state that is incorporated in this state or holds a certificate 1471
of compliance authorizing it to do business in this state, trust, 1472
business trust, partnership, or association that transacts 1473
business in this state in which the person filing the statement or 1474
any other person for the person's use and benefit had during the 1475
preceding calendar year an investment of over one thousand dollars 1476
at fair market value as of the thirty-first day of December of the 1477
preceding calendar year, or the date of disposition, whichever is 1478
earlier, or in which the person holds any office or has a 1479
fiduciary relationship, and a description of the nature of the 1480
investment, office, or relationship. Division (A)(3) of this 1481

section does not require disclosure of the name of any bank, 1482
savings and loan association, credit union, or building and loan 1483
association with which the person filing the statement has a 1484
deposit or a withdrawable share account. 1485

(4) All fee simple and leasehold interests to which the 1486
person filing the statement holds legal title to or a beneficial 1487
interest in real property located within the state, excluding the 1488
person's residence and property used primarily for personal 1489
recreation; 1490

(5) The names of all persons residing or transacting business 1491
in the state to whom the person filing the statement owes, in the 1492
person's own name or in the name of any other person, more than 1493
one thousand dollars. Division (A)(5) of this section shall not be 1494
construed to require the disclosure of debts owed by the person 1495
resulting from the ordinary conduct of a business or profession or 1496
debts on the person's residence or real property used primarily 1497
for personal recreation, except that the superintendent of 1498
financial institutions shall disclose the names of all 1499
state-chartered savings and loan associations and of all service 1500
corporations subject to regulation under division (E)(2) of 1501
section 1151.34 of the Revised Code to whom the superintendent in 1502
the superintendent's own name or in the name of any other person 1503
owes any money, and that the superintendent and any deputy 1504
superintendent of banks shall disclose the names of all 1505
state-chartered banks and all bank subsidiary corporations subject 1506
to regulation under section 1109.44 of the Revised Code to whom 1507
the superintendent or deputy superintendent owes any money. 1508

(6) The names of all persons residing or transacting business 1509
in the state, other than a depository excluded under division 1510
(A)(3) of this section, who owe more than one thousand dollars to 1511
the person filing the statement, either in the person's own name 1512
or to any person for the person's use or benefit. Division (A)(6) 1513

of this section shall not be construed to require the disclosure 1514
of clients of attorneys or persons licensed under section 4732.12 1515
or 4732.15 of the Revised Code, or patients of persons certified 1516
under section 4731.14 of the Revised Code, nor the disclosure of 1517
debts owed to the person resulting from the ordinary conduct of a 1518
business or profession. 1519

(7) Except as otherwise provided in section 102.022 of the 1520
Revised Code, the source of each gift of over seventy-five 1521
dollars, or of each gift of over twenty-five dollars received by a 1522
member of the general assembly from a legislative agent, received 1523
by the person in the person's own name or by any other person for 1524
the person's use or benefit during the preceding calendar year, 1525
except gifts received by will or by virtue of section 2105.06 of 1526
the Revised Code, or received from spouses, parents, grandparents, 1527
children, grandchildren, siblings, nephews, nieces, uncles, aunts, 1528
brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, 1529
fathers-in-law, mothers-in-law, or any person to whom the person 1530
filing the statement stands in loco parentis, or received by way 1531
of distribution from any inter vivos or testamentary trust 1532
established by a spouse or by an ancestor; 1533

(8) Except as otherwise provided in section 102.022 of the 1534
Revised Code, identification of the source and amount of every 1535
payment of expenses incurred for travel to destinations inside or 1536
outside this state that is received by the person in the person's 1537
own name or by any other person for the person's use or benefit 1538
and that is incurred in connection with the person's official 1539
duties, except for expenses for travel to meetings or conventions 1540
of a national or state organization to which any state agency, 1541
including, but not limited to, any legislative agency or state 1542
institution of higher education as defined in section 3345.011 of 1543
the Revised Code, pays membership dues, or any political 1544
subdivision or any office or agency of a political subdivision 1545

pays membership dues; 1546

(9) Except as otherwise provided in section 102.022 of the 1547
Revised Code, identification of the source of payment of expenses 1548
for meals and other food and beverages, other than for meals and 1549
other food and beverages provided at a meeting at which the person 1550
participated in a panel, seminar, or speaking engagement or at a 1551
meeting or convention of a national or state organization to which 1552
any state agency, including, but not limited to, any legislative 1553
agency or state institution of higher education as defined in 1554
section 3345.011 of the Revised Code, pays membership dues, or any 1555
political subdivision or any office or agency of a political 1556
subdivision pays membership dues, that are incurred in connection 1557
with the person's official duties and that exceed one hundred 1558
dollars aggregated per calendar year; 1559

(10) If the disclosure statement is filed by a public 1560
official or employee described in division (B)(2) of section 1561
101.73 of the Revised Code or division (B)(2) of section 121.63 of 1562
the Revised Code who receives a statement from a legislative 1563
agent, executive agency lobbyist, or employer that contains the 1564
information described in division (F)(2) of section 101.73 of the 1565
Revised Code or division (G)(2) of section 121.63 of the Revised 1566
Code, all of the nondisputed information contained in the 1567
statement delivered to that public official or employee by the 1568
legislative agent, executive agency lobbyist, or employer under 1569
division (F)(2) of section 101.73 or (G)(2) of section 121.63 of 1570
the Revised Code. 1571

A person may file a statement required by this section in 1572
person or by mail. A person who is a candidate for elective office 1573
shall file the statement no later than the thirtieth day before 1574
the primary, special, or general election at which the candidacy 1575
is to be voted on, whichever election occurs soonest, except that 1576
a person who is a write-in candidate shall file the statement no 1577

later than the twentieth day before the earliest election at which 1578
the person's candidacy is to be voted on. A person who holds 1579
elective office shall file the statement on or before the 1580
fifteenth day of April of each year unless the person is a 1581
candidate for office. A person who is appointed to fill a vacancy 1582
for an unexpired term in an elective office shall file the 1583
statement within fifteen days after the person qualifies for 1584
office. Other persons shall file an annual statement on or before 1585
the fifteenth day of April or, if appointed or employed after that 1586
date, within ninety days after appointment or employment. No 1587
person shall be required to file with the appropriate ethics 1588
commission more than one statement or pay more than one filing fee 1589
for any one calendar year. 1590

The appropriate ethics commission, for good cause, may extend 1591
for a reasonable time the deadline for filing a statement under 1592
this section. 1593

A statement filed under this section is subject to public 1594
inspection at locations designated by the appropriate ethics 1595
commission except as otherwise provided in this section. 1596

(B) The Ohio ethics commission, the joint legislative ethics 1597
committee, and the board of commissioners on grievances and 1598
discipline of the supreme court, using the rule-making procedures 1599
of Chapter 119. of the Revised Code, may require any class of 1600
public officials or employees under its jurisdiction and not 1601
specifically excluded by this section whose positions involve a 1602
substantial and material exercise of administrative discretion in 1603
the formulation of public policy, expenditure of public funds, 1604
enforcement of laws and rules of the state or a county or city, or 1605
the execution of other public trusts, to file an annual statement 1606
on or before the fifteenth day of April under division (A) of this 1607
section. The appropriate ethics commission shall send the public 1608
officials or employees written notice of the requirement by the 1609

fifteenth day of February of each year the filing is required 1610
unless the public official or employee is appointed after that 1611
date, in which case the notice shall be sent within thirty days 1612
after appointment, and the filing shall be made not later than 1613
ninety days after appointment. 1614

Except for disclosure statements filed by members of the 1615
board of trustees and the executive director of the tobacco use 1616
prevention and control foundation and members of the board of 1617
trustees and the executive director of the southern Ohio 1618
agricultural and community development foundation, disclosure 1619
statements filed under this division with the Ohio ethics 1620
commission by members of boards, commissions, or bureaus of the 1621
state for which no compensation is received other than reasonable 1622
and necessary expenses shall be kept confidential. Disclosure 1623
statements filed with the Ohio ethics commission under division 1624
(A) of this section by business managers, treasurers, and 1625
superintendents of city, local, exempted village, joint 1626
vocational, or cooperative education school districts or 1627
educational service centers shall be kept confidential, except 1628
that any person conducting an audit of any such school district or 1629
educational service center pursuant to section 115.56 or Chapter 1630
117. of the Revised Code may examine the disclosure statement of 1631
any business manager, treasurer, or superintendent of that school 1632
district or educational service center. The Ohio ethics commission 1633
shall examine each disclosure statement required to be kept 1634
confidential to determine whether a potential conflict of interest 1635
exists for the person who filed the disclosure statement. A 1636
potential conflict of interest exists if the private interests of 1637
the person, as indicated by the person's disclosure statement, 1638
might interfere with the public interests the person is required 1639
to serve in the exercise of the person's authority and duties in 1640
the person's office or position of employment. If the commission 1641

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

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

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

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

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

For state office, except member of the		1665
state board of education	\$65	1666
For office of member of general assembly	\$40	1667
For county office	\$40	1668
For city office	\$25	1669
For office of member of the state board		1670
of education	\$25	1671
For office of member of a city, local,		1672

exempted village, or cooperative	1673
education board of	1674
education or educational service	1675
center governing board	\$20 1676
For position of business manager,	1677
treasurer, or superintendent of a	1678
city, local, exempted village, joint	1679
vocational, or cooperative education	1680
school district or	1681
educational service center	\$20 1682
(3) No judge of a court of record or candidate for judge of a	1683
court of record, and no referee or magistrate serving a court of	1684
record, shall be required to pay the fee required under division	1685
(E)(1) or (2) or (F) of this section.	1686
(4) For any public official who is appointed to a nonelective	1687
office of the state and for any employee who holds a nonelective	1688
position in a public agency of the state, the state agency that is	1689
the primary employer of the state official or employee shall pay	1690
the fee required under division (E)(1) or (F) of this section.	1691
(F) If a statement required to be filed under this section is	1692
not filed by the date on which it is required to be filed, the	1693
appropriate ethics commission shall assess the person required to	1694
file the statement a late filing fee of ten dollars for each day	1695
the statement is not filed, except that the total amount of the	1696
late filing fee shall not exceed two hundred fifty dollars.	1697
(G)(1) The appropriate ethics commission other than the Ohio	1698
ethics commission shall deposit all fees it receives under	1699
divisions (E) and (F) of this section into the general revenue	1700
fund of the state.	1701
(2) The Ohio ethics commission shall deposit all receipts,	1702
including, but not limited to, fees it receives under divisions	1703

(E) and (F) of this section and all moneys it receives from 1704
settlements under division (G) of section 102.06 of the Revised 1705
Code, into the Ohio ethics commission fund, which is hereby 1706
created in the state treasury. All moneys credited to the fund 1707
shall be used solely for expenses related to the operation and 1708
statutory functions of the commission. 1709

(H) Division (A) of this section does not apply to a person 1710
elected or appointed to the office of precinct, ward, or district 1711
committee member under Chapter 3517. of the Revised Code; a 1712
presidential elector; a delegate to a national convention; village 1713
or township officials and employees; any physician or psychiatrist 1714
who is paid a salary or wage in accordance with schedule C of 1715
section 124.15 or schedule E-2 of section 124.152 of the Revised 1716
Code and whose primary duties do not require the exercise of 1717
administrative discretion; or any member of a board, commission, 1718
or bureau of any county or city who receives less than one 1719
thousand dollars per year for serving in that position. 1720

Sec. 102.06. (A) The appropriate ethics commission shall 1721
receive and may initiate complaints against persons subject to 1722
this chapter concerning conduct alleged to be in violation of this 1723
chapter or section 2921.42 or 2921.43 of the Revised Code. All 1724
complaints except those by the commission shall be by affidavit 1725
made on personal knowledge, subject to the penalties of perjury. 1726
Complaints by the commission shall be by affidavit, based upon 1727
reasonable cause to believe that a violation has occurred. 1728

(B) The appropriate ethics commission shall investigate 1729
complaints, may investigate charges presented to it, and may 1730
request further information, including the specific amount of 1731
income from a source, from any person filing with the commission a 1732
statement required by section 102.02 or 102.021 of the Revised 1733
Code, if the information sought is directly relevant to a 1734

complaint or charges received by the commission pursuant to this 1735
section. This information is confidential, except that the 1736
commission, in its discretion, may share information gathered in 1737
the course of any investigation with, or disclose the information 1738
to, the inspector general, any appropriate prosecuting authority, 1739
any law enforcement agency, or any other appropriate ethics 1740
commission. If the accused person is a member of the public 1741
employees retirement board, state teachers retirement board, 1742
school employees retirement board, board of trustees of the Ohio 1743
police and fire pension fund, or state highway patrol retirement 1744
board, or is a voting member of the workers' compensation 1745
oversight commission the appropriate ethics commission, in its 1746
discretion, also may share information gathered in the course of 1747
an investigation with, or disclose the information to, the 1748
attorney general and the auditor of state. The person so requested 1749
shall furnish the information to the commission, unless within 1750
fifteen days from the date of the request the person files an 1751
action for declaratory judgment challenging the legitimacy of the 1752
request in the court of common pleas of the county of the person's 1753
residence, the person's place of employment, or Franklin county. 1754
The requested information need not be furnished to the commission 1755
during the pendency of the judicial proceedings. Proceedings of 1756
the commission in connection with the declaratory judgment action 1757
shall be kept confidential except as otherwise provided by this 1758
section. Before the commission proceeds to take any formal action 1759
against a person who is the subject of an investigation based on 1760
charges presented to the commission, a complaint shall be filed 1761
against the person. If the commission finds that a complaint is 1762
not frivolous, and there is reasonable cause to believe that the 1763
facts alleged in a complaint constitute a violation of section 1764
102.02, 102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of 1765
the Revised Code, it shall hold a hearing. If the commission does 1766
not so find, it shall dismiss the complaint and notify the accused 1767

person in writing of the dismissal of the complaint. The 1768
commission shall not make a report of its finding unless the 1769
accused person requests a report. Upon the request of the accused 1770
person, the commission shall make a public report of its finding. 1771
The person against whom the complaint is directed shall be given 1772
reasonable notice by certified mail of the date, time, and place 1773
of the hearing and a statement of the charges and the law directly 1774
involved and shall be given the opportunity to be represented by 1775
counsel, to have counsel appointed for the person if the person is 1776
unable to afford counsel without undue hardship, to examine the 1777
evidence against the person, to produce evidence and to call and 1778
subpoena witnesses in the person's defense, to confront the 1779
person's accusers, and to cross-examine witnesses. The commission 1780
shall have a stenographic record made of the hearing. The hearing 1781
shall be closed to the public. 1782

(C)(1)(a) If, upon the basis of the hearing, the appropriate 1783
ethics commission finds by a preponderance of the evidence that 1784
the facts alleged in the complaint are true and constitute a 1785
violation of section 102.02, 102.021, 102.03, 102.04, 102.07, 1786
2921.42, or 2921.43 of the Revised Code, it shall report its 1787
findings to the appropriate prosecuting authority for proceedings 1788
in prosecution of the violation and to the appointing or employing 1789
authority of the accused. If the accused person is a member of the 1790
public employees retirement board, state teachers retirement 1791
board, school employees retirement board, board of trustees of the 1792
Ohio police and fire pension fund, or state highway patrol 1793
retirement board, the commission also shall report its findings to 1794
the Ohio retirement study council. 1795

(b) If the Ohio ethics commission reports its findings to the 1796
appropriate prosecuting authority under division (C)(1)(a) of this 1797
section and the prosecuting authority has not initiated any 1798
official action on those findings within ninety days after 1799

receiving the commission's report of them, the commission may
publicly comment that no official action has been taken on its
findings, except that the commission shall make no comment in
violation of the Rules of Criminal Procedure or about any
indictment that has been sealed pursuant to any law or those
rules. The commission shall make no comment regarding the merits
of its findings. As used in division (C)(1)(b) of this section,
"official action" means prosecution, closure after investigation,
or grand jury action resulting in a true bill of indictment or no
true bill of indictment.

(2) If the appropriate ethics commission does not find by a
preponderance of the evidence that the facts alleged in the
complaint are true and constitute a violation of section 102.02,
102.021, 102.03, 102.04, 102.07, 2921.42, or 2921.43 of the
Revised Code or if the commission has not scheduled a hearing
within ninety days after the complaint is filed or has not finally
disposed of the complaint within six months after it has been
heard, it shall dismiss the complaint and notify the accused
person in writing of the dismissal of the complaint. The
commission shall not make a report of its finding unless the
accused person requests a report. Upon the request of the accused
person, the commission shall make a public report of the finding,
but in this case all evidence and the record of the hearing shall
remain confidential unless the accused person also requests that
the evidence and record be made public. Upon request by the
accused person, the commission shall make the evidence and the
record available for public inspection.

(D) The appropriate ethics commission, or a member of the
commission, may administer oaths, and the commission may issue
subpoenas to any person in the state compelling the attendance of
witnesses and the production of relevant papers, books, accounts,
and records. The commission shall issue subpoenas to compel the

attendance of witnesses and the production of documents upon the
request of an accused person. Section 101.42 of the Revised Code
shall govern the issuance of these subpoenas insofar as
applicable. Upon the refusal of any person to obey a subpoena or
to be sworn or to answer as a witness, the commission may apply to
the court of common pleas of Franklin county under section 2705.03
of the Revised Code. The court shall hold proceedings in
accordance with Chapter 2705. of the Revised Code. The commission
or the accused person may take the depositions of witnesses
residing within or without the state in the same manner as
prescribed by law for the taking of depositions in civil actions
in the court of common pleas.

(E) At least once each year, the Ohio ethics commission shall
report on its activities of the immediately preceding year to the
majority and minority leaders of the senate and house of
representatives of the general assembly. The report shall indicate
the total number of complaints received, initiated, and
investigated by the commission, the total number of complaints for
which formal hearings were held, and the total number of
complaints for which formal prosecution was recommended or
requested by the commission. The report also shall indicate the
nature of the inappropriate conduct alleged in each complaint and
the governmental entity with which any employee or official that
is the subject of a complaint was employed at the time of the
alleged inappropriate conduct.

(F) All papers, records, affidavits, and documents upon any
complaint, inquiry, or investigation relating to the proceedings
of the appropriate ethics commission shall be sealed and are
private and confidential, except as otherwise provided in this
section and section 102.07 of the Revised Code.

(G)(1) When a complaint or charge is before it, the Ohio
ethics commission or the appropriate prosecuting authority, in

consultation with the person filing the complaint or charge, the
accused, and any other person the commission or prosecuting
authority considers necessary, may compromise or settle the
complaint or charge with the agreement of the accused. The
compromise or settlement may include mediation, restitution,
rescission of affected contracts, forfeiture of any benefits
resulting from a violation or potential violation of law,
resignation of a public official or employee, or any other relief
that is agreed upon between the commission or prosecuting
authority and the accused.

(2) Any settlement agreement entered into under division
(G)(1) of this section shall be in writing and be accompanied by a
statement of the findings of the commission or prosecuting
authority and the reasons for entering into the agreement. The
commission or prosecuting authority shall retain the agreement and
statement in the commission's or prosecuting authority's office
and, in the commission's or prosecuting authority's discretion,
may make the agreement, the statement, and any supporting
information public, unless the agreement provides otherwise.

(3) If a settlement agreement is breached by the accused, the
commission or prosecuting authority, in the commission's or
prosecuting authority's discretion, may rescind the agreement and
reinstigate any investigation, hearing, or prosecution of the
accused. No information obtained from the accused in reaching the
settlement that is not otherwise discoverable from the accused
shall be used in any proceeding before the commission or by the
appropriate prosecuting authority in prosecuting the violation.
Notwithstanding any other section of the Revised Code, if a
settlement agreement is breached, any statute of limitations for a
violation of this chapter or section 2921.42 or 2921.43 of the
Revised Code is tolled from the date the complaint or charge is
filed until the date the settlement agreement is breached.

Sec. 103.132. The legislative service commission, in 1896
conjunction with the legislative information systems office, shall 1897
establish and maintain an electronic database containing current 1898
and historical revenue and expenditure data for each school 1899
district in the state that is easy to use and readily accessible 1900
through the internet. 1901

Sec. 105.41. (A) There is hereby created the capitol square 1902
review and advisory board, consisting of one nonvoting member, who 1903
shall be a member of the capital square foundation appointed by 1904
the board of the foundation, and the following thirteen voting 1905
members ~~as follows:~~ 1906

(1) Two members of the senate, appointed by the president of 1907
the senate, both of whom shall not be members of the same 1908
political party; 1909

(2) Two members of the house of representatives, appointed by 1910
the speaker of the house of representatives, both of whom shall 1911
not be members of the same political party; 1912

(3) Five members appointed by the governor, with the advice 1913
and consent of the senate, not more than three of whom shall be 1914
members of the same political party, one of whom shall represent 1915
the office of the state architect and engineer, one of whom shall 1916
represent the Ohio arts council, one of whom shall represent the 1917
Ohio historical society, one of whom shall represent the Ohio 1918
building authority, and one of whom shall represent the public at 1919
large; 1920

(4) One member, who shall be a former president of the 1921
senate, appointed by the current president of the senate. If the 1922
current president of the senate, in the current president's 1923
discretion, decides for any reason not to make the appointment or 1924
if no person is eligible or available to serve, the seat shall 1925

remain vacant. 1926

(5) One member, who shall be a former speaker of the house of 1927
representatives, appointed by the current speaker of the house of 1928
representatives. If the current speaker of the house of 1929
representatives, in the current speaker's discretion, decides for 1930
any reason not to make the appointment or if no person is eligible 1931
or available to serve, the seat shall remain vacant. 1932

(6) The clerk of the senate and the clerk of the house of 1933
representatives. 1934

(B) Terms of office of each appointed member of the board 1935
shall be for three years, except that members of the general 1936
assembly appointed to the board shall be members of the board only 1937
so long as they are members of the general assembly. Each member 1938
shall hold office from the date of the member's appointment until 1939
the end of the term for which the member was appointed. In case of 1940
a vacancy occurring on the board, the president of the senate, the 1941
speaker of the house of representatives, ~~or~~ the governor, or the 1942
board of the foundation, as the case may be, shall in the same 1943
manner prescribed for the regular appointment to the commission, 1944
fill the vacancy by appointing a member. Any member appointed to 1945
fill a vacancy occurring prior to the expiration of the term for 1946
which the member's predecessor was appointed shall hold office for 1947
the remainder of the term. Any appointed member shall continue in 1948
office subsequent to the expiration date of the member's term 1949
until the member's successor takes office, or until a period of 1950
sixty days has elapsed, whichever occurs first. 1951

(C) The board shall hold meetings in a manner and at times 1952
prescribed by the rules adopted by the board. A majority of the 1953
voting members of the board constitutes a quorum, and no action 1954
shall be taken by the board unless approved by at least six voting 1955
members or by at least seven voting members if a person is 1956

appointed under division (A)(4) or (5) of this section. At its 1957
first meeting, the board shall adopt rules for the conduct of its 1958
business and the election of its officers, and shall organize by 1959
selecting a chairperson and other officers as it considers 1960
necessary. Board members shall serve without compensation but 1961
shall be reimbursed for actual and necessary expenses incurred in 1962
the performance of their duties. 1963

(D) The board may do any of the following: 1964

(1) Employ or hire on a consulting basis professional, 1965
technical, and clerical employees as are necessary for the 1966
performance of its duties; 1967

(2) Hold public hearings at times and places as determined by 1968
the board; 1969

(3) Adopt, amend, or rescind rules necessary to accomplish 1970
the duties of the board as set forth in this section; 1971

(4) Sponsor, conduct, and support such social events as the 1972
board may authorize and consider appropriate for the employees of 1973
the board, employees and members of the general assembly, 1974
employees of persons under contract with the board or otherwise 1975
engaged to perform services on the premises of capitol square, or 1976
other persons as the board may consider appropriate. Subject to 1977
the requirements of Chapter 4303. of the Revised Code, the board 1978
may provide beer, wine, and intoxicating liquor, with or without 1979
charge, for those events and may use funds only from the sale of 1980
goods and services fund to purchase the beer, wine, and 1981
intoxicating liquor the board provides. 1982

(E) The board shall do all of the following: 1983

(1) Have sole authority to coordinate and approve any 1984
improvements, additions, and renovations that are made to the 1985
capitol square. The improvements shall include, but not be limited 1986
to, the placement of monuments and sculpture on the capitol 1987

grounds.	1988
(2) Subject to section 3353.07 of the Revised Code, operate the capitol square, and have sole authority to regulate all uses of the capitol square. The uses shall include, but not be limited to, the casual and recreational use of the capitol square.	1989 1990 1991 1992
(3) Employ, fix the compensation of, and prescribe the duties of the executive director of the board and other employees the board considers necessary for the performance of its powers and duties;	1993 1994 1995 1996
(4) Establish and maintain the capitol collection trust. The capitol collection trust shall consist of furniture, antiques, and other items of personal property that the board shall store in suitable facilities until they are ready to be placed in the capitol square.	1997 1998 1999 2000 2001
(5) Perform repair, construction, contracting, purchasing, maintenance, supervisory, and operating activities the board determines are necessary for the operation and maintenance of the capitol square;	2002 2003 2004 2005
(6) Maintain and preserve the capitol square, in accordance with guidelines issued by the United States secretary of the interior for application of the secretary's standards for rehabilitation adopted in 36 C.F.R. part 67.	2006 2007 2008 2009
(F)(1) The board shall lease capital facilities improved or financed by the Ohio building authority pursuant to Chapter 152. of the Revised Code for the use of the board, and may enter into any other agreements with the authority ancillary to improvement, financing, or leasing of those capital facilities, including, but not limited to, any agreement required by the applicable bond proceedings authorized by Chapter 152. of the Revised Code. Any lease of capital facilities authorized by this section shall be governed by division (D) of section 152.24 of the Revised Code.	2010 2011 2012 2013 2014 2015 2016 2017 2018

(2) Fees, receipts, and revenues received by the board from 2019
the state underground parking garage constitute available receipts 2020
as defined in section 152.09 of the Revised Code, and may be 2021
pledged to the payment of bond service charges on obligations 2022
issued by the Ohio building authority pursuant to Chapter 152. of 2023
the Revised Code to improve or finance capital facilities useful 2024
to the board. The authority may, with the consent of the board, 2025
provide in the bond proceedings for a pledge of all or a portion 2026
of those fees, receipts, and revenues as the authority determines. 2027
The authority may provide in the bond proceedings or by separate 2028
agreement with the board for the transfer of those fees, receipts, 2029
and revenues to the appropriate bond service fund or bond service 2030
reserve fund as required to pay the bond service charges when due, 2031
and any such provision for the transfer of those fees, receipts, 2032
and revenues shall be controlling notwithstanding any other 2033
provision of law pertaining to those fees, receipts, and revenues. 2034

(3) All moneys received by the treasurer of state on account 2035
of the board and required by the applicable bond proceedings or by 2036
separate agreement with the board to be deposited, transferred, or 2037
credited to the bond service fund or bond service reserve fund 2038
established by the bond proceedings shall be transferred by the 2039
treasurer of state to such fund, whether or not it is in the 2040
custody of the treasurer of state, without necessity for further 2041
appropriation, upon receipt of notice from the Ohio building 2042
authority as prescribed in the bond proceedings. 2043

(G) All fees, receipts, and revenues received by the board 2044
from the state underground parking garage shall be deposited into 2045
the state treasury to the credit of the underground parking garage 2046
operating fund, which is hereby created, to be used for the 2047
purposes specified in division (F) of this section and for the 2048
operation and maintenance of the garage. All investment earnings 2049
of the fund shall be credited to the fund. 2050

(H) All donations received by the board shall be deposited 2051
into the state treasury to the credit of the capitol square 2052
renovation gift fund, which is hereby created. The fund shall be 2053
used by the board as follows: 2054

(1) To provide part or all of the funding related to 2055
construction, goods, or services for the renovation of the capitol 2056
square; 2057

(2) To purchase art, antiques, and artifacts for display at 2058
the capitol square; 2059

(3) To award contracts or make grants to organizations for 2060
educating the public regarding the historical background and 2061
governmental functions of the capitol square. Chapters 125., 127., 2062
and 153. and section 3517.13 of the Revised Code do not apply to 2063
purchases made exclusively from the fund, notwithstanding anything 2064
to the contrary in those chapters or that section. All investment 2065
earnings of the fund shall be credited to the fund. 2066

(I) Except as provided in divisions (G), (H), and (J) of this 2067
section, all fees, receipts, and revenues received by the board 2068
shall be deposited into the state treasury to the credit of the 2069
sale of goods and services fund, which is hereby created. Money 2070
credited to the fund shall be used solely to pay costs of the 2071
board other than those specified in divisions (F) and (G) of this 2072
section. All investment earnings of the fund shall be credited to 2073
the fund. 2074

(J) There is hereby created in the state treasury the capitol 2075
square improvement fund, to be used by the board to pay 2076
construction, renovation, and other costs related to the capitol 2077
square for which money is not otherwise available to the board. 2078
Whenever the board determines that there is a need to incur those 2079
costs and that the unencumbered, unobligated balance to the credit 2080
of the underground parking garage operating fund exceeds the 2081

amount needed for the purposes specified in division (F) of this
section and for the operation and maintenance of the garage, the
board may request the director of budget and management to
transfer from the underground parking garage operating fund to the
capitol square improvement fund the amount needed to pay such
construction, renovation, or other costs. The director then shall
transfer the amount needed from the excess balance of the
underground parking garage operating fund.

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

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

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

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

(B) The governor may appoint the lieutenant governor as an
administrative department head listed in section 121.03 of the
Revised Code, ~~as director of the office of criminal justice
services pursuant to section 181.52 of the Revised Code,~~ as the
governor's representative on any board, agency, committee, or
commission of which the governor is a member and has the authority
to appoint a representative, or in an advisory capacity to any
nonelective board, agency, committee, or commission in the
executive department or may give the lieutenant governor any

special assignment as the governor considers in the interest of 2112
the state. 2113

(C) When carrying out any of the functions described in 2114
division (B) of this section, the lieutenant governor shall be 2115
reimbursed from funds of the particular authority for necessary 2116
expenses incurred in the conduct of authority business. 2117

Sec. 109.54. (A) The bureau of criminal identification and 2118
investigation may investigate any criminal activity in this state 2119
that is of statewide or intercounty concern when requested by 2120
local authorities and may aid federal authorities, when requested, 2121
in their investigation of any criminal activity in this state. The 2122
bureau may investigate any criminal activity in this state related 2123
to the conduct of elections when requested by the secretary of 2124
state. The bureau may investigate any criminal activity in this 2125
state involving drug abuse or illegal drug distribution prohibited 2126
under Chapter 3719. or 4729. of the Revised Code. The 2127
superintendent and any agent of the bureau may participate, as the 2128
director of an organized crime task force established under 2129
section 177.02 of the Revised Code or as a member of the 2130
investigatory staff of a task force established under that 2131
section, in an investigation of organized criminal activity 2132
anywhere within this state under sections 177.01 to 177.03 of the 2133
Revised Code. 2134

(B) The bureau may provide any trained investigative 2135
personnel and specialized equipment that are requested by any 2136
sheriff or chief of police, by the authorized designee of any 2137
sheriff or chief of police, or by any other authorized law 2138
enforcement officer to aid and assist the officer in the 2139
investigation and solution of any crime or the control of any 2140
criminal activity occurring within the officer's jurisdiction. 2141
This assistance shall be furnished by the bureau without 2142

disturbing or impairing any of the existing law enforcement 2143
authority or the prerogatives of local law enforcement authorities 2144
or officers. Investigators provided pursuant to this section, or 2145
engaged in an investigation pursuant to section 109.83 of the 2146
Revised Code, may go armed in the same manner as sheriffs and 2147
regularly appointed police officers under section 2923.12 of the 2148
Revised Code. 2149

(C)(1) The bureau shall obtain recording equipment that can 2150
be used to record depositions of the type described in division 2151
(A) of section 2152.81 and division (A) of section 2945.481 of the 2152
Revised Code, or testimony of the type described in division (D) 2153
of section 2152.81 and division (D) of section 2945.481 or in 2154
division (C) of section 2937.11 of the Revised Code, shall obtain 2155
closed circuit equipment that can be used to televise testimony of 2156
the type described in division (C) of section 2152.81 and division 2157
(C) of section 2945.481 or in division (B) of section 2937.11 of 2158
the Revised Code, and shall provide the equipment, upon request, 2159
to any court for use in recording any deposition or testimony of 2160
one of those types or in televising the testimony in accordance 2161
with the applicable division. 2162

(2) The bureau shall obtain the names, addresses, and 2163
telephone numbers of persons who are experienced in questioning 2164
children in relation to an investigation of a violation of section 2165
2905.03, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2166
2907.07, 2907.09, 2907.21, 2907.23, 2907.24, 2907.31, 2907.32, 2167
2907.321, 2907.322, 2907.323, or 2919.22 of the Revised Code or an 2168
offense of violence and shall maintain a list of those names, 2169
addresses, and telephone numbers. The list shall include a 2170
classification of the names, addresses, and telephone numbers by 2171
appellate district. Upon request, the bureau shall provide any 2172
county sheriff, chief of police, prosecuting attorney, village 2173
solicitor, city director of law, or similar chief legal officer 2174

with the name, address, and telephone number of any person 2175
contained in the list. 2176

Sec. 109.57. (A)(1) The superintendent of the bureau of 2177
criminal identification and investigation shall procure from 2178
wherever procurable and file for record photographs, pictures, 2179
descriptions, fingerprints, measurements, and other information 2180
that may be pertinent of all persons who have been convicted of 2181
committing within this state a felony, any crime constituting a 2182
misdemeanor on the first offense and a felony on subsequent 2183
offenses, or any misdemeanor described in division (A)(1)(a) of 2184
section 109.572 of the Revised Code, of all children under 2185
eighteen years of age who have been adjudicated delinquent 2186
children for committing within this state an act that would be a 2187
felony or an offense of violence if committed by an adult or who 2188
have been convicted of or pleaded guilty to committing within this 2189
state a felony or an offense of violence, and of all well-known 2190
and habitual criminals. The person in charge of any county, 2191
multicounty, municipal, municipal-county, or multicounty-municipal 2192
jail or workhouse, community-based correctional facility, halfway 2193
house, alternative residential facility, or state correctional 2194
institution and the person in charge of any state institution 2195
having custody of a person suspected of having committed a felony, 2196
any crime constituting a misdemeanor on the first offense and a 2197
felony on subsequent offenses, or any misdemeanor described in 2198
division (A)(1)(a) of section 109.572 of the Revised Code or 2199
having custody of a child under eighteen years of age with respect 2200
to whom there is probable cause to believe that the child may have 2201
committed an act that would be a felony or an offense of violence 2202
if committed by an adult shall furnish such material to the 2203
superintendent of the bureau. Fingerprints, photographs, or other 2204
descriptive information of a child who is under eighteen years of 2205
age, has not been arrested or otherwise taken into custody for 2206

committing an act that would be a felony or an offense of violence 2207
if committed by an adult, has not been adjudicated a delinquent 2208
child for committing an act that would be a felony or an offense 2209
of violence if committed by an adult, has not been convicted of or 2210
pleaded guilty to committing a felony or an offense of violence, 2211
and is not a child with respect to whom there is probable cause to 2212
believe that the child may have committed an act that would be a 2213
felony or an offense of violence if committed by an adult shall 2214
not be procured by the superintendent or furnished by any person 2215
in charge of any county, multicounty, municipal, municipal-county, 2216
or multicounty-municipal jail or workhouse, community-based 2217
correctional facility, halfway house, alternative residential 2218
facility, or state correctional institution, except as authorized 2219
in section 2151.313 of the Revised Code. 2220

(2) Every clerk of a court of record in this state, other 2221
than the supreme court or a court of appeals, shall send to the 2222
superintendent of the bureau a weekly report containing a summary 2223
of each case involving a felony, involving any crime constituting 2224
a misdemeanor on the first offense and a felony on subsequent 2225
offenses, involving a misdemeanor described in division (A)(1)(a) 2226
of section 109.572 of the Revised Code, or involving an 2227
adjudication in a case in which a child under eighteen years of 2228
age was alleged to be a delinquent child for committing an act 2229
that would be a felony or an offense of violence if committed by 2230
an adult. The clerk of the court of common pleas shall include in 2231
the report and summary the clerk sends under this division all 2232
information described in divisions (A)(2)(a) to (f) of this 2233
section regarding a case before the court of appeals that is 2234
served by that clerk. The summary shall be written on the standard 2235
forms furnished by the superintendent pursuant to division (B) of 2236
this section and shall include the following information: 2237

(a) The incident tracking number contained on the standard 2238

forms furnished by the superintendent pursuant to division (B) of	2239
this section;	2240
(b) The style and number of the case;	2241
(c) The date of arrest;	2242
(d) The date that the person was convicted of or pleaded	2243
guilty to the offense, adjudicated a delinquent child for	2244
committing the act that would be a felony or an offense of	2245
violence if committed by an adult, found not guilty of the	2246
offense, or found not to be a delinquent child for committing an	2247
act that would be a felony or an offense of violence if committed	2248
by an adult, the date of an entry dismissing the charge, an entry	2249
declaring a mistrial of the offense in which the person is	2250
discharged, an entry finding that the person or child is not	2251
competent to stand trial, or an entry of a nolle prosequi, or the	2252
date of any other determination that constitutes final resolution	2253
of the case;	2254
(e) A statement of the original charge with the section of	2255
the Revised Code that was alleged to be violated;	2256
(f) If the person or child was convicted, pleaded guilty, or	2257
was adjudicated a delinquent child, the sentence or terms of	2258
probation imposed or any other disposition of the offender or the	2259
delinquent child.	2260
If the offense involved the disarming of a law enforcement	2261
officer or an attempt to disarm a law enforcement officer, the	2262
clerk shall clearly state that fact in the summary, and the	2263
superintendent shall ensure that a clear statement of that fact is	2264
placed in the bureau's records.	2265
(3) The superintendent shall cooperate with and assist	2266
sheriffs, chiefs of police, and other law enforcement officers in	2267
the establishment of a complete system of criminal identification	2268

and in obtaining fingerprints and other means of identification of 2269
all persons arrested on a charge of a felony, any crime 2270
constituting a misdemeanor on the first offense and a felony on 2271
subsequent offenses, or a misdemeanor described in division 2272
(A)(1)(a) of section 109.572 of the Revised Code and of all 2273
children under eighteen years of age arrested or otherwise taken 2274
into custody for committing an act that would be a felony or an 2275
offense of violence if committed by an adult. The superintendent 2276
also shall file for record the fingerprint impressions of all 2277
persons confined in a county, multicounty, municipal, 2278
municipal-county, or multicounty-municipal jail or workhouse, 2279
community-based correctional facility, halfway house, alternative 2280
residential facility, or state correctional institution for the 2281
violation of state laws and of all children under eighteen years 2282
of age who are confined in a county, multicounty, municipal, 2283
municipal-county, or multicounty-municipal jail or workhouse, 2284
community-based correctional facility, halfway house, alternative 2285
residential facility, or state correctional institution or in any 2286
facility for delinquent children for committing an act that would 2287
be a felony or an offense of violence if committed by an adult, 2288
and any other information that the superintendent may receive from 2289
law enforcement officials of the state and its political 2290
subdivisions. 2291

(4) The superintendent shall carry out Chapter 2950. of the 2292
Revised Code with respect to the registration of persons who are 2293
convicted of or plead guilty to either a sexually oriented offense 2294
that is not a registration-exempt sexually oriented offense or a 2295
child-victim oriented offense and with respect to all other duties 2296
imposed on the bureau under that chapter. 2297

(5) The bureau shall perform centralized recordkeeping 2298
functions for criminal history records and services in this state 2299
for purposes of the national crime prevention and privacy compact 2300

set forth in section 109.571 of the Revised Code and is the
criminal history record repository as defined in that section for
purposes of that compact. The superintendent or the
superintendent's designee is the compact officer for purposes of
that compact and shall carry out the responsibilities of the
compact officer specified in that compact.

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

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

to those sections. In addition to any other authorized use of 2333
information, data, and statistics of that nature, the 2334
superintendent or the superintendent's designee may provide and 2335
exchange the information, data, and statistics pursuant to the 2336
national crime prevention and privacy compact as described in 2337
division (A)(5) of this section. 2338

(D) The information and materials furnished to the 2339
superintendent pursuant to division (A) of this section and 2340
information and materials furnished to any board or person under 2341
division (F) or (G) of this section are not public records under 2342
section 149.43 of the Revised Code. 2343

(E) The attorney general shall adopt rules, in accordance 2344
with Chapter 119. of the Revised Code, setting forth the procedure 2345
by which a person may receive or release information gathered by 2346
the superintendent pursuant to division (A) of this section. A 2347
reasonable fee may be charged for this service. If a temporary 2348
employment service submits a request for a determination of 2349
whether a person the service plans to refer to an employment 2350
position has been convicted of or pleaded guilty to an offense 2351
listed in division (A)(1), (3), (4), (5), or (6) of section 2352
109.572 of the Revised Code, the request shall be treated as a 2353
single request and only one fee shall be charged. 2354

(F)(1) As used in division (F)(2) of this section, "head 2355
start agency" means an entity in this state that has been approved 2356
to be an agency for purposes of subchapter II of the "Community 2357
Economic Development Act," 95 Stat. 489 (1981), 42 U.S.C.A. 9831, 2358
as amended. 2359

(2)(a) In addition to or in conjunction with any request that 2360
is required to be made under section 109.572, 2151.86, 3301.32, 2361
3301.541, 3319.39, 3701.881, 5104.012, 5104.013, 5123.081, 2362
5126.28, 5126.281, or 5153.111 of the Revised Code, the board of 2363

education of any school district; the director of mental 2364
retardation and developmental disabilities; any county board of 2365
mental retardation and developmental disabilities; any entity 2366
under contract with a county board of mental retardation and 2367
developmental disabilities; the chief administrator of any 2368
chartered nonpublic school; the chief administrator of any home 2369
health agency; the chief administrator of or person operating any 2370
child day-care center, type A family day-care home, or type B 2371
family day-care home licensed or certified under Chapter 5104. of 2372
the Revised Code; the administrator of any type C family day-care 2373
home certified pursuant to Section 1 of Sub. H.B. 62 of the 121st 2374
general assembly or Section 5 of Am. Sub. S.B. 160 of the 121st 2375
general assembly; the chief administrator of any head start 2376
agency; or the executive director of a public children services 2377
agency may request that the superintendent of the bureau 2378
investigate and determine, with respect to any individual who has 2379
applied for employment in any position after October 2, 1989, or 2380
any individual wishing to apply for employment with a board of 2381
education may request, with regard to the individual, whether the 2382
bureau has any information gathered under division (A) of this 2383
section that pertains to that individual. On receipt of the 2384
request, the superintendent shall determine whether that 2385
information exists and, upon request of the person, board, or 2386
entity requesting information, also shall request from the federal 2387
bureau of investigation any criminal records it has pertaining to 2388
that individual. The superintendent or the superintendent's 2389
designee also may request criminal history records from other 2390
states or the federal government pursuant to the national crime 2391
prevention and privacy compact set forth in section 109.571 of the 2392
Revised Code. Within thirty days of the date that the 2393
superintendent receives a request, the superintendent shall send 2394
to the board, entity, or person a report of any information that 2395
the superintendent determines exists, including information 2396

contained in records that have been sealed under section 2953.32 2397
of the Revised Code, and, within thirty days of its receipt, shall 2398
send the board, entity, or person a report of any information 2399
received from the federal bureau of investigation, other than 2400
information the dissemination of which is prohibited by federal 2401
law. 2402

(b) When a board of education is required to receive 2403
information under this section as a prerequisite to employment of 2404
an individual pursuant to section 3319.39 of the Revised Code, it 2405
may accept a certified copy of records that were issued by the 2406
bureau of criminal identification and investigation and that are 2407
presented by an individual applying for employment with the 2408
district in lieu of requesting that information itself. In such a 2409
case, the board shall accept the certified copy issued by the 2410
bureau in order to make a photocopy of it for that individual's 2411
employment application documents and shall return the certified 2412
copy to the individual. In a case of that nature, a district only 2413
shall accept a certified copy of records of that nature within one 2414
year after the date of their issuance by the bureau. 2415

(3) The state board of education may request, with respect to 2416
any individual who has applied for employment after October 2, 2417
1989, in any position with the state board or the department of 2418
education, any information that a school district board of 2419
education is authorized to request under division (F)(2) of this 2420
section, and the superintendent of the bureau shall proceed as if 2421
the request has been received from a school district board of 2422
education under division (F)(2) of this section. 2423

(4) When the superintendent of the bureau receives a request 2424
for information under section 3319.291 of the Revised Code, the 2425
superintendent shall proceed as if the request has been received 2426
from a school district board of education under division (F)(2) of 2427
this section. 2428

(5) When a recipient of an ~~OhioReads~~ a classroom or community 2429
reading improvement grant paid under section 3301.86 ~~or 3301.87~~ of 2430
the Revised Code ~~or an entity approved by the OhioReads council~~ 2431
requests, with respect to any individual who applies to 2432
participate in providing any program or service ~~through an entity~~ 2433
~~approved by the OhioReads council or~~ funded in whole or in part by 2434
the grant, the information that a school district board of 2435
education is authorized to request under division (F)(2)(a) of 2436
this section, the superintendent of the bureau shall proceed as if 2437
the request has been received from a school district board of 2438
education under division (F)(2)(a) of this section. 2439

(G) In addition to or in conjunction with any request that is 2440
required to be made under section 173.41, 3701.881, 3712.09, 2441
3721.121, or 3722.151 of the Revised Code with respect to an 2442
individual who has applied for employment in a position that 2443
involves providing direct care to an older adult, the chief 2444
administrator of a PASSPORT agency that provides services through 2445
the PASSPORT program created under section 173.40 of the Revised 2446
Code, home health agency, hospice care program, home licensed 2447
under Chapter 3721. of the Revised Code, adult day-care program 2448
operated pursuant to rules adopted under section 3721.04 of the 2449
Revised Code, or adult care facility may request that the 2450
superintendent of the bureau investigate and determine, with 2451
respect to any individual who has applied after January 27, 1997, 2452
for employment in a position that does not involve providing 2453
direct care to an older adult, whether the bureau has any 2454
information gathered under division (A) of this section that 2455
pertains to that individual. On receipt of the request, the 2456
superintendent shall determine whether that information exists 2457
and, on request of the administrator requesting information, shall 2458
also request from the federal bureau of investigation any criminal 2459
records it has pertaining to that individual. The superintendent 2460

or the superintendent's designee also may request criminal history records from other states or the federal government pursuant to the national crime prevention and privacy compact set forth in section 109.571 of the Revised Code. Within thirty days of the date a request is received, the superintendent shall send to the administrator a report of any information determined to exist, including information contained in records that have been sealed under section 2953.32 of the Revised Code, and, within thirty days of its receipt, shall send the administrator a report of any information received from the federal bureau of investigation, other than information the dissemination of which is prohibited by federal law.

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

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

Sec. 109.579. (A) On receipt of a request pursuant to division (B) of section 4123.444 of the Revised Code, a completed form prescribed pursuant to division (C)(1) of this section, and a set of fingerprint impressions obtained in the manner described in division (C)(2) of this section, the superintendent of the bureau of criminal identification and investigation shall conduct a criminal records check in the manner described in division (B) of this section to determine whether any information exists that indicates that the person who is the subject of the request previously has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or

securities, as set forth in Chapters 2909., 2911., 2913., 2915., 2492
2921., 2923., and 2925. of the Revised Code or other law of this 2493
state, or the laws of any other state or of the United States that 2494
are substantially equivalent to those offenses. 2495

(B) The superintendent shall conduct a criminal records check 2496
pursuant to division (A) of this section as follows: 2497

(1) The superintendent shall review or cause to be reviewed 2498
any relevant information gathered and compiled by the bureau under 2499
division (A) of section 109.57 of the Revised Code that relates to 2500
the person who is the subject of the request, including any 2501
relevant information contained in records that have been sealed 2502
under section 2953.32 of the Revised Code. 2503

(2) If the request received by the superintendent asks for 2504
information from the federal bureau of investigation, the 2505
superintendent shall request from the federal bureau of 2506
investigation any information it has with respect to the person 2507
who is the subject of the request. The superintendent shall review 2508
or cause to be reviewed any information that the superintendent 2509
receives from the federal bureau of investigation. 2510

(3) The superintendent shall forward the results of a 2511
criminal records check conducted pursuant to this division to the 2512
administrator of workers' compensation. 2513

(C)(1) The superintendent shall prescribe a form to obtain 2514
the information necessary to conduct a criminal records check from 2515
any person for whom a criminal records check is requested pursuant 2516
to division (B) of section 4123.444 of the Revised Code. The form 2517
that the superintendent prescribes pursuant to this division may 2518
be in a tangible format, in an electronic format, or in both 2519
tangible and electronic formats. 2520

(2) The superintendent shall prescribe standard impression 2521

sheets to obtain the fingerprint impressions of any person for 2522
whom a criminal records check is requested pursuant to section 2523
4123.444 of the Revised Code. Any person for whom the 2524
administrator requests the superintendent to conduct a criminal 2525
records check pursuant to that section shall have the person's 2526
fingerprint impressions made at a county sheriff's office, a 2527
municipal police department, or any other entity with the ability 2528
to make fingerprint impressions on the standard impression sheets 2529
prescribed by the superintendent. The office, department, or 2530
entity may charge the person a reasonable fee for making the 2531
impressions. The standard impression sheets the superintendent 2532
prescribes pursuant to this division may be in a tangible format, 2533
in an electronic format, or in both tangible and electronic 2534
formats. 2535

(3) The superintendent may prescribe methods of forwarding 2536
fingerprint impressions and information necessary to conduct a 2537
criminal records check. The methods shall include, but are not 2538
limited to, electronic methods. 2539

(D) A determination whether any information exists that 2540
indicates that a person previously has been convicted of or 2541
pleaded guilty to any offense listed or described in division (A) 2542
of this section that the superintendent makes pursuant to 2543
information considered in a criminal records check under this 2544
section is valid for the person who is the subject of that 2545
criminal records check for a period of one year after the date the 2546
superintendent makes that determination. 2547

(E) The superintendent shall prescribe and charge a 2548
reasonable fee for providing a criminal records check requested 2549
under section 4123.444 of the Revised Code. If another request for 2550
a criminal records check is made under this section for a person 2551
for whom a valid determination under division (D) of this section 2552
is available, the superintendent shall provide the determination 2553

for a reduced fee.

2554

Sec. 109.60. (A)(1) The sheriffs of the several counties and 2555
the chiefs of police of cities, immediately upon the arrest of any 2556
person for any felony, on suspicion of any felony, for a crime 2557
constituting a misdemeanor on the first offense and a felony on 2558
subsequent offenses, or for any misdemeanor described in division 2559
(A)(1)(a) of section 109.572 of the Revised Code, and immediately 2560
upon the arrest or taking into custody of any child under eighteen 2561
years of age for committing an act that would be a felony or an 2562
offense of violence if committed by an adult or upon probable 2563
cause to believe that a child of that age may have committed an 2564
act that would be a felony or an offense of violence if committed 2565
by an adult, shall take the person's or child's fingerprints, or 2566
cause the same to be taken, according to the fingerprint system of 2567
identification on the forms furnished by the superintendent of the 2568
bureau of criminal identification and investigation, and 2569
immediately shall forward copies of the completed forms, any other 2570
description that may be required, and the history of the offense 2571
committed to the bureau to be classified and filed and to the 2572
clerk of the court having jurisdiction over the prosecution of the 2573
offense or over the adjudication relative to the act. 2574

(2) If a sheriff or chief of police has not taken, or caused 2575
to be taken, a person's or child's fingerprints in accordance with 2576
division (A)(1) of this section by the time of the arraignment or 2577
first appearance of the person or child, the court shall order the 2578
person or child to appear before the sheriff or chief of police 2579
within twenty-four hours to have the person's or child's 2580
fingerprints taken. The sheriff or chief of police shall take the 2581
person's or child's fingerprints, or cause the fingerprints to be 2582
taken, according to the fingerprint system of identification on 2583
the forms furnished by the superintendent of the bureau of 2584

criminal identification and investigation and, immediately after 2585
the person's or child's arraignment or first appearance, forward 2586
copies of the completed forms, any other description that may be 2587
required, and the history of the offense committed to the bureau 2588
to be classified and filed and to the clerk of the court. 2589

(3) Every court with jurisdiction over a case involving a 2590
person or child with respect to whom division (A)(1) of this 2591
section requires a sheriff or chief of police to take the person's 2592
or child's fingerprints shall inquire at the time of the person's 2593
or child's sentencing or adjudication whether or not the person or 2594
child has been fingerprinted pursuant to division (A)(1) or (2) of 2595
this section for the original arrest upon which the sentence or 2596
adjudication is based. If the person or child was not 2597
fingerprinted for the original arrest upon which the sentence or 2598
adjudication is based, the court shall order the person or child 2599
to appear before the sheriff or chief of police within twenty-four 2600
hours to have the person's or child's fingerprints taken. The 2601
sheriff or chief of police shall take the person's or child's 2602
fingerprints, or cause the fingerprints to be taken, according to 2603
the fingerprint system of identification on the forms furnished by 2604
the superintendent of the bureau of criminal identification and 2605
investigation and immediately forward copies of the completed 2606
forms, any other description that may be required, and the history 2607
of the offense committed to the bureau to be classified and filed 2608
and to the clerk of the court. 2609

(4) If a person or child is in the custody of a law 2610
enforcement agency or a detention facility, as defined in section 2611
2921.01 of the Revised Code, and the chief law enforcement officer 2612
or chief administrative officer of the detention facility 2613
discovers that a warrant has been issued or a bill of information 2614
has been filed alleging the person or child to have committed an 2615
offense or act other than the offense or act for which the person 2616

or child is in custody, and the other alleged offense or act is 2617
one for which fingerprints are to be taken pursuant to division 2618
(A)(1) of this section, the law enforcement agency or detention 2619
facility shall take the fingerprints of the person or child, or 2620
cause the fingerprints to be taken, according to the fingerprint 2621
system of identification on the forms furnished by the 2622
superintendent of the bureau of criminal identification and 2623
investigation and immediately forward copies of the completed 2624
forms, any other description that may be required, and the history 2625
of the offense committed to the bureau to be classified and filed 2626
and to the clerk of the court that issued the warrant or with 2627
which the bill of information was filed. 2628

(5) If an accused is found not guilty of the offense charged 2629
or a nolle prosequi is entered in any case, or if any accused 2630
child under eighteen years of age is found not to be a delinquent 2631
child for committing an act that would be a felony or an offense 2632
of violence if committed by an adult or not guilty of the felony 2633
or offense of violence charged or a nolle prosequi is entered in 2634
that case, the fingerprints and description shall be given to the 2635
accused upon the accused's request. 2636

(6) The superintendent shall compare the description received 2637
with those already on file in the bureau, and, if the 2638
superintendent finds that the person arrested or taken into 2639
custody has a criminal record or a record as a delinquent child 2640
for having committed an act that would be a felony or an offense 2641
of violence if committed by an adult or is a fugitive from justice 2642
or wanted by any jurisdiction in this or another state, the United 2643
States, or a foreign country for any offense, the superintendent 2644
at once shall inform the arresting officer, the officer taking the 2645
person into custody, or the chief administrative officer of the 2646
county, multicounty, municipal, municipal-county, or 2647
multicounty-municipal jail or workhouse, community-based 2648

correctional facility, halfway house, alternative residential 2649
facility, or state correctional institution in which the person or 2650
child is in custody of that fact and give appropriate notice to 2651
the proper authorities in the jurisdiction in which the person is 2652
wanted, or, if that jurisdiction is a foreign country, give 2653
appropriate notice to federal authorities for transmission to the 2654
foreign country. The names, under which each person whose 2655
identification is filed is known, shall be alphabetically indexed 2656
by the superintendent. 2657

(B) ~~This Division (A) of this~~ section does not apply to a 2658
violin of a city ordinance unless the officers have reason to 2659
believe that the violator is a past offender or the crime is one 2660
constituting a misdemeanor on the first offense and a felony on 2661
subsequent offenses, or unless it is advisable for the purpose of 2662
subsequent identification. This section does not apply to any 2663
child under eighteen years of age who was not arrested or 2664
otherwise taken into custody for committing an act that would be a 2665
felony or an offense of violence if committed by an adult or upon 2666
probable cause to believe that a child of that age may have 2667
committed an act that would be a felony or an offense of violence 2668
if committed by an adult, except as provided in section 2151.313 2669
of the Revised Code. 2670

(C)(1) For purposes of division (C) of this section, a law 2671
enforcement agency shall be considered to have arrested a person 2672
if any law enforcement officer who is employed by, appointed by, 2673
or serves that agency arrests the person. As used in division (C) 2674
of this section: 2675

(a) "Illegal methamphetamine manufacturing laboratory" has 2676
the same meaning as in section 3745.13 of the Revised Code. 2677

(b) "Methamphetamine or a methamphetamine product" means 2678
methamphetamine, any salt, isomer, or salt of an isomer of 2679

methamphetamine, or any compound, mixture, preparation, or 2680
substance containing methamphetamine or any salt, isomer, or salt 2681
of an isomer of methamphetamine. 2682

(2) Each law enforcement agency that, in any calendar year, 2683
arrests any person for a violation of section 2925.04 of the 2684
Revised Code that is based on the manufacture of methamphetamine 2685
or a methamphetamine product, a violation of section 2925.041 of 2686
the Revised Code that is based on the possession of chemicals 2687
sufficient to produce methamphetamine or a methamphetamine 2688
product, or a violation of any other provision of Chapter 2925. or 2689
3719. of the Revised Code that is based on the possession of 2690
chemicals sufficient to produce methamphetamine or a 2691
methamphetamine product shall prepare an annual report covering 2692
the calendar year that contains the information specified in 2693
division (C)(3) of this section relative to all arrests for 2694
violations of those sections committed under those circumstances 2695
during that calendar year and shall send the annual report, not 2696
later than the first day of March in the calendar year following 2697
the calendar year covered by the report, to the bureau of criminal 2698
identification and investigation. 2699

The law enforcement agency shall write any annual report 2700
prepared and filed under this division on the standard forms 2701
furnished by the superintendent of the bureau of criminal 2702
identification and investigation pursuant to division (C)(4) of 2703
this section. The annual report shall be a statistical report, and 2704
nothing in the report or in the information it contains shall 2705
identify, or enable the identification of, any person who was 2706
arrested and whose arrest is included in the information contained 2707
in the report. The annual report in the possession of the bureau 2708
and the information it contains are public records for the purpose 2709
of section 149.43 of the Revised Code. 2710

(3) The annual report prepared and filed by a law enforcement 2711

agency under division (C)(2) of this section shall contain all of 2712
the following information for the calendar year covered by the 2713
report: 2714

(a) The total number of arrests made by the agency in that 2715
calendar year for a violation of section 2925.04 of the Revised 2716
Code that is based on the manufacture of methamphetamine or a 2717
methamphetamine product, a violation of section 2925.041 of the 2718
Revised Code that is based on the possession of chemicals 2719
sufficient to produce methamphetamine or a methamphetamine 2720
product, or a violation of any other provision of Chapter 2925. or 2721
3719. of the Revised Code that is based on the possession of 2722
chemicals sufficient to produce methamphetamine or a 2723
methamphetamine product; 2724

(b) The total number of illegal methamphetamine manufacturing 2725
laboratories at which one or more of the arrests reported under 2726
division (C)(3)(a) of this section occurred, or that were 2727
discovered in that calendar year within the territory served by 2728
the agency but at which none of the arrests reported under 2729
division (C)(3)(a) of this section occurred. 2730

(4) The superintendent of the bureau of criminal 2731
identification and investigation shall prepare and furnish to each 2732
law enforcement agency in this state standard forms for making the 2733
annual reports required by division (C)(2) of this section. The 2734
standard forms that the superintendent prepares pursuant to this 2735
division may be in a tangible format, in an electronic format, or 2736
in both a tangible format and an electronic format. 2737

(5) The annual report required by division (C)(2) of this 2738
section is separate from, and in addition to, any report, 2739
materials, or information required under division (A) of this 2740
section or under any other provision of sections 109.57 to 109.62 2741
of the Revised Code. 2742

Sec. 109.79. (A) The Ohio peace officer training commission 2743
shall establish and conduct a training school for law enforcement 2744
officers of any political subdivision of the state or of the state 2745
public defender's office. The school shall be known as the Ohio 2746
peace officer training academy. No bailiff or deputy bailiff of a 2747
court of record of this state and no criminal investigator 2748
employed by the state public defender shall be permitted to attend 2749
the academy for training unless the employing court of the bailiff 2750
or deputy bailiff or the state public defender, whichever is 2751
applicable, has authorized the bailiff, deputy bailiff, or 2752
investigator to attend the academy. 2753

The Ohio peace officer training commission shall develop the 2754
training program, which shall include courses in both the civil 2755
and criminal functions of law enforcement officers, a course in 2756
crisis intervention with six or more hours of training, and 2757
training in the handling of missing children and child abuse and 2758
neglect cases, and shall establish rules governing qualifications 2759
for admission to the academy. The commission may require 2760
competitive examinations to determine fitness of prospective 2761
trainees, so long as the examinations or other criteria for 2762
admission to the academy are consistent with the provisions of 2763
Chapter 124. of the Revised Code. 2764

The Ohio peace officer training commission shall determine 2765
tuition costs which shall be sufficient in the aggregate to pay 2766
the costs of operating the academy. The costs of acquiring and 2767
equipping the academy shall be paid from appropriations made by 2768
the general assembly to the Ohio peace officer training commission 2769
for that purpose, ~~or~~ from gifts or grants received for that 2770
purpose, or from fees for goods related to the academy. 2771

The law enforcement officers, during the period of their 2772
training, shall receive compensation as determined by the 2773

political subdivision that sponsors them or, if the officer is a
criminal investigator employed by the state public defender, as
determined by the state public defender. The political subdivision
may pay the tuition costs of the law enforcement officers they
sponsor and the state public defender may pay the tuition costs of
criminal investigators of that office who attend the academy.

If trainee vacancies exist, the academy may train and issue
certificates of satisfactory completion to peace officers who are
employed by a campus police department pursuant to section 1713.50
of the Revised Code, by a qualified nonprofit corporation police
department pursuant to section 1702.80 of the Revised Code, or by
a railroad company or who are hospital police officers appointed
and commissioned by the governor pursuant to sections 4973.17 to
4973.22 of the Revised Code, provided that no such officer shall
be trained at the academy unless the officer meets the
qualifications established for admission to the academy and the
qualified nonprofit corporation police department, railroad
company, or hospital or the private college or university that
established the campus police department prepays the entire cost
of the training. A qualified nonprofit corporation police
department, railroad company, or hospital or a private college or
university that has established a campus police department is not
entitled to reimbursement from the state for any amount paid for
the cost of training the railroad company's peace officers or the
peace officers of the qualified nonprofit corporation police
department, campus police department, or hospital.

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

(B) As used in this section:	2806
(1) "Law enforcement officers" include any undercover drug agent, any bailiff or deputy bailiff of a court of record, and any criminal investigator who is employed by the state public defender.	2807 2808 2809 2810
(2) "Undercover drug agent" means any person who:	2811
(a) Is employed by a county, township, or municipal corporation for the purposes set forth in division (B)(2)(b) of this section but who is not an employee of a county sheriff's department, of a township constable, or of the police department of a municipal corporation or township;	2812 2813 2814 2815 2816
(b) In the course of the person's employment by a county, township, or municipal corporation, investigates and gathers information pertaining to persons who are suspected of violating Chapter 2925. or 3719. of the Revised Code, and generally does not wear a uniform in the performance of the person's duties.	2817 2818 2819 2820 2821
(3) "Crisis intervention training" has the same meaning as in section 109.71 of the Revised Code.	2822 2823
(4) "Missing children" has the same meaning as in section 2901.30 of the Revised Code.	2824 2825
Sec. 109.91. (A) There is hereby established within the office of the attorney general the crime victims assistance office.	2826 2827 2828
(B) There is hereby established the state victims assistance advisory committee. The committee shall consist of a chairperson, to be appointed by the attorney general, four <u>three</u> ex officio members, and fifteen members to be appointed by the attorney general as follows: one member who represents the Ohio victim-witness association; three members who represent local victim assistance programs, including one from a municipally	2829 2830 2831 2832 2833 2834 2835

operated program and one from a county-operated program; one 2836
member who represents the interests of elderly victims; one member 2837
who is a board member of any statewide or local organization that 2838
exists primarily to aid victims of domestic violence, or who is an 2839
employee of, or counselor for, such an organization; one member 2840
who is an employee or officer of a county probation department or 2841
a probation department operated by the department of 2842
rehabilitation and correction; one member who is a county 2843
prosecuting attorney; one member who is a city law director; one 2844
member who is a county sheriff; one member who is a member or 2845
officer of a township or municipal police department; one member 2846
who is a court of common pleas judge; one member who is a 2847
municipal court judge or county court judge; and two members who 2848
are private citizens and are not government employees. 2849

The committee shall include the following ex officio, 2850
nonvoting members: ~~the chief justice of the supreme court,~~ the 2851
attorney general, one member of the senate to be designated by the 2852
president of the senate, and one member of the house of 2853
representatives to be designated by the speaker of the house. 2854

Members of the committee shall serve without compensation, 2855
but shall be reimbursed for travel and other necessary expenses 2856
that are incurred in the conduct of their official duties as 2857
members of the committee. The chairperson and members of the 2858
committee appointed by the attorney general shall serve at the 2859
pleasure of the attorney general. The ~~chief justice of the supreme~~ 2860
~~court and the~~ attorney general shall serve on the committee until 2861
the end of the term of office that qualified ~~them~~ the attorney 2862
general for membership on the committee. The member of the senate 2863
and the member of the house of representatives shall serve at the 2864
pleasure of the president of the senate and the speaker of the 2865
house of representatives, respectively. 2866

(C) The victims assistance advisory committee shall perform 2867

both of the following duties: 2868

(1) Advise the crime victims assistance office in determining 2869
crime and delinquency victim service needs, determining crime and 2870
delinquency victim policies for the state, and improving and 2871
exercising leadership in the quality of crime and delinquency 2872
victim programs in the state; 2873

(2) Review and recommend to the crime victims assistance 2874
office the victim assistance programs that should be considered 2875
for the receipt of state financial assistance pursuant to section 2876
109.92 of the Revised Code. The financial assistance allocation 2877
recommendations of the committee shall be based on the following 2878
priorities: 2879

(a) Programs in existence on July 1, 1985, shall be given 2880
first priority; 2881

(b) Programs offering or proposing to offer the broadest 2882
range of services and referrals to the community served, including 2883
medical, psychological, financial, educational, vocational, and 2884
legal services that were not in existence on July 1, 1985, shall 2885
be given second priority; 2886

(c) Other qualified programs shall be given last priority. 2887

(D) As used in this section and section 109.92 of the Revised 2888
Code, "victim assistance program" includes, but is not limited to 2889
a program that provides at least one of the following: 2890

(1) Services to victims of any offense of violence or 2891
delinquent act that would be an offense of violence if committed 2892
by an adult; 2893

(2) Financial assistance or property repair services to 2894
victims of crime or delinquent acts; 2895

(3) Assistance to victims of crime or delinquent acts in 2896
judicial proceedings; 2897

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

(5) Technical assistance to persons or organizations that provide services to victims of crime or delinquent acts under the operation of a branch of the criminal justice system set forth in ~~divisions~~ division (B)(1)(a), ~~(2)(b)~~, and ~~(3)~~ or (c) of section ~~181.51~~ 5502.61 of the Revised Code.

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

Sec. 109.98. As used in this section, "state retirement board" means the public employees retirement board, board of trustees of the Ohio police and fire pension fund, school employees retirement board, state teachers retirement board, and state highway patrol retirement board.

If a member of a state retirement board breaches the member's fiduciary duty to the retirement system, the attorney general may maintain a civil action against the board member for harm resulting from that breach. The Notwithstanding sections 145.10, 742.09, 3307.13, 3309.13, and 5505.23 of the Revised Code, after being informed of an allegation that the entire board has breached its fiduciary duty, the state retirement board may retain independent legal counsel, including legal counsel provided by the board's fiduciary insurance carrier, to advise the board and to represent the board.

The attorney general may recover damages or be granted injunctive relief, which shall include the enjoinder of specified

activities and the removal of the member from the board. Any 2928
damages awarded shall be paid to the retirement system. The 2929
authority to maintain a civil action created by this section is in 2930
addition to any authority the attorney general possesses under any 2931
other provision of the Revised Code. 2932

Sec. 109.981. If a voting member of workers' compensation 2933
oversight commission breaches the member's fiduciary duty to the 2934
bureau of workers' compensation, the attorney general may maintain 2935
a civil action against the board member for harm resulting from 2936
that breach. Notwithstanding section 4121.128 of the Revised Code, 2937
after being informed of an allegation that the entire oversight 2938
commission has breached its fiduciary duty, the oversight 2939
commission may retain independent legal counsel, including legal 2940
counsel provided by the oversight commission's fiduciary insurance 2941
carrier, to advise the board and to represent the board. The 2942
attorney general may recover damages or be granted injunctive 2943
relief, which shall include the enjoinder of specified activities 2944
and the removal of the member from the board. Any damages awarded 2945
shall be paid to the bureau. The authority to maintain a civil 2946
action created by this section is in addition to any authority the 2947
attorney general possesses under any other provision of the 2948
Revised Code. 2949

Sec. 117.10. The auditor of state shall audit all public 2950
offices as provided in this chapter. The auditor of state also may 2951
audit the accounts of private institutions, associations, boards, 2952
and corporations receiving public money for their use and may 2953
require of them annual reports in such form as the auditor of 2954
state prescribes. 2955

If the auditor of state performs or contracts for the 2956
performance of an audit, including a special audit, of the public 2957
employees retirement system, school employees retirement system, 2958

state teachers retirement system, state highway patrol retirement 2959
system, or Ohio police and fire pension fund, the auditor of state 2960
shall make a timely report of the results of the audit to the Ohio 2961
retirement study council. 2962

The auditor of state may audit the accounts of any provider 2963
as defined in section 5111.06 of the Revised Code, ~~if requested by~~ 2964
~~the department of job and family services.~~ 2965

If a public office has been audited by an agency of the 2966
United States government, the auditor of state may, if satisfied 2967
that the federal audit has been conducted according to principles 2968
and procedures not contrary to those of the auditor of state, use 2969
and adopt the federal audit and report in lieu of an audit by the 2970
auditor of state's own office. 2971

Within thirty days after the creation or dissolution or the 2972
winding up of the affairs of any public office, that public office 2973
shall notify the auditor of state in writing that this action has 2974
occurred. 2975

Sec. 120.06. (A)(1) The state public defender, when 2976
designated by the court or requested by a county public defender 2977
or joint county public defender, may provide legal representation 2978
in all courts throughout the state to indigent adults and 2979
juveniles who are charged with the commission of an offense or act 2980
for which the penalty or any possible adjudication includes the 2981
potential loss of liberty. 2982

(2) The state public defender may provide legal 2983
representation to any indigent person who, while incarcerated in 2984
any state correctional institution, is charged with a felony 2985
offense, for which the penalty or any possible adjudication that 2986
may be imposed by a court upon conviction includes the potential 2987
loss of liberty. 2988

(3) The state public defender may provide legal representation to any person incarcerated in any correctional institution of the state, in any matter in which the person asserts the person is unlawfully imprisoned or detained.

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

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

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

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

(C) A court may appoint counsel or allow an indigent person

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

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

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

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

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

(3) When the state public defender provides investigation or

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

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

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

defender, assistant state public defenders, other employees of the 3083
commission or the state public defender, and attorneys described 3084
in division (C) of section 120.41 of the Revised Code in a 3085
malpractice or other civil action or proceeding that arises from 3086
alleged actions or omissions related to responsibilities derived 3087
pursuant to this chapter, or in a civil action that is based upon 3088
alleged violations of the constitution or statutes of the United 3089
States, including section 1983 of Title 42 of the United States 3090
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 3091
arises from alleged actions or omissions related to 3092
responsibilities derived pursuant to this chapter, if the state 3093
public defender determines, in good faith, that the defendant in 3094
the civil action or proceeding did not act manifestly outside the 3095
scope of the defendant's employment or official responsibilities, 3096
with malicious purpose, in bad faith, or in a wanton or reckless 3097
manner. If the state public defender elects not to contract 3098
pursuant to this division for private legal counsel in a civil 3099
action or proceeding, then, in accordance with sections 109.02, 3100
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 3101
attorney general shall represent or provide for the representation 3102
of the Ohio public defender commission, the state public defender, 3103
assistant state public defenders, other employees of the 3104
commission or the state public defender, or attorneys described in 3105
division (C) of section 120.41 of the Revised Code in the civil 3106
action or proceeding. 3107

(2)(a) Subject to division (E)(2)(b) of this section, payment 3108
from the state treasury for the services of private legal counsel 3109
with whom the state public defender has contracted pursuant to 3110
division (E)(1) of this section shall be accomplished only through 3111
the following procedure: 3112

(i) The private legal counsel shall file with the attorney 3113
general a copy of the contract; a request for an award of legal 3114

fees, court costs, and expenses earned or incurred in connection 3115
with the defense of the Ohio public defender commission, the state 3116
public defender, an assistant state public defender, an employee, 3117
or an attorney in a specified civil action or proceeding; a 3118
written itemization of those fees, costs, and expenses, including 3119
the signature of the state public defender and the state public 3120
defender's attestation that the fees, costs, and expenses were 3121
earned or incurred pursuant to division (E)(1) of this section to 3122
the best of the state public defender's knowledge and information; 3123
a written statement whether the fees, costs, and expenses are for 3124
all legal services to be rendered in connection with that defense, 3125
are only for legal services rendered to the date of the request 3126
and additional legal services likely will have to be provided in 3127
connection with that defense, or are for the final legal services 3128
rendered in connection with that defense; a written statement 3129
indicating whether the private legal counsel previously submitted 3130
a request for an award under division (E)(2) of this section in 3131
connection with that defense and, if so, the date and the amount 3132
of each award granted; and, if the fees, costs, and expenses are 3133
for all legal services to be rendered in connection with that 3134
defense or are for the final legal services rendered in connection 3135
with that defense, a certified copy of any judgment entry in the 3136
civil action or proceeding or a signed copy of any settlement 3137
agreement entered into between the parties to the civil action or 3138
proceeding. 3139

(ii) Upon receipt of a request for an award of legal fees, 3140
court costs, and expenses and the requisite supportive 3141
documentation described in division (E)(2)(a)(i) of this section, 3142
the attorney general shall review the request and documentation; 3143
determine whether any of the limitations specified in division 3144
(E)(2)(b) of this section apply to the request; and, if an award 3145
of legal fees, court costs, or expenses is permissible after 3146

applying the limitations, prepare a document awarding legal fees, 3147
court costs, or expenses to the private legal counsel. The 3148
document shall name the private legal counsel as the recipient of 3149
the award; specify the total amount of the award as determined by 3150
the attorney general; itemize the portions of the award that 3151
represent legal fees, court costs, and expenses; specify any 3152
limitation applied pursuant to division (E)(2)(b) of this section 3153
to reduce the amount of the award sought by the private legal 3154
counsel; state that the award is payable from the state treasury 3155
pursuant to division (E)(2)(a)(iii) of this section; and be 3156
approved by the inclusion of the signatures of the attorney 3157
general, the state public defender, and the private legal counsel. 3158

(iii) The attorney general shall forward a copy of the 3159
document prepared pursuant to division (E)(2)(a)(ii) of this 3160
section to the director of budget and management. The award of 3161
legal fees, court costs, or expenses shall be paid out of the 3162
state public defender's appropriations, to the extent there is a 3163
sufficient available balance in those appropriations. If the state 3164
public defender does not have a sufficient available balance in 3165
the state public defender's appropriations to pay the entire award 3166
of legal fees, court costs, or expenses, the director shall make 3167
application for a transfer of appropriations out of the emergency 3168
purposes account or any other appropriation for emergencies or 3169
contingencies in an amount equal to the portion of the award that 3170
exceeds the sufficient available balance in the state public 3171
defender's appropriations. A transfer of appropriations out of the 3172
emergency purposes account or any other appropriation for 3173
emergencies or contingencies shall be authorized if there are 3174
sufficient moneys greater than the sum total of then pending 3175
emergency purposes account requests, or requests for releases from 3176
the other appropriation. If a transfer of appropriations out of 3177
the emergency purposes account or other appropriation for 3178

emergencies or contingencies is made to pay an amount equal to the 3179
portion of the award that exceeds the sufficient available balance 3180
in the state public defender's appropriations, the director shall 3181
cause the payment to be made to the private legal counsel. If 3182
sufficient moneys do not exist in the emergency purposes account 3183
or other appropriation for emergencies or contingencies to pay an 3184
amount equal to the portion of the award that exceeds the 3185
sufficient available balance in the state public defender's 3186
appropriations, the private legal counsel shall request the 3187
general assembly to make an appropriation sufficient to pay an 3188
amount equal to the portion of the award that exceeds the 3189
sufficient available balance in the state public defender's 3190
appropriations, and no payment in that amount shall be made until 3191
the appropriation has been made. The private legal counsel shall 3192
make the request during the current biennium and during each 3193
succeeding biennium until a sufficient appropriation is made. 3194

(b) An award of legal fees, court costs, and expenses 3195
pursuant to division (E) of this section is subject to the 3196
following limitations: 3197

(i) The maximum award or maximum aggregate of a series of 3198
awards of legal fees, court costs, and expenses to the private 3199
legal counsel in connection with the defense of the Ohio public 3200
defender commission, the state public defender, an assistant state 3201
public defender, an employee, or an attorney in a specified civil 3202
action or proceeding shall not exceed fifty thousand dollars. 3203

(ii) The private legal counsel shall not be awarded legal 3204
fees, court costs, or expenses to the extent the fees, costs, or 3205
expenses are covered by a policy of malpractice or other 3206
insurance. 3207

(iii) The private legal counsel shall be awarded legal fees 3208
and expenses only to the extent that the fees and expenses are 3209

reasonable in light of the legal services rendered by the private 3210
legal counsel in connection with the defense of the Ohio public 3211
defender commission, the state public defender, an assistant state 3212
public defender, an employee, or an attorney in a specified civil 3213
action or proceeding. 3214

(c) If, pursuant to division (E)(2)(a) of this section, the 3215
attorney general denies a request for an award of legal fees, 3216
court costs, or expenses to private legal counsel because of the 3217
application of a limitation specified in division (E)(2)(b) of 3218
this section, the attorney general shall notify the private legal 3219
counsel in writing of the denial and of the limitation applied. 3220

(d) If, pursuant to division (E)(2)(c) of this section, a 3221
private legal counsel receives a denial of an award notification 3222
or if a private legal counsel refuses to approve a document under 3223
division (E)(2)(a)(ii) of this section because of the proposed 3224
application of a limitation specified in division (E)(2)(b) of 3225
this section, the private legal counsel may commence a civil 3226
action against the attorney general in the court of claims to 3227
prove the private legal counsel's entitlement to the award sought, 3228
to prove that division (E)(2)(b) of this section does not prohibit 3229
or otherwise limit the award sought, and to recover a judgment for 3230
the amount of the award sought. A civil action under division 3231
(E)(2)(d) of this section shall be commenced no later than two 3232
years after receipt of a denial of award notification or, if the 3233
private legal counsel refused to approve a document under division 3234
(E)(2)(a)(ii) of this section because of the proposed application 3235
of a limitation specified in division (E)(2)(b) of this section, 3236
no later than two years after the refusal. Any judgment of the 3237
court of claims in favor of the private legal counsel shall be 3238
paid from the state treasury in accordance with division (E)(2)(a) 3239
of this section. 3240

(F) If a court appoints the office of the state public 3241

defender to represent a petitioner in a postconviction relief 3242
proceeding under section 2953.21 of the Revised Code, the 3243
petitioner has received a sentence of death, and the proceeding 3244
relates to that sentence, all of the attorneys who represent the 3245
petitioner in the proceeding pursuant to the appointment, whether 3246
an assistant state public defender, the state public defender, or 3247
another attorney, shall be certified under Rule 20 of the Rules of 3248
Superintendence for the Courts of Ohio to represent indigent 3249
defendants charged with or convicted of an offense for which the 3250
death penalty can be or has been imposed. 3251

(G) As used in this section: 3252

(1) "Community control sanction" has the same meaning as in 3253
section 2929.01 of the Revised Code. 3254

(2) "Post-release control sanction" has the same meaning as 3255
in section 2967.01 of the Revised Code. 3256

Sec. 120.07. There is hereby created in the state treasury 3257
the civil case filing fee fund to receive all funds deposited in 3258
the fund pursuant to sections 1901.26, 1907.24, and 2303.201 of 3259
the Revised Code. All money credited to the fund shall be used by 3260
the state public defender for the purpose of appointing assistant 3261
state public defenders and for providing other personnel, 3262
equipment, and facilities necessary for the operation of the state 3263
public defender office. 3264

Sec. 120.13. (A) The county commissioners in any county may 3265
establish a county public defender commission. The commission 3266
shall have five members, three of whom shall be appointed by the 3267
board of county commissioners, and two by the judge, or the 3268
presiding judge if there is one, of the court of common pleas of 3269
the county. At least one member appointed by each of these 3270
appointing bodies shall be an attorney admitted to the practice of 3271

law in this state. 3272

(B) The board of county commissioners shall select a specific 3273
day for the county public defender commission to be established 3274
and on which all members' appointments shall take effect, and 3275
shall notify the Ohio public defender commission of the date. 3276

(C) Of the initial appointments made to the county public 3277
defender commission, two appointments by the county commissioners 3278
and one appointment by the court shall be for a term of two years 3279
ending two years after the date the commission is established, and 3280
one appointment by each of the appointing bodies shall be for a 3281
term ending four years after the date the commission is 3282
established. Thereafter, terms of office shall be for four years, 3283
each term ending on the same day of the same month of the year as 3284
did the term which it succeeds. Each member shall hold office from 3285
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 3286
the member was appointed. Any member appointed to fill a vacancy 3287
occurring prior to the expiration of the term for which ~~his~~ the 3288
member's predecessor was appointed shall hold office for the 3289
remainder of such term. Any member shall continue in office 3290
subsequent to the expiration date of ~~his~~ the member's term until 3291
~~his~~ a successor takes office, or until a period of sixty days has 3292
elapsed, whichever occurs first. 3293

(D) The members of the commission shall choose as ~~chairman~~ 3294
chairperson one of the commission members, who shall serve as 3295
~~chairman~~ chairperson for two years. Meetings shall be held at 3296
least quarterly and at such other times as called by the ~~chairman~~ 3297
chairperson or by request of the county public defender. Members 3298
of the commission may receive an amount fixed by the county 3299
commissioners, but not in excess of the amounts set for the 3300
members of the Ohio public defender commission pursuant to section 3301
124.14 of the Revised Code per diem for every meeting of the board 3302
they attend, and necessary expenses including mileage for each 3303

mile necessarily traveled. 3304

(E) The county commissioners may terminate the county public 3305
defender commission at any time if at least ninety days prior to 3306
termination, the commissioners notify the Ohio public defender 3307
commission in writing of the termination date. Upon the 3308
termination date all pending county public defender matters shall 3309
be transferred to the state public defender, a joint county public 3310
defender, or appointed counsel. 3311

(F) ~~Fifty per cent of the~~ The cost of representation in all 3312
matters assumed by the state public defender shall be charged to 3313
the counties in accordance with division (D) of section 120.06 of 3314
the Revised Code. 3315

Sec. 120.23. (A) The boards of county commissioners in two or 3316
more adjoining or neighboring counties may form themselves into a 3317
joint board and proceed to organize a district for the 3318
establishment of a joint county public defender commission. The 3319
commission shall have three members from each county, who shall be 3320
appointed by the board of county commissioners of the county. 3321

(B) The boards shall agree on a specific date for the joint 3322
county public defender commission to be established, on which date 3323
the appointments of all members shall take effect. The joint board 3324
shall notify the Ohio public defender commission of the date. 3325

(C) Of the initial appointments made by each county to the 3326
joint county public defender commission, one appointment shall be 3327
for a term of one year ending one year after the date the 3328
commission is established, one appointment shall be for a term of 3329
two years ending two years after the date the commission is 3330
established, and one appointment shall be for a period of three 3331
years, ending three years after the date the commission is 3332
established. Thereafter, terms of office shall be for three years, 3333
each term ending on the same day of the same month of the year as 3334

did the term which it succeeds. Each member shall hold office from 3335
the date of ~~his~~ appointment until the end of the term for which ~~he~~ 3336
the member was appointed. Any member appointed to fill a vacancy 3337
occurring prior to the expiration of the term for which ~~his~~ the 3338
member's predecessor was appointed shall hold office for the 3339
remainder of the term. Any member shall continue in office 3340
subsequent to the expiration date of ~~his~~ the member's term until 3341
~~his~~ a successor takes office, or until a period of sixty days has 3342
elapsed, whichever occurs first. 3343

(D) The members of the commission shall choose as ~~chairman~~ 3344
chairperson one of the commission members, who shall serve as 3345
~~chairman~~ chairperson for two years. Meetings shall be held at 3346
least quarterly and at such other times as called by the ~~chairman~~ 3347
chairperson or by request of the joint county public defender. 3348
Members of the commission may receive an amount fixed by the 3349
agreement of the boards of commissioners of the counties in the 3350
district, but not in excess of the amount set for the members of 3351
the Ohio public defender commission pursuant to section 124.14 of 3352
the Revised Code per diem for every meeting of the commission they 3353
attend, and necessary expenses including mileage for each mile 3354
necessarily traveled. 3355

(E) The agreement of the boards of county commissioners 3356
establishing the joint county public defender commission shall 3357
provide for the allocation of the proportion of expenses to be 3358
paid by each county, which may be based upon population, number of 3359
cases, or such other factors as the commissioners determine to be 3360
appropriate. The county commissioners may amend their agreement 3361
from time to time to provide for a different allocation of the 3362
proportion of expenses to be paid by each county. 3363

(F) The county auditor of the county, with the greatest 3364
population is hereby designated as the fiscal officer of a joint 3365
county public defender district organized under this section. The 3366

county auditors of the several counties composing the joint county 3367
public defender commission district shall meet at the commission 3368
office not less than once in each six months, to adjust accounts 3369
and to transact such other duties in connection with the 3370
commission as pertain to the business of their office. 3371

(G) Each member of the board of county commissioners who 3372
meets by appointment to consider the organization of a joint 3373
county public defender commission shall, upon presentation of 3374
properly certified accounts, be paid ~~his~~ the member's necessary 3375
expenses upon a warrant drawn by the county auditor of ~~his~~ the 3376
member's county. 3377

(H) The board of county commissioners of any county within a 3378
joint county public defender commission district may withdraw from 3379
the district. Such withdrawal shall not be effective until at 3380
least ninety days after the board has notified the Ohio public 3381
defender commission, the joint county public defender commission 3382
of the district, and each board of county commissioners in the 3383
district, in writing of the termination date. The failure of a 3384
board of county commissioners to approve an annual operating 3385
budget for the office of the joint county public defender as 3386
provided in division (C)(1) of section 120.24 of the Revised Code 3387
constitutes a notice of withdrawal by the county from the 3388
district, effective on the ninetieth day after commencement of the 3389
next fiscal year. Upon the termination date, all joint county 3390
public defender matters relating to the withdrawing county shall 3391
be transferred to the state public defender, a county public 3392
defender, or appointed counsel. 3393

(I) ~~Fifty per cent of the~~ The cost of representation in all 3394
matters assumed by the state public defender shall be charged to 3395
the counties in accordance with division (D) of section 120.06 of 3396
the Revised Code. 3397

Members of the joint county public defender commission who 3398

are residents of a county withdrawing from such district are 3399
deemed to have resigned their positions upon the completion of the 3400
withdrawal procedure provided by this section. Vacancies thus 3401
created shall not be filled. 3402

If two or more counties remain within the district after the 3403
withdrawal, the boards of county commissioners of the remaining 3404
adjoining or neighboring counties may agree to continue the 3405
operation of the joint county public defender commission and to 3406
reallocate the proportionate share of expenses to be paid by each 3407
participating county. 3408

Sec. 120.36. (A) If a person who is a defendant in a criminal 3409
case or a party in a case in juvenile court requests or is 3410
provided a state public defender, a county or joint county public 3411
defender, or any other counsel appointed by the court, the court 3412
in which the criminal case is initially filed or the juvenile 3413
court, whichever is applicable, shall assess, unless the 3414
application fee is waived or reduced, a non-refundable application 3415
fee of twenty-five dollars. 3416

The court shall direct the person to pay the application fee 3417
to the clerk of the court that assessed the fee. The person shall 3418
pay the application fee at the time the person files an affidavit 3419
of indigency or a financial disclosure form with the court or 3420
within seven days of that date. If the person does not pay the 3421
application fee within that seven-day period, the court shall 3422
assess the application fee at sentencing or at the final 3423
disposition of the case. 3424

If a case involving a felony that was initially filed in a 3425
municipal court or a county court is bound over to the court of 3426
common pleas and the defendant in the case failed to pay the 3427
application fee in the municipal court or county court, the court 3428
of common pleas shall assess the application fee at the initial 3429

appearance of the defendant in the court of common pleas. If a 3430
case involving an alleged delinquent child is transferred to the 3431
court of common pleas for prosecution of the involved child as an 3432
adult, the court of common pleas shall assess the application fee 3433
at the initial appearance of the child in the court of common 3434
pleas. 3435

The court shall assess an application fee pursuant to this 3436
section one time per case. An appeal shall not be considered a 3437
separate case for the purpose of assessing the application fee. 3438
The court may waive or reduce the fee upon a finding that the 3439
person lacks financial resources that are sufficient to pay the 3440
fee or that payment of the fee would result in an undue hardship. 3441

(B) No court, state public defender, county or joint county 3442
public defender, or other counsel appointed by the court shall 3443
deny a person the assistance of counsel solely due to the person's 3444
failure to pay the application fee assessed pursuant to division 3445
(A) of this section. A person's present inability, failure, or 3446
refusal to pay the application fee shall not disqualify that 3447
person from legal representation. 3448

(C) The application fee assessed pursuant to division (A) of 3449
this section is separate from and in addition to any other amount 3450
assessed against a person who is found to be able to contribute 3451
toward the cost of the person's legal representation pursuant to 3452
division (D) of section 2941.51 of the Revised Code. 3453

(D) The clerk of the court that assessed the fees shall 3454
forward all application fees collected pursuant to this section to 3455
the county treasurer for deposit in the county treasury. The 3456
county shall retain eighty per cent of the application fees so 3457
collected to offset the costs of providing legal representation to 3458
indigent persons. Each month, the county auditor shall remit 3459
twenty per cent of the application fees so collected to the state 3460

public defender. The state public defender shall deposit the 3461
remitted fees into the state treasury to the credit of the client 3462
payment fund created pursuant to division (B)(5) of section 120.04 3463
of the Revised Code. The state public defender may use that money 3464
in accordance with that section. 3465

(E) On or before the first day of March of each year, each 3466
clerk of court shall provide to the state public defender and the 3467
state auditor a report including all of the following: 3468

(1) The number of persons in the previous calendar year who 3469
requested or were provided a state public defender, county or 3470
joint county public defender, or other counsel appointed by the 3471
court; 3472

(2) The number of persons in the previous calendar year for 3473
whom the court waived the application fee pursuant to division (A) 3474
of this section; 3475

(3) The dollar value of the assessed application fees 3476
pursuant to division (A) of this section in the previous calendar 3477
year; 3478

(4) The amount of assessed application fees collected in the 3479
previous calendar year; 3480

(5) The balance of unpaid assessed application fees at the 3481
open and close of the previous calendar year. 3482

(F) As used in this section: 3483

(1) "Clerk of court" means the clerk of the court of common 3484
pleas of the county, the clerk of the juvenile court of the 3485
county, the clerk of a municipal court in the county, the clerk of 3486
a county-operated municipal court, or the clerk of a county court 3487
in the county, whichever is applicable. 3488

(2) "County-operated municipal court" has the same meaning as 3489
in section 1901.03 of the Revised Code. 3490

Sec. 120.52. There is hereby established in the state 3491
treasury the legal aid fund, which shall be for the charitable 3492
public purpose of providing financial assistance to legal aid 3493
societies that provide civil legal services to indigents. The fund 3494
shall contain all funds credited to it by the treasurer of state 3495
pursuant to sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09 3496
and 4705.10 of the Revised Code and income from investment 3497
credited to it by the treasurer of state in accordance with this 3498
section. 3499

The treasurer of state may invest moneys contained in the 3500
legal aid fund in any manner authorized by the Revised Code for 3501
the investment of state moneys. However, no such investment shall 3502
interfere with any apportionment, allocation, or payment of moneys 3503
in January and July of each calendar year, as required by section 3504
120.53 of the Revised Code. All income earned as a result of any 3505
such investment shall be credited to the fund. 3506

The state public defender, through the Ohio legal assistance 3507
foundation, shall administer the payment of moneys out of the 3508
fund. Four and one-half per cent of the moneys in the fund shall 3509
be reserved for the actual, reasonable costs of administering 3510
sections 120.51 to 120.55 and sections 1901.26, 1907.24, 2303.201, 3511
3953.231, 4705.09, and 4705.10 of the Revised Code. Moneys that 3512
are reserved for administrative costs but that are not used for 3513
actual, reasonable administrative costs shall be set aside for use 3514
in the manner described in division (A) of section 120.521 of the 3515
Revised Code. The remainder of the moneys in the legal aid fund 3516
shall be distributed in accordance with section 120.53 of the 3517
Revised Code. The Ohio legal assistance foundation shall 3518
establish, in accordance with Chapter 119. of the Revised Code, 3519
rules governing the administration of the legal aid fund, 3520
~~including the program established under sections 4705.09 and~~ 3521

~~4705.10 of the Revised Code regarding interest on interest bearing 3522~~
~~trust accounts of an attorney, law firm, or legal professional 3523~~
~~association. 3524~~

Sec. 120.53. (A) A legal aid society that operates within the 3525
state may apply to the Ohio legal assistance foundation for 3526
financial assistance from the legal aid fund established by 3527
section 120.52 of the Revised Code to be used for the funding of 3528
the society during the calendar year following the calendar year 3529
in which application is made. 3530

(B) An application for financial assistance made under 3531
division (A) of this section shall be submitted by the first day 3532
of November of the calendar year preceding the calendar year for 3533
which financial assistance is desired and shall include all of the 3534
following: 3535

(1) Evidence that the applicant is incorporated in this state 3536
as a nonprofit corporation; 3537

(2) A list of the trustees of the applicant; 3538

(3) The proposed budget of the applicant for these funds for 3539
the following calendar year; 3540

(4) A summary of the services to be offered by the applicant 3541
in the following calendar year; 3542

(5) A specific description of the territory or constituency 3543
served by the applicant; 3544

(6) An estimate of the number of persons to be served by the 3545
applicant during the following calendar year; 3546

(7) A general description of the additional sources of the 3547
applicant's funding; 3548

(8) The amount of the applicant's total budget for the 3549
calendar year in which the application is filed that it will 3550

expend in that calendar year for legal services in each of the 3551
counties it serves; 3552

(9) A specific description of any services, programs, 3553
training, and legal technical assistance to be delivered by the 3554
applicant or by another person pursuant to a contract with the 3555
applicant, including, but not limited to, by private attorneys or 3556
through reduced fee plans, judicare panels, organized pro bono 3557
programs, and mediation programs. 3558

(C) The Ohio legal assistance foundation shall determine 3559
whether each applicant that filed an application for financial 3560
assistance under division (A) of this section in a calendar year 3561
is eligible for financial assistance under this section. To be 3562
eligible for such financial assistance, an applicant shall satisfy 3563
the criteria for being a legal aid society and shall be in 3564
compliance with the provisions of sections 120.51 to 120.55 of the 3565
Revised Code and with the rules and requirements the foundation 3566
establishes pursuant to section 120.52 of the Revised Code. The 3567
Ohio legal assistance foundation then, on or before the fifteenth 3568
day of December of the calendar year in which the application is 3569
filed, shall notify each such applicant, in writing, whether it is 3570
eligible for financial assistance under this section, and if it is 3571
eligible, estimate the amount that will be available for that 3572
applicant for each six-month distribution period, as determined 3573
under division (D) of this section. 3574

(D) The Ohio legal assistance foundation shall allocate 3575
moneys contained in the legal aid fund twice each year for 3576
distribution to applicants that filed their applications in the 3577
previous calendar year and were determined to be eligible 3578
applicants. 3579

All moneys contained in the fund on the first day of January 3580
of a calendar year shall be allocated, after deduction of the 3581

costs of administering sections 120.51 to 120.55 and sections 3582
1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 4705.10 of the 3583
Revised Code that are authorized by section 120.52 of the Revised 3584
Code, according to this section and shall be distributed 3585
accordingly on the thirty-first day of January of that calendar 3586
year, and all moneys contained in the fund on the first day of 3587
July of that calendar year shall be allocated, after deduction of 3588
the costs of administering those sections that are authorized by 3589
section 120.52 of the Revised Code, according to this section and 3590
shall be distributed accordingly on the thirty-first day of July 3591
of that calendar year. In making the allocations under this 3592
section, the moneys in the fund that were generated pursuant to 3593
sections 1901.26, 1907.24, 2303.201, 3953.231, 4705.09, and 3594
4705.10 of the Revised Code and all income generated from the 3595
investment of such moneys shall be apportioned as follows: 3596

(1) After deduction of the amount authorized and used for 3597
actual, reasonable administrative costs under section 120.52 of 3598
the Revised Code: 3599

(a) Five per cent of the moneys remaining in the fund, ~~plus~~ 3600
~~any moneys reserved for administrative costs under that section~~ 3601
~~that are not used for actual, reasonable administrative costs,~~ 3602
shall be reserved for use in the manner described in division (A) 3603
of section 120.521 of the Revised Code or for distribution to 3604
legal aid societies that provide assistance to special population 3605
groups of their eligible clients, engage in special projects that 3606
have a substantial impact on their local service area or on 3607
significant segments of the state's poverty population, or provide 3608
legal training or support to other legal aid societies in the 3609
state; 3610

(b) After deduction of the amount described in division 3611
(D)(1)(a) of this section, one and three-quarters per cent of the 3612
moneys remaining in the fund shall be apportioned among entities 3613

that received financial assistance from the legal aid fund prior 3614
to the effective date of this amendment but that, on and after the 3615
effective date of this amendment, no longer qualify as a legal aid 3616
society that is eligible for financial assistance under this 3617
section. 3618

(c) After deduction of the amounts described in divisions 3619
(D)(1)(a) and (b) of this section, fifteen per cent of the moneys 3620
remaining in the fund shall be placed in the legal assistance 3621
foundation fund for use in the manner described in division (A) of 3622
section 120.521 of the Revised Code. 3623

(2) After deduction of the actual, reasonable administrative 3624
costs under section 120.52 of the Revised Code and after deduction 3625
of the amounts identified in ~~division~~ divisions (D)(1)(a) ~~and,~~ 3626
(b), and (c) of this section, the remaining moneys shall be 3627
apportioned among the counties that are served by eligible legal 3628
aid societies that have applied for financial assistance under 3629
this section so that each such county is apportioned a portion of 3630
those moneys, based upon the ratio of the number of indigents who 3631
reside in that county to the total number of indigents who reside 3632
in all counties of this state that are served by eligible legal 3633
aid societies that have applied for financial assistance under 3634
this section. Subject to division (E) of this section, the moneys 3635
apportioned to a county under this division then shall be 3636
allocated to the eligible legal aid society that serves the county 3637
and that has applied for financial assistance under this section. 3638
For purposes of this division, the source of data identifying the 3639
number of indigent persons who reside in a county shall be the 3640
most recent decennial census figures from the United States 3641
department of commerce, division of census. 3642

(E) If the Ohio legal assistance foundation, in attempting to 3643
make an allocation of moneys under division (D)(2) of this 3644
section, determines that a county that has been apportioned money 3645

under that division is served by more than one eligible legal aid 3646
society that has applied for financial assistance under this 3647
section, the Ohio legal assistance foundation shall allocate the 3648
moneys that have been apportioned to that county under division 3649
(D)(2) of this section among all eligible legal aid societies that 3650
serve that county and that have applied for financial assistance 3651
under this section on a pro rata basis, so that each such eligible 3652
society is allocated a portion based upon the amount of its total 3653
budget expended in the prior calendar year for legal services in 3654
that county as compared to the total amount expended in the prior 3655
calendar year for legal services in that county by all eligible 3656
legal aidsocieties that serve that county and that have applied 3657
for financial assistance under this section. 3658

(F) Moneys allocated to eligible applicants under this 3659
section shall be paid twice annually, on the thirty-first day of 3660
January and on the thirty-first day of July of the calendar year 3661
following the calendar year in which the application is filed. 3662

(G)(1) A legal aid society that receives financial assistance 3663
in any calendar year under this section shall file an annual 3664
report with the Ohio legal assistance foundation detailing the 3665
number and types of cases handled, and the amount and types of 3666
legal training, legal technical assistance, and other service 3667
provided, by means of that financial assistance. No information 3668
contained in the report shall identify or enable the 3669
identification of any person served by the legal aid society or in 3670
any way breach client confidentiality. 3671

(2) The Ohio legal assistance foundation shall make an annual 3672
report to the governor, the general assembly, and the supreme 3673
court on the distribution and use of the legal aid fund. The 3674
foundation also shall include in the annual report an audited 3675
financial statement of all gifts, bequests, donations, 3676
contributions, and other moneys the foundation receives. No 3677

information contained in the report shall identify or enable the 3678
identification of any person served by a legal aid society, or in 3679
any way breach confidentiality. 3680

(H) A legal aid society may enter into agreements for the 3681
provision of services, programs, training, or legal technical 3682
assistance for the legal aid society or to indigent persons. 3683

Sec. 121.37. (A)(1) There is hereby created the Ohio family 3684
and children first cabinet council. The council shall be composed 3685
of the superintendent of public instruction and the directors of 3686
youth services, job and family services, mental health, health, 3687
alcohol and drug addiction services, mental retardation and 3688
developmental disabilities, and budget and management. The 3689
chairperson of the council shall be the governor or the governor's 3690
designee and shall establish procedures for the council's internal 3691
control and management. 3692

(2) The purpose of the cabinet council is to help families 3693
seeking government services. This section shall not be interpreted 3694
or applied to usurp the role of parents, but solely to streamline 3695
and coordinate existing government services for families seeking 3696
assistance for their children. 3697

In seeking to fulfill its purpose, the council may do any of 3698
the following: 3699

(a) Advise and make recommendations to the governor and 3700
general assembly regarding the provision of services to children; 3701

(b) Advise and assess local governments on the coordination 3702
of service delivery to children; 3703

(c) Hold meetings at such times and places as may be 3704
prescribed by the council's procedures and maintain records of the 3705
meetings, except that records identifying individual children are 3706
confidential and shall be disclosed only as provided by law; 3707

(d) Develop programs and projects, including pilot projects,	3708
to encourage coordinated efforts at the state and local level to	3709
improve the state's social service delivery system;	3710
(e) Enter into contracts with and administer grants to county	3711
family and children first councils, as well as other county or	3712
multicounty organizations to plan and coordinate service delivery	3713
between state agencies and local service providers for families	3714
and children;	3715
(f) Enter into contracts with and apply for grants from	3716
federal agencies or private organizations;	3717
(g) Enter into interagency agreements to encourage	3718
coordinated efforts at the state and local level to improve the	3719
state's social service delivery system. The agreements may include	3720
provisions regarding the receipt, transfer, and expenditure of	3721
funds;	3722
(h) Identify public and private funding sources for services	3723
provided to alleged or adjudicated unruly children and children	3724
who are at risk of being alleged or adjudicated unruly children,	3725
including regulations governing access to and use of the services;	3726
(i) Collect information provided by local communities	3727
regarding successful programs for prevention, intervention, and	3728
treatment of unruly behavior, including evaluations of the	3729
programs;	3730
(j) Identify and disseminate publications regarding alleged	3731
or adjudicated unruly children and children who are at risk of	3732
being alleged or adjudicated unruly children and regarding	3733
programs serving those types of children;	3734
(k) Maintain an inventory of strategic planning facilitators	3735
for use by government or nonprofit entities that serve alleged or	3736
adjudicated unruly children or children who are at risk of being	3737

alleged or adjudicated unruly children. 3738

(3) The cabinet council shall provide for the following: 3739

(a) Reviews of service and treatment plans for children for 3740
which such reviews are requested; 3741

(b) Assistance as the council determines to be necessary to 3742
meet the needs of children referred by county family and children 3743
first councils; 3744

(c) Monitoring and supervision of a statewide, comprehensive, 3745
coordinated, multi-disciplinary, interagency system for infants 3746
and toddlers with developmental disabilities or delays and their 3747
families, as established pursuant to federal grants received and 3748
administered by the department of health for early intervention 3749
services under the "~~Education of the Handicapped Act Amendments of~~ 3750
~~1986,~~" ~~100 Stat. 1145 (1986), 20 U.S.C.A. 1471~~ Individuals with 3751
Disabilities Education Act of 2004, 20 U.S.C.A. 1400, as amended. 3752

(B)(1) Each board of county commissioners shall establish a 3753
county family and children first council. The board may invite any 3754
local public or private agency or group that funds, advocates, or 3755
provides services to children and families to have a 3756
representative become a permanent or temporary member of its 3757
county council. Each county council must include the following 3758
individuals: 3759

(a) At least three individuals who are not employed by an 3760
agency represented on the council and whose families are or have 3761
received services from an agency represented on the council or 3762
another county's council. Where possible, the number of members 3763
representing families shall be equal to twenty per cent of the 3764
council's membership. 3765

(b) The director of the board of alcohol, drug addiction, and 3766
mental health services that serves the county, or, in the case of 3767

a county that has a board of alcohol and drug addiction services 3768
and a community mental health board, the directors of both boards. 3769
If a board of alcohol, drug addiction, and mental health services 3770
covers more than one county, the director may designate a person 3771
to participate on the county's council. 3772

(c) The health commissioner, or the commissioner's designee, 3773
of the board of health of each city and general health district in 3774
the county. If the county has two or more health districts, the 3775
health commissioner membership may be limited to the commissioners 3776
of the two districts with the largest populations. 3777

(d) The director of the county department of job and family 3778
services; 3779

(e) The executive director of the ~~county agency responsible~~ 3780
~~for the administration of~~ public children services ~~pursuant to~~ 3781
~~section 5153.15 of the Revised Code~~ agency; 3782

(f) The superintendent of the county board of mental 3783
retardation and developmental disabilities; 3784

(g) The county's juvenile court judge senior in service or 3785
another judge of the juvenile court designated by the 3786
administrative judge or, where there is no administrative judge, 3787
by the judge senior in service; 3788

(h) The superintendent of the city, exempted village, or 3789
local school district with the largest number of pupils residing 3790
in the county, as determined by the department of education, which 3791
shall notify each board of county commissioners of its 3792
determination at least biennially; 3793

(i) A school superintendent representing all other school 3794
districts with territory in the county, as designated at a 3795
biennial meeting of the superintendents of those districts; 3796

(j) A representative of the municipal corporation with the 3797

largest population in the county; 3798

(k) The president of the board of county commissioners, or an individual designated by the board; 3799
3800

(l) A representative of the regional office of the department of youth services; 3801
3802

(m) A representative of the county's head start agencies, as defined in section ~~3301.31~~ 3301.32 of the Revised Code; 3803
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(n) A representative of the county's early intervention collaborative established pursuant to the federal early intervention program operated under the "Education of the Handicapped Act Amendments of 1986"; 3805
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(o) A representative of a local nonprofit entity that funds, advocates, or provides services to children and families. 3809
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Notwithstanding any other provision of law, the public members of a county council are not prohibited from serving on the council and making decisions regarding the duties of the council, including those involving the funding of joint projects and those outlined in the county's service coordination mechanism implemented pursuant to division (C) of this section. 3811
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The cabinet council shall establish a state appeals process to resolve disputes among the members of a county council concerning whether reasonable responsibilities as members are being shared. The appeals process may be accessed only by a majority vote of the council members who are required to serve on the council. Upon appeal, the cabinet council may order that state funds for services to children and families be redirected to a county's board of county commissioners. 3817
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(2) A The purpose of the county council is to streamline and coordinate existing government services for families seeking services for their children. In seeking to fulfill its purpose, a 3825
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county council shall provide for the following: 3828

(a) Referrals to the cabinet council of those children for 3829
whom the county council cannot provide adequate services; 3830

(b) Development and implementation of a process that annually 3831
evaluates and prioritizes services, fills service gaps where 3832
possible, and invents new approaches to achieve better results for 3833
families and children; 3834

(c) Participation in the development of a countywide, 3835
comprehensive, coordinated, multi-disciplinary, interagency system 3836
for infants and toddlers with developmental disabilities or delays 3837
and their families, as established pursuant to federal grants 3838
received and administered by the department of health for early 3839
intervention services under the "Education of the Handicapped Act 3840
Amendments of 1986"; 3841

(d) Maintenance of an accountability system to monitor the 3842
county council's progress in achieving results for families and 3843
children; 3844

(e) Establishment of a mechanism to ensure ongoing input from 3845
a broad representation of families who are receiving services 3846
within the county system. 3847

(3)(a) Except as provided in division (B)(3)(b) of this 3848
section, a county council shall comply with the policies, 3849
procedures, and activities prescribed by the rules or interagency 3850
agreements of a state department participating on the cabinet 3851
council whenever the county council performs a function subject to 3852
those rules or agreements. 3853

(b) On application of a county council, the cabinet council 3854
may grant an exemption from any rules or interagency agreements of 3855
a state department participating on the council if an exemption is 3856
necessary for the council to implement an alternative program or 3857
approach for service delivery to families and children. The 3858

application shall describe the proposed program or approach and 3859
specify the rules or interagency agreements from which an 3860
exemption is necessary. The cabinet council shall approve or 3861
disapprove the application in accordance with standards and 3862
procedures it shall adopt. If an application is approved, the 3863
exemption is effective only while the program or approach is being 3864
implemented, including a reasonable period during which the 3865
program or approach is being evaluated for effectiveness. 3866

(4)(a) Each county council shall designate an administrative 3867
agent for the council from among the following public entities: 3868
the board of alcohol, drug addiction, and mental health services, 3869
including a board of alcohol and drug addiction or a community 3870
mental health board if the county is served by separate boards; 3871
the board of county commissioners; any board of health of the 3872
county's city and general health districts; the county department 3873
of job and family services; the county agency responsible for the 3874
administration of children services pursuant to section 5153.15 of 3875
the Revised Code; the county board of mental retardation and 3876
developmental disabilities; any of the county's boards of 3877
education or governing boards of educational service centers; or 3878
the county's juvenile court. Any of the foregoing public entities, 3879
other than the board of county commissioners, may decline to serve 3880
as the council's administrative agent. 3881

A county council's administrative agent shall serve as the 3882
council's appointing authority for any employees of the council. 3883
The council shall file an annual budget with its administrative 3884
agent, with copies filed with the county auditor and with the 3885
board of county commissioners, unless the board is serving as the 3886
council's administrative agent. The council's administrative agent 3887
shall ensure that all expenditures are handled in accordance with 3888
policies, procedures, and activities prescribed by state 3889
departments in rules or interagency agreements that are applicable 3890

to the council's functions. 3891

The administrative agent for a county council may do any of 3892
the following on behalf of the council: 3893

(i) Enter into agreements or administer contracts with public 3894
or private entities to fulfill specific council business. Such 3895
agreements and contracts are exempt from the competitive bidding 3896
requirements of section 307.86 of the Revised Code if they have 3897
been approved by the county council and they are for the purchase 3898
of family and child welfare or child protection services or other 3899
social or job and family services for families and children. The 3900
approval of the county council is not required to exempt 3901
agreements or contracts entered into under section 5139.34, 3902
5139.41, or 5139.43 of the Revised Code from the competitive 3903
bidding requirements of section 307.86 of the Revised Code. 3904

(ii) As determined by the council, provide financial 3905
stipends, reimbursements, or both, to family representatives for 3906
expenses related to council activity; 3907

(iii) Receive by gift, grant, devise, or bequest any moneys, 3908
lands, or other property for the purposes for which the council is 3909
established. The agent shall hold, apply, and dispose of the 3910
moneys, lands, or other property according to the terms of the 3911
gift, grant, devise, or bequest. Any interest or earnings shall be 3912
treated in the same manner and are subject to the same terms as 3913
the gift, grant, devise, or bequest from which it accrues. 3914

(b)(i) If the county council designates the board of county 3915
commissioners as its administrative agent, the board may, by 3916
resolution, delegate any of its powers and duties as 3917
administrative agent to an executive committee the board 3918
establishes from the membership of the county council. The board 3919
shall name to the executive committee at least the individuals 3920
described in divisions (B)(1)~~(b) through (h)~~(a) to (i) of this 3921

section and may appoint the president of the board or another 3922
individual as the chair of the executive committee. The executive 3923
committee must include at least one family county council 3924
representative who does not have a family member employed by an 3925
agency represented on the council. 3926

(ii) The executive committee may, with the approval of the 3927
board, hire an executive director to assist the county council in 3928
administering its powers and duties. The executive director shall 3929
serve in the unclassified civil service at the pleasure of the 3930
executive committee. The executive director may, with the approval 3931
of the executive committee, hire other employees as necessary to 3932
properly conduct the county council's business. 3933

(iii) The board may require the executive committee to submit 3934
an annual budget to the board for approval and may amend or repeal 3935
the resolution that delegated to the executive committee its 3936
authority as the county council's administrative agent. 3937

(5) Two or more county councils may enter into an agreement 3938
to administer their county councils jointly by creating a regional 3939
family and children first council. A regional council possesses 3940
the same duties and authority possessed by a county council, 3941
except that the duties and authority apply regionally rather than 3942
to individual counties. Prior to entering into an agreement to 3943
create a regional council, the members of each county council to 3944
be part of the regional council shall meet to determine whether 3945
all or part of the members of each county council will serve as 3946
members of the regional council. 3947

(6) A board of county commissioners may approve a resolution 3948
by a majority vote of the board's members that requires the county 3949
council to submit a statement to the board each time the council 3950
proposes to enter into an agreement, adopt a plan, or make a 3951
decision, other than a decision pursuant to section 121.38 of the 3952
Revised Code, that requires the expenditure of funds for two or 3953

more families. The statement shall describe the proposed 3954
agreement, plan, or decision. 3955

Not later than fifteen days after the board receives the 3956
statement, it shall, by resolution approved by a majority of its 3957
members, approve or disapprove the agreement, plan, or decision. 3958
Failure of the board to pass a resolution during that time period 3959
shall be considered approval of the agreement, plan, or decision. 3960

An agreement, plan, or decision for which a statement is 3961
required to be submitted to the board shall be implemented only if 3962
it is approved by the board. 3963

(C) Each county shall develop a county service coordination 3964
mechanism. The county service coordination mechanism shall serve 3965
as the guiding document for coordination of services in the 3966
county. For children who also receive services under the help me 3967
grow program, the service coordination mechanism shall be 3968
consistent with rules adopted by the department of health under 3969
section 3701.61 of the Revised Code. All family service 3970
coordination plans shall be developed in accordance with the 3971
county service coordination mechanism. The mechanism shall be 3972
developed and approved with the participation of the county 3973
entities representing child welfare; mental retardation and 3974
developmental disabilities; alcohol, drug addiction, and mental 3975
health services; health; juvenile judges; education; the county 3976
family and children first council; and the county early 3977
intervention collaborative established pursuant to the federal 3978
early intervention program operated under the "Education of the 3979
Handicapped Act Amendments of 1986." The county shall establish an 3980
implementation schedule for the mechanism. The cabinet council may 3981
monitor the implementation and administration of each county's 3982
service coordination mechanism. 3983

Each mechanism shall include all of the following: 3984

- (1) ~~A procedure for assessing the needs of any child,~~ 3985
~~including a child who is an abused, neglected, dependent, unruly,~~ 3986
~~or delinquent child and under the jurisdiction of the juvenile~~ 3987
~~court or a child whose parent or custodian is voluntarily seeking~~ 3988
~~services an agency, including a juvenile court, or a family~~ 3989
~~voluntarily seeking service coordination, to refer the child and~~ 3990
~~family to the county council for service coordination in~~ 3991
~~accordance with the county service coordination mechanism;~~ 3992
- (2) A procedure ensuring that a family and all appropriate 3993
staff from involved agencies, including a representative from the 3994
appropriate school district, are notified of and invited to 3995
participate in all family service coordination plan meetings; 3996
- (3) A procedure that permits a family to initiate a meeting 3997
to develop or review the family's service coordination plan and 3998
allows the family to invite a family advocate, mentor, or support 3999
person of the family's choice to participate in any such meeting; 4000
- (4) A procedure for ensuring that a family service 4001
coordination plan meeting is conducted before a non-emergency 4002
out-of-home placement for all multi-need children, or within ten 4003
days of a placement for emergency placements of multi-need 4004
children. The family service coordination plan shall outline how 4005
the county council members will jointly pay for services, where 4006
applicable, and provide services in the least restrictive 4007
environment. 4008
- (5) A procedure for monitoring the progress and tracking the 4009
outcomes of each service coordination plan requested in the county 4010
including monitoring and tracking children in out-of-home 4011
placements to assure continued progress, appropriateness of 4012
placement, and continuity of care after discharge from placement 4013
with appropriate arrangements for housing, treatment, and 4014
education. 4015

(6) A procedure for protecting the confidentiality of all 4016
personal family information disclosed during service coordination 4017
meetings or contained in the comprehensive family service 4018
coordination plan. 4019

(7) A procedure for assessing the ~~service~~ needs and strengths 4020
of the ~~family of~~ any child or family that has been referred to the 4021
council for service coordination, including a child ~~who is an~~ 4022
~~abused, neglected, dependent, unruly, or delinquent child and~~ 4023
~~under the jurisdiction of the juvenile court or a child whose~~ 4024
parent or custodian is voluntarily seeking services, and for 4025
ensuring that parents and custodians are afforded the opportunity 4026
to participate; 4027

~~(3)~~(8) A procedure for development of a ~~comprehensive joint~~ 4028
family service coordination plan described in division (D) of this 4029
section; 4030

~~(4)~~(9) A local dispute resolution process to serve as the 4031
process that must be used first to resolve disputes among the 4032
agencies represented on the county council concerning the 4033
provision of services to children, including children who are 4034
abused, neglected, dependent, unruly, alleged unruly, or 4035
delinquent children and under the jurisdiction of the juvenile 4036
court and children whose parents or custodians are voluntarily 4037
seeking services. The local dispute resolution process shall 4038
comply with section 121.38 of the Revised Code. ~~The~~ The local 4039
dispute resolution process shall be used to resolve disputes 4040
between a child's parents or custodians and the county council 4041
regarding service coordination. The county council shall inform 4042
the parents or custodians of their right to use the dispute 4043
resolution process. Parents or custodians shall use existing local 4044
agency grievance procedures to address disputes not involving 4045
service coordination. The dispute resolution process is in 4046
addition to and does not replace other rights or procedures that 4047

parents or custodians may have under other sections of the Revised Code. 4048
4049

The cabinet council shall adopt rules in accordance with 4050
Chapter 119. of the Revised Code establishing an administrative 4051
review process to address problems that arise concerning the 4052
operation of a local dispute resolution process. 4053

Nothing in division (C)(4) of this section shall be 4054
interpreted as overriding or affecting decisions of a juvenile 4055
court regarding an out-of-home placement, long-term placement, or 4056
emergency out-of-home placement. 4057

(D) Each county shall develop a comprehensive ~~joint~~ family 4058
service coordination plan that does ~~both~~ all of the following: 4059

(1) Designates service responsibilities among the various 4060
state and local agencies that provide services to children and 4061
their families, including children who are abused, neglected, 4062
dependent, unruly, or delinquent children and under the 4063
jurisdiction of the juvenile court and children whose parents or 4064
custodians are voluntarily seeking services; 4065

(2) Designates an individual, approved by the family, to 4066
track the progress of the family service coordination plan, 4067
schedule reviews as necessary, and facilitate the family service 4068
coordination plan meeting process; 4069

(3) Ensures that assistance and services to be provided are 4070
responsive to the strengths and needs of the family, as well as 4071
the family's culture, race, and ethnic group, by allowing the 4072
family to offer information and suggestions and participate in 4073
decisions. Identified assistance and services shall be provided in 4074
the least restrictive environment possible. 4075

(4) Includes a ~~service coordination~~ process for dealing with 4076
a child who is alleged to be an unruly child. The ~~service~~ 4077
~~coordination~~ process shall include methods to divert the child 4078

from the juvenile court system; 4079

(5) Includes timelines for completion of goals specified in 4080
the plan with regular reviews scheduled to monitor progress toward 4081
those goals; 4082

(6) Includes a plan for dealing with short-term crisis 4083
situations and safety concerns. 4084

(E)(1) The ~~service coordination~~ process provided for under 4085
division (D)~~(2)~~(4) of this section may include, but is not limited 4086
to, the following: 4087

~~(a) An assessment of the needs and strengths of the child and~~ 4088
~~the child's family and the services the child and the child's~~ 4089
~~family need;~~ 4090

~~(b)~~ Designation of the person or agency to conduct the 4091
assessment of the child and the child's family as described in 4092
division ~~(E)(1)(a)~~(C)(7) of this section and designation of the 4093
instrument or instruments to be used to conduct the assessment; 4094

~~(c) Designation of the agency to provide case management~~ 4095
~~services to the child and to the child's family;~~ 4096

~~(d)~~(b) An emphasis on the personal responsibilities of the 4097
child and the parental responsibilities of the parents, guardian, 4098
or custodian of the child; 4099

~~(e)~~(c) Involvement of local law enforcement agencies and 4100
officials. 4101

(2) The method to divert a child from the juvenile court 4102
system that must be included in the service coordination process 4103
may include, but is not limited to, the following: 4104

(a) The preparation of a complaint under section 2151.27 of 4105
the Revised Code alleging that the child is an unruly child and 4106
notifying the child and the parents, guardian, or custodian that 4107
the complaint has been prepared to encourage the child and the 4108

parents, guardian, or custodian to comply with other methods to
divert the child from the juvenile court system;

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

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

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

~~(e)~~(d) A program to provide a mentor to the child or the
parents, guardian, or custodian;

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

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

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

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

Sec. 121.373. There is hereby created in the state treasury 4139
the family and children first administration fund. The fund shall 4140
consist of money that the director of budget and management 4141
transfers from one or more funds of one or more agencies 4142
represented on the Ohio family and children first cabinet council. 4143
The director may transfer only money that state or federal law 4144
permits to be used for the cabinet council's administrative costs. 4145
Money in the fund shall be used to pay the cabinet council's 4146
administrative costs. 4147

Sec. 121.38. (A) An agency represented on a county family and 4148
children first council that disagrees with the council's decision 4149
concerning the services or funding for services a child is to 4150
receive from agencies represented on the council may initiate the 4151
local dispute resolution process established in the county service 4152
coordination mechanism applicable to the council. On completion of 4153
the process, the decision maker designated in the mechanism shall 4154
issue a written determination that directs one or more agencies 4155
represented on the council to provide services or funding for 4156
services to the child. The determination shall include a plan of 4157
care governing the manner in which the services or funding are to 4158
be provided. The decision maker shall base the plan of care on the 4159
~~comprehensive joint~~ family service coordination plan developed as 4160
part of the county's service coordination mechanism and on 4161
evidence presented during the local dispute resolution process. 4162
The decision maker may require an agency to provide services or 4163
funding only if the child's condition or needs qualify the child 4164
for services under the laws governing the agency. 4165

(B) An agency subject to a determination issued pursuant to a 4167
local dispute resolution process shall immediately comply with the 4168
determination, unless the agency objects to the determination by 4169

doing one of the following not later than seven days after the 4170
date the written determination is issued: 4171

(1) If the child has been alleged or adjudicated to be an 4172
abused, neglected, dependent, unruly, or delinquent child or a 4173
juvenile traffic offender, filing in the juvenile court of the 4174
county having jurisdiction over the child's case a motion 4175
requesting that the court hold a hearing to determine which 4176
agencies are to provide services or funding for services to the 4177
child. 4178

(2) If the child is not a child described in division (B)(1) 4179
of this section, filing in the juvenile court of the county served 4180
by the county council a complaint objecting to the determination. 4181

The court shall hold a hearing as soon as possible, but not 4182
later than ninety days after the motion or complaint is filed. At 4183
least five days before the date on which the court hearing is to 4184
be held, the court shall send each agency subject to the 4185
determination written notice by first class mail of the date, 4186
time, place, and purpose of the court hearing. In the case of a 4187
motion filed under division (B)(1) of this section, the court may 4188
conduct the hearing as part of the adjudicatory or dispositional 4189
hearing concerning the child, if appropriate, and shall provide 4190
notice as required for those hearings. 4191

Except in cases in which the hearing is conducted as part of 4192
the adjudicatory or dispositional hearing, a hearing held pursuant 4193
to this division shall be limited to a determination of which 4194
agencies are to provide services or funding for services to the 4195
child. At the conclusion of the hearing, the court shall issue an 4196
order directing one or more agencies represented on the county 4197
council to provide services or funding for services to the child. 4198
The order shall include a plan of care governing the manner in 4199
which the services or funding are to be provided. The court shall 4200

base the plan of care on the ~~comprehensive joint~~ family service 4201
coordination plan developed as part of the county's service 4202
coordination plan and on evidence presented during the hearing. An 4203
agency required by the order to provide services or funding shall 4204
be a party to any juvenile court proceeding concerning the child. 4205
The court may require an agency to provide services or funding for 4206
a child only if the child's condition or needs qualify the child 4207
for services under the laws governing the agency. 4208

(C) While the local dispute resolution process or court 4209
proceedings pursuant to this section are pending, each agency 4210
shall provide services and funding as required by the decision 4211
made by the county council before dispute resolution was 4212
initiated. If an agency that provides services or funds during the 4213
local dispute resolution process or court proceedings is 4214
determined through the process or proceedings not to be 4215
responsible for providing them, it shall be reimbursed for the 4216
costs of providing the services or funding by the agencies 4217
determined to be responsible for providing them. 4218

Sec. 121.381. A parent or custodian who disagrees with a 4219
decision rendered by a county family and children first council 4220
regarding services for a child may initiate the dispute resolution 4221
process established in the county service coordination mechanism 4222
pursuant to division (C)(10) of section 121.37 of the Revised 4223
Code. 4224

Not later than sixty days after the parent or custodian 4225
initiates the dispute resolution process, the council shall make 4226
findings regarding the dispute and issue a written determination 4227
of its findings. 4228

Sec. 121.382. Each agency represented on a county family and 4229
children first council that is providing services or funding for 4230

services that are the subject of the dispute resolution process 4231
initiated by a parent or custodian under section 121.381 of the 4232
Revised Code shall continue to provide those services and the 4233
funding for those services during the dispute resolution process. 4234

Sec. 121.403. (A) The Ohio community service council may do 4235
any of the following: 4236

(1) Accept monetary gifts or donations; 4237

(2) Sponsor conferences, meetings, or events in furtherance 4238
of the council's purpose described in section 121.40 of the 4239
Revised Code and charge fees for participation or involvement in 4240
the conferences, meetings, or events; 4241

(3) Sell promotional items in furtherance of the council's 4242
purpose described in section 121.40 of the Revised Code. 4243

(B) All monetary gifts and donations, funds from the sale of 4244
promotional items, and any fees paid to the council for 4245
conferences, meetings, or events sponsored by the council shall be 4246
deposited into the Ohio community service council gifts and 4247
donations fund, which is hereby created in the state treasury. 4248
Moneys in the fund may be used only as follows: 4249

(1) To pay operating expenses of the council, including 4250
payroll, personal services, maintenance, equipment, and subsidy 4251
payments; 4252

(2) To support council programs promoting volunteerism and 4253
community service in the state; 4254

(3) As matching funds for federal grants. 4255

Sec. 122.011. (A) The department of development shall develop 4256
and promote plans and programs designed to assure that state 4257
resources are efficiently used, economic growth is properly 4258

balanced, community growth is developed in an orderly manner, and 4259
local governments are coordinated with each other and the state, 4260
and for such purposes may do all of the following: 4261

(1) Serve as a clearinghouse for information, data, and other 4262
materials that may be helpful or necessary to persons or local 4263
governments, as provided in section 122.07 of the Revised Code; 4264

(2) Prepare and activate plans for the retention, 4265
development, expansion, and use of the resources and commerce of 4266
the state, as provided in section 122.04 of the Revised Code; 4267

(3) Assist and cooperate with federal, state, and local 4268
governments and agencies of federal, state, and local governments 4269
in the coordination of programs to carry out the functions and 4270
duties of the department; 4271

(4) Encourage and foster research and development activities, 4272
conduct studies related to the solution of community problems, and 4273
develop recommendations for administrative or legislative actions, 4274
as provided in section 122.03 of the Revised Code; 4275

(5) Serve as the economic and community development planning 4276
agency, which shall prepare and recommend plans and programs for 4277
the orderly growth and development of this state and which shall 4278
provide planning assistance, as provided in section 122.06 of the 4279
Revised Code; 4280

(6) Cooperate with and provide technical assistance to state 4281
departments, political subdivisions, regional and local planning 4282
commissions, tourist associations, councils of government, 4283
community development groups, community action agencies, and other 4284
appropriate organizations for carrying out the functions and 4285
duties of the department or for the solution of community 4286
problems; 4287

(7) Coordinate the activities of state agencies that have an 4288
impact on carrying out the functions and duties of the department; 4289

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

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

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

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

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

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

(B) The director of development may request the attorney

general to, and the attorney general, in accordance with section 4321
109.02 of the Revised Code, shall bring a civil action in any 4322
court of competent jurisdiction. The director may be sued in the 4323
director's official capacity, in connection with this chapter, in 4324
accordance with Chapter 2743. of the Revised Code. 4325

Sec. 122.075. (A) As used in this section: 4326

(1) "Alternative fuel" means blended biodiesel or blended 4327
gasoline. 4328

(2) "Biodiesel" means a mono-alkyl ester combustible liquid 4329
fuel that is derived from vegetable oils or animal fats, or any 4330
combination of those reagents, and that meets American society for 4331
testing and materials specification D6751-03a for biodiesel fuel 4332
(B100) blend stock distillate fuels. 4333

(3) "Diesel fuel" and "gasoline" have the same meanings as in 4334
section 5735.01 of the Revised Code. 4335

(4) "Ethanol" has the same meaning as in section 5733.46 of 4336
the Revised Code. 4337

(5) "Blended biodiesel" means diesel fuel containing at least 4338
twenty per cent biodiesel by volume. 4339

(6) "Blended gasoline" means gasoline containing at least 4340
eighty-five per cent ethanol by volume. 4341

(7) "Incremental cost" means either of the following: 4342

(a) The difference in cost between blended gasoline and 4343
gasoline containing ten per cent or less ethanol at the time that 4344
the blended gasoline is purchased; 4345

(b) The difference in cost between blended biodiesel and 4346
diesel fuel containing two per cent or less biodiesel at the time 4347
that the blended biodiesel is purchased. 4348

(B) For the purpose of improving the air quality in this 4349

state, the director of development shall establish an alternative 4350
fuel transportation grant program under which the director may 4351
make grants to businesses, nonprofit organizations, public school 4352
systems, or local governments for the purchase and installation of 4353
alternative fuel refueling facilities and for the purchase and use 4354
of alternative fuel. 4355

(C) The director shall adopt rules in accordance with Chapter 4356
119. of the Revised Code that are necessary for the administration 4357
of the alternative fuel transportation grant program. The rules 4358
shall establish at least all of the following: 4359

(1) An application form and procedures governing the 4360
application process for a grant under the program; 4361

(2) A procedure for prioritizing the award of grants under 4362
the program; 4363

(3) A requirement that the maximum grant for the purchase and 4364
installation of an alternative fuel refueling facility be no more 4365
than fifty per cent of the cost of the facility; 4366

(4) A requirement that the maximum grant for the purchase of 4367
alternative fuel be no more than fifty per cent of the incremental 4368
cost of the fuel; 4369

(5) Any other criteria, procedures, or guidelines that the 4370
director determines are necessary to administer the program. 4371

(D) There is hereby created in the state treasury the 4372
alternative fuel transportation grant fund. The fund shall consist 4373
of money as may be specified by the general assembly from the 4374
energy efficiency revolving loan fund created by section 4928.61 4375
of the Revised Code. Money in the fund shall be used to make 4376
grants under the alternative fuel transportation grant program and 4377
by the director in the administration of that program. 4378

Sec. 122.083. (A) The director of development shall 4379

administer a shovel ready sites program to provide grants for 4380
projects to port authorities and development entities approved by 4381
the director. Grants may be used to pay the costs of any or all of 4382
the following: 4383

(1) Acquisition of property, including options; 4384

(2) Preparation of sites, including brownfield clean-up 4385
activities; 4386

(3) Construction of road, water, telecommunication, and 4387
utility infrastructure; 4388

(4) Payment of professional fees the amount of which shall 4389
not exceed twenty per cent of the grant amount for a project. 4390

(B) The director shall adopt rules in accordance with Chapter 4391
119. of the Revised Code that establish procedures and 4392
requirements necessary for the administration of the program, 4393
including a requirement that a recipient of a grant enter into an 4394
agreement with the director governing the use of the grant. 4395

(C) There is hereby created in the state treasury the shovel 4396
ready sites fund consisting of money appropriated to it. Money in 4397
the fund shall be used solely for the purposes of this section. 4398

Sec. 122.12. As used in this section and in section 122.121 4399
of the Revised Code: 4400

(A) "Direct costs" means total administrative operations 4401
spending plus total visitor spending. 4402

(B) "Eligible event" means an event that meets all of the 4403
following criteria: 4404

(1) It is held for a period not to exceed seven consecutive 4405
days. 4406

(2) It is either an amateur sporting event not regularly held 4407

in this state or a professional sporting event not affiliated 4408
exclusively with a franchise of the national football league, 4409
major league baseball, the national basketball association, the 4410
national hockey league, or major league soccer. 4411

(3) It is administered or managed by a sports commission or 4412
convention and visitors bureau domiciled in this state. 4413

(C) "Sports commission" means a nonprofit corporation 4414
organized under the laws of this state that is entitled to tax 4415
exempt status under section 501(c)(3), 501(c)(4), or 501(c)(6) of 4416
the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 4417
501, as amended, and whose function is to attract, promote, or 4418
sponsor sports and athletic events within a municipal corporation, 4419
township, or county. 4420

(D) "Total administrative operations spending" means the 4421
total amount of administrative costs related to conducting an 4422
eligible event by a sports commission or convention and visitors 4423
bureau as estimated in a grant application submitted under section 4424
122.121 of the Revised Code. 4425

(E) "Total visitor spending" means the number of attendees of 4426
an eligible event from outside this state as estimated in a grant 4427
application submitted under section 122.121 of the Revised Code 4428
multiplied by the number of days the eligible event is to take 4429
place and then multiplied by one hundred fifty dollars. 4430

Sec. 122.121. (A) The director of development shall approve 4431
grants in accordance with this section for the purpose of 4432
providing financial assistance to eligible events from money 4433
appropriated for that purpose. An applicant for a grant under this 4434
section shall submit an application to the director on a form and 4435
in a manner prescribed by the director. An application shall 4436
include estimates of total administrative operations spending and 4437

the total number of persons from outside this state that are
expected to attend the eligible event. Not later than thirty days
after receipt of an application, the director shall approve or
disapprove the application in accordance with procedures
established by the director. The director shall not approve an
application until the applicant has submitted a formal letter of
commitment from the organizer of the eligible event for which the
application was submitted. If a grant application is approved, the
grant money shall be paid directly to the sports commission or
convention and visitors bureau that applied for the grant.

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

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

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

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(3) A grant for an eligible event shall comprise not more
than two per cent of the direct costs associated with conducting
the eligible event or, if the eligible event is or is scheduled to
be televised nationally, not more than two and one-half per cent
of the direct costs associated with conducting the eligible event.

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

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

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(D) Not later than ninety days after an eligible event for 4468
which a grant has been issued under this section has been 4469
conducted, the sports commission or convention and visitors bureau 4470
that received the grant shall submit a report to the director in a 4471
form and manner prescribed by the director detailing attendance 4472
statistics, spending receipts, and any other information that is 4473
determined to be necessary by the director. 4474

Sec. 122.17. (A) As used in this section: 4475

(1) "Full-time employee" means an individual who is employed 4476
for consideration for at least thirty-five hours a week, or who 4477
renders any other standard of service generally accepted by custom 4478
or specified by contract as full-time employment. 4479

(2) "New employee" means one of the following: 4480

(a) A full-time employee first employed by a taxpayer in the 4481
project that is the subject of the agreement after the taxpayer 4482
enters into a tax credit agreement with the tax credit authority 4483
under this section; 4484

(b) A full-time employee first employed by a taxpayer in the 4485
project that is the subject of the tax credit after the tax credit 4486
authority approves a project for a tax credit under this section 4487
in a public meeting, as long as the taxpayer enters into the tax 4488
credit agreement prepared by the department of development after 4489
such meeting within sixty days after receiving the agreement from 4490
the department. If the taxpayer fails to enter into the agreement 4491
within sixty days, "new employee" has the same meaning as under 4492
division (A)(2)(a) of this section. 4493

Under division (A)(2)(a) or (b) of this section, if the tax 4494
credit authority determines it appropriate, "new employee" also 4495
may include an employee re-hired or called back from lay-off to 4496
work in a new facility or on a new product or service established 4497

or produced by the taxpayer after entering into the agreement 4498
under this section or after the tax credit authority approves the 4499
tax credit in a public meeting. Except as otherwise provided in 4500
this paragraph, "new employee" does not include any employee of 4501
the taxpayer who was previously employed in this state by a 4502
related member of the taxpayer and whose employment was shifted to 4503
the taxpayer after the taxpayer entered into the tax credit 4504
agreement or after the tax credit authority approved the credit in 4505
a public meeting, or any employee of the taxpayer for which the 4506
taxpayer has been granted a certificate under division (B) of 4507
section 5709.66 of the Revised Code. However, if the taxpayer is 4508
engaged in the enrichment and commercialization of uranium or 4509
uranium products or is engaged in research and development 4510
activities related thereto and if the tax credit authority 4511
determines it appropriate, "new employee" may include an employee 4512
of the taxpayer who was previously employed in this state by a 4513
related member of the taxpayer and whose employment was shifted to 4514
the taxpayer after the taxpayer entered into the tax credit 4515
agreement or after the tax credit authority approved the credit in 4516
a public meeting. "New employee" does not include an employee of 4517
the taxpayer who is employed in an employment position that was 4518
relocated to a project from other operations of the taxpayer in 4519
this state or from operations of a related member of the taxpayer 4520
in this state. In addition, "new employee" does not include a 4521
child, grandchild, parent, or spouse, other than a spouse who is 4522
legally separated from the individual, of any individual who is an 4523
employee of the taxpayer and who has a direct or indirect 4524
ownership interest of at least five per cent in the profits, 4525
capital, or value of the taxpayer. Such ownership interest shall 4526
be determined in accordance with section 1563 of the Internal 4527
Revenue Code and regulations prescribed thereunder. 4528

(3) "New income tax revenue" means the total amount withheld 4529

under section 5747.06 of the Revised Code by the taxpayer during 4530
the taxable year, or during the calendar year that includes the 4531
tax period, from the compensation of new employees for the tax 4532
levied under Chapter 5747. of the Revised Code. 4533

(4) "Related member" has the same meaning as under division 4534
(A)(6) of section 5733.042 of the Revised Code without regard to 4535
division (B) of that section. 4536

(B) The tax credit authority may make grants under this 4537
section to foster job creation in this state. Such a grant shall 4538
take the form of a refundable credit allowed against the tax 4539
imposed by section 5725.18, 5729.03, 5733.06, or 5747.02 or levied 4540
under Chapter 5751. of the Revised Code. The credit shall be 4541
claimed for the taxable years or tax periods specified in the 4542
taxpayer's agreement with the tax credit authority under division 4543
(D) of this section. The credit shall be claimed ~~after the~~ 4544
~~allowance of all other credits provided by Chapter 5733. or 5747.~~ 4545
in the order required under section 5733.98, 5747.98, or 5751.98 4546
of the Revised Code. The amount of the credit available for a 4547
taxable year or for a calendar year that includes a tax period 4548
equals the new income tax revenue for ~~the taxable that~~ year 4549
multiplied by the percentage specified in the agreement with the 4550
tax credit authority. Any credit granted under this section 4551
against the tax imposed by section 5733.06 or 5747.02 of the 4552
Revised Code, to the extent not fully utilized against such tax 4553
for taxable years ending prior to 2008, shall automatically be 4554
converted without any action taken by the tax credit authority to 4555
a credit against the tax levied under Chapter 5751. of the Revised 4556
Code for tax periods beginning on or after July 1, 2008, provided 4557
that the person to whom the credit was granted is subject to such 4558
tax. The converted credit shall apply to those calendar years in 4559
which the remaining taxable years specified in the agreement end. 4560

(C) A taxpayer or potential taxpayer who proposes a project 4561

to create new jobs in this state may apply to the tax credit 4562
authority to enter into an agreement for a tax credit under this 4563
section. The director of development shall prescribe the form of 4564
the application. After receipt of an application, the authority 4565
may enter into an agreement with the taxpayer for a credit under 4566
this section if it determines all of the following: 4567

(1) The taxpayer's project will create new jobs in this 4568
state; 4569

(2) The taxpayer's project is economically sound and will 4570
benefit the people of this state by increasing opportunities for 4571
employment and strengthening the economy of this state; 4572

(3) Receiving the tax credit is a major factor in the 4573
taxpayer's decision to go forward with the project. 4574

(D) An agreement under this section shall include all of the 4575
following: 4576

(1) A detailed description of the project that is the subject 4577
of the agreement; 4578

(2) The term of the tax credit, which shall not exceed 4579
fifteen years, and the first taxable year, or first calendar year 4580
that includes a tax period, for which the credit may be claimed; 4581

(3) A requirement that the taxpayer shall maintain operations 4582
at the project location for at least twice the number of years as 4583
the term of the tax credit; 4584

(4) The percentage, as determined by the tax credit 4585
authority, of new income tax revenue that will be allowed as the 4586
amount of the credit for each taxable year or for each calendar 4587
year that includes a tax period; 4588

(5) A specific method for determining how many new employees 4589
are employed during a taxable year or during a calendar year that 4590
includes a tax period; 4591

(6) A requirement that the taxpayer annually shall report to 4592
the director of development the number of new employees, the new 4593
income tax revenue withheld in connection with the new employees, 4594
and any other information the director needs to perform the 4595
director's duties under this section; 4596

(7) A requirement that the director of development annually 4597
shall verify the amounts reported under division (D)(6) of this 4598
section, and after doing so shall issue a certificate to the 4599
taxpayer stating that the amounts have been verified; 4600

(8)(a) A provision requiring that the taxpayer, except as 4601
otherwise provided in division (D)(8)(b) of this section, shall 4602
not relocate employment positions from elsewhere in this state to 4603
the project site that is the subject of the agreement for the 4604
lesser of five years from the date the agreement is entered into 4605
or the number of years the taxpayer is entitled to claim the tax 4606
credit. 4607

(b) The taxpayer may relocate employment positions from 4608
elsewhere in this state to the project site that is the subject of 4609
the agreement if the director of development determines both of 4610
the following: 4611

(i) That the site from which the employment positions would 4612
be relocated is inadequate to meet market and industry conditions, 4613
expansion plans, consolidation plans, or other business 4614
considerations affecting the taxpayer; 4615

(ii) That the legislative authority of the county, township, 4616
or municipal corporation from which the employment positions would 4617
be relocated has been notified of the relocation. 4618

For purposes of this section, the movement of an employment 4619
position from one political subdivision to another political 4620
subdivision shall be considered a relocation of an employment 4621
position, but the transfer of an individual employee from one 4622

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

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

(F) Projects that consist solely of point-of-final-purchase
retail facilities are not eligible for a tax credit under this
section. If a project consists of both point-of-final-purchase
retail facilities and nonretail facilities, only the portion of
the project consisting of the nonretail facilities is eligible for
a tax credit and only the new income tax revenue from new
employees of the nonretail facilities shall be considered when
computing the amount of the tax credit. If a warehouse facility is
part of a point-of-final-purchase retail facility and supplies

only that facility, the warehouse facility is not eligible for a
tax credit. Catalog distribution centers are not considered
point-of-final-purchase retail facilities for the purposes of this
division, and are eligible for tax credits under this section.

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

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

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(I) The director of development, after consultation with the
tax commissioner and the superintendent of insurance and in
accordance with Chapter 119. of the Revised Code, shall adopt

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rules necessary to implement this section. The rules may provide 4687
for recipients of tax credits under this section to be charged 4688
fees to cover administrative costs of the tax credit program. At 4689
the time the director gives public notice under division (A) of 4690
section 119.03 of the Revised Code of the adoption of the rules, 4691
the director shall submit copies of the proposed rules to the 4692
chairpersons of the standing committees on economic development in 4693
the senate and the house of representatives. 4694

(J) For the purposes of this section, a taxpayer may include 4695
a partnership, a corporation that has made an election under 4696
subchapter S of chapter one of subtitle A of the Internal Revenue 4697
Code, or any other business entity through which income flows as a 4698
distributive share to its owners. A credit received under this 4699
section by a partnership, S-corporation, or other such business 4700
entity shall be apportioned among the persons to whom the income 4701
or profit of the partnership, S-corporation, or other entity is 4702
distributed, in the same proportions as those in which the income 4703
or profit is distributed. 4704

(K) If the director of development determines that a taxpayer 4705
who has received a credit under this section is not complying with 4706
the requirement under division (D)(3) of this section, the 4707
director shall notify the tax credit authority of the 4708
noncompliance. After receiving such a notice, and after giving the 4709
taxpayer an opportunity to explain the noncompliance, the tax 4710
credit authority may require the taxpayer to refund to this state 4711
a portion of the credit in accordance with the following: 4712

(1) If the taxpayer maintained operations at the project 4713
location for at least one and one-half times the number of years 4714
of the term of the tax credit, an amount not exceeding twenty-five 4715
per cent of the sum of any previously allowed credits under this 4716
section; 4717

(2) If the taxpayer maintained operations at the project 4718

location for at least the number of years of the term of the tax 4719
credit, an amount not exceeding fifty per cent of the sum of any 4720
previously allowed credits under this section; 4721

(3) If the taxpayer maintained operations at the project 4722
location for less than the number of years of the term of the tax 4723
credit, an amount not exceeding one hundred per cent of the sum of 4724
any previously allowed credits under this section. 4725

In determining the portion of the tax credit to be refunded 4726
to this state, the tax credit authority shall consider the effect 4727
of market conditions on the taxpayer's project and whether the 4728
taxpayer continues to maintain other operations in this state. 4729
After making the determination, the authority shall certify the 4730
amount to be refunded to the tax commissioner or superintendent of 4731
insurance, as appropriate. ~~The~~ If the amount is certified to the 4732
commissioner, the commissioner shall make an assessment for that 4733
amount against the taxpayer under Chapter 5733. ~~or, 5747., or~~ 4734
5751. of the Revised Code. If the amount is certified to the 4735
superintendent, the superintendent shall make an assessment for 4736
that amount against the taxpayer under Chapter 5725. or 5729. of 4737
the Revised Code. The time limitations on assessments under 4738
~~Chapter 5733. or 5747. of the Revised Code~~ those chapters do not 4739
apply to an assessment under this division, but the commissioner 4740
or superintendent, as appropriate, shall make the assessment 4741
within one year after the date the authority certifies to the 4742
commissioner or superintendent the amount to be refunded. 4743

(L) On or before the thirty-first day of March each year, the 4744
director of development shall submit a report to the governor, the 4745
president of the senate, and the speaker of the house of 4746
representatives on the tax credit program under this section. The 4747
report shall include information on the number of agreements that 4748
were entered into under this section during the preceding calendar 4749
year, a description of the project that is the subject of each 4750

such agreement, and an update on the status of projects under
agreements entered into before the preceding calendar year.

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

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(M) There is hereby created the tax credit authority, which
consists of the director of development and four other members
appointed as follows: the governor, the president of the senate,
and the speaker of the house of representatives each shall appoint
one member who shall be a specialist in economic development; the
governor also shall appoint a member who is a specialist in
taxation. Of the initial appointees, the members appointed by the
governor shall serve a term of two years; the members appointed by
the president of the senate and the speaker of the house of
representatives shall serve a term of four years. Thereafter,
terms of office shall be for four years. Initial appointments to
the authority shall be made within thirty days after January 13,
1993. Each member shall serve on the authority until the end of
the term for which the member was appointed. Vacancies shall be
filled in the same manner provided for original appointments. Any
member appointed to fill a vacancy occurring prior to the
expiration of the term for which the member's predecessor was
appointed shall hold office for the remainder of that term.
Members may be reappointed to the authority. Members of the
authority shall receive their necessary and actual expenses while

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engaged in the business of the authority. The director of
development shall serve as chairperson of the authority, and the
members annually shall elect a vice-chairperson from among
themselves. Three members of the authority constitute a quorum to
transact and vote on the business of the authority. The majority
vote of the membership of the authority is necessary to approve
any such business, including the election of the vice-chairperson.

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

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

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

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

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

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

(c) Payments made to a related member as defined in section 4813
5733.042 of the Revised Code or to an elected consolidated 4814
taxpayer or a combined taxpayer as defined in section 5751.01 of 4815
the Revised Code. 4816

(2) "Eligible business" means a business with Ohio operations 4817
satisfying all of the following: 4818

(a) Employed an average of at least one thousand employees in 4819
full-time employment positions at a project site during each of 4820
the twelve months preceding the application for a tax credit under 4821
this section; and 4822

(b) On or after January 1, 2002, has made payments for the 4823
capital investment project of either of the following: 4824

(i) At least two hundred million dollars in the aggregate at 4825
the project site during a period of three consecutive calendar 4826
years including the calendar year that includes a day of the 4827
taxpayer's taxable year or tax period with respect to which the 4828
credit is granted; 4829

(ii) If the average wage of all full-time employment 4830
positions at the project site is greater than four hundred per 4831
cent of the federal minimum wage, at least one hundred million 4832
dollars in the aggregate at the project site during a period of 4833
three consecutive calendar years including the calendar year that 4834
includes a day of the taxpayer's taxable year or tax period with 4835
respect to which the credit is granted. 4836

(c) Is engaged at the project site primarily as a 4837
manufacturer or is providing significant corporate administrative 4838
functions; 4839

(d) Has had a capital investment project reviewed and 4840
approved by the tax credit authority as provided in divisions (C), 4841
(D), and (E) of this section. 4842

(3) "Full-time employment position" means a position of 4843
employment for consideration for at least thirty-five hours a week 4844
that has been filled for at least one hundred eighty days 4845
immediately preceding the filing of an application under this 4846
section and for at least one hundred eighty days during each 4847
taxable year or each calendar year that includes a tax period with 4848
respect to which the credit is granted. 4849

(4) "Manufacturer" has the same meaning as in section 4850
5739.011 of the Revised Code. 4851

(5) "Project site" means an integrated complex of facilities 4852
in this state, as specified by the tax credit authority under this 4853
section, within a fifteen-mile radius where a taxpayer is 4854
primarily operating as an eligible business. 4855

(6) "Applicable corporation" means a corporation satisfying 4856
all of the following: 4857

(a)(i) For the entire taxable year immediately preceding the 4858
tax year, the corporation develops software applications primarily 4859
to provide telecommunication billing and information services 4860
through outsourcing or licensing to domestic or international 4861
customers. 4862

(ii) Sales and licensing of software generated at least six 4863
hundred million dollars in revenue during the taxable year 4864
immediately preceding the tax year the corporation is first 4865
entitled to claim the credit provided under division (B) of this 4866
section. 4867

(b) For the entire taxable year immediately preceding the tax 4868
year, the corporation or one or more of its related members 4869
provides customer or employee care and technical support for 4870
clients through one or more contact centers within this state, and 4871
the corporation and its related members together have a daily 4872
average, based on a ~~three hundred sixty five day~~ 4873

three-hundred-sixty-five-day year, of at least five hundred 4874
thousand successful customer contacts through one or more of their 4875
contact centers, wherever located. 4876

(c) The corporation is eligible for the credit under division 4877
(B) of this section for the tax year. 4878

(7) "Related member" has the same meaning as in section 4879
5733.042 of the Revised Code as that section existed on the 4880
effective date of its amendment by Am. Sub. H.B. 215 of the 122nd 4881
general assembly, September 29, 1997. 4882

(8) "Successful customer contact" means a contact with an end 4883
user via telephone, including interactive voice recognition or 4884
similar means, where the contact culminates in a conversation or 4885
connection other than a busy signal or equipment busy. 4886

(9) "Telecommunications" means all forms of 4887
telecommunications service as defined in section 5739.01 of the 4888
Revised Code, and includes services in wireless, wireline, cable, 4889
broadband, internet protocol, and satellite. 4890

(10)(a) "Applicable difference" means the difference between 4891
the tax for the tax year under Chapter 5733. of the Revised Code 4892
applying the law in effect for that tax year, and the tax for that 4893
tax year if section 5733.042 of the Revised Code applied as that 4894
section existed on the effective date of its amendment by Am. Sub. 4895
H.B. 215 of the 122nd general assembly, September 29, 1997, 4896
subject to division (A)(10)(b) of this section. 4897

(b) If the tax rate set forth in division (B) of section 4898
5733.06 of the Revised Code for the tax year is less than eight 4899
and one-half per cent, the tax calculated under division 4900
(A)(10)(a) of this section shall be computed by substituting a tax 4901
rate of eight and one-half per cent for the rate set forth in 4902
division (B) of section 5733.06 of the Revised Code for the tax 4903
year. 4904

(c) If the resulting difference is negative, the applicable 4905
tax difference for the tax year shall be zero. 4906

(B) The tax credit authority created under section 122.17 of 4907
the Revised Code may grant tax credits under this section for the 4908
purpose of fostering job retention in this state. Upon application 4909
by an eligible business and upon consideration of the 4910
recommendation of the director of budget and management, tax 4911
commissioner, and director of development under division (C) of 4912
this section, the tax credit authority may grant to an eligible 4913
business a nonrefundable credit against the tax imposed by section 4914
5733.06 or 5747.02 or levied under Chapter 5751. of the Revised 4915
Code for a period up to fifteen taxable years and against the tax 4916
levied by Chapter 5751. of the Revised Code for a period of up to 4917
fifteen calendar years. The credit shall be in an amount not 4918
exceeding seventy-five per cent of the Ohio income tax withheld 4919
from the employees of the eligible business occupying full-time 4920
employment positions at the project site during the calendar year 4921
that includes the last day of such business' taxable year or tax 4922
period with respect to which the credit is granted. The amount of 4923
the credit shall not be based on the Ohio income tax withheld from 4924
full-time employees for a calendar year prior to the calendar year 4925
in which the minimum investment requirement referred to in 4926
division (A)(2)(b) of this section is completed. The credit shall 4927
be claimed only for the taxable years or tax periods specified in 4928
the eligible business' agreement with the tax credit authority 4929
under division (E) of this section, but in no event shall the 4930
credit be claimed for a taxable year or tax period terminating 4931
before the date specified in the agreement. Any credit granted 4932
under this section against the tax imposed by section 5733.06 or 4933
5747.02 of the Revised Code, to the extent not fully utilized 4934
against such tax for taxable years ending prior to 2008, shall 4935
automatically be converted without any action taken by the tax 4936

credit authority to a credit against the tax levied under Chapter 4937
5751. of the Revised Code for tax periods beginning on or after 4938
July 1, 2008, provided that the person to whom the credit was 4939
granted is subject to such tax. The converted credit shall apply 4940
to those calendar years in which the remaining taxable years 4941
specified in the agreement end. 4942

The credit computed under this division is in addition to any 4943
credit allowed under division (M) of this section which the tax 4944
credit authority may also include in the agreement. 4945

Any unused portion of a tax credit may be carried forward for 4946
not more than three additional years after the year for which the 4947
credit is granted. 4948

(C) A taxpayer that proposes a capital investment project to 4949
retain jobs in this state may apply to the tax credit authority to 4950
enter into an agreement for a tax credit under this section. The 4951
director of development shall prescribe the form of the 4952
application. After receipt of an application, the authority shall 4953
forward copies of the application to the director of budget and 4954
management, the tax commissioner, and the director of development, 4955
each of whom shall review the application to determine the 4956
economic impact the proposed project would have on the state and 4957
the affected political subdivisions and shall submit a summary of 4958
their determinations and recommendations to the authority. ~~The 4959~~
~~authority shall make no agreements under this section after June 4960~~
~~30, 2007. 4961~~

(D) Upon review of the determinations and recommendations 4962
described in division (C) of this section, the tax credit 4963
authority may enter into an agreement with the taxpayer for a 4964
credit under this section if the authority determines all of the 4965
following: 4966

(1) The taxpayer's capital investment project will result in 4967

the retention of full-time employment positions in this state. 4968

(2) The taxpayer is economically sound and has the ability to 4969
complete the proposed capital investment project. 4970

(3) The taxpayer intends to and has the ability to maintain 4971
operations at the project site for at least twice the term of the 4972
credit. 4973

(4) Receiving the credit is a major factor in the taxpayer's 4974
decision to begin, continue with, or complete the project. 4975

(5) The political subdivisions in which the project is 4976
located have agreed to provide substantial financial support to 4977
the project. 4978

(E) An agreement under this section shall include all of the 4979
following: 4980

(1) A detailed description of the project that is the subject 4981
of the agreement, including the amount of the investment, the 4982
period over which the investment has been or is being made, and 4983
the number of full-time employment positions at the project site. 4984

(2) The method of calculating the number of full-time 4985
employment positions as specified in division (A)(3) of this 4986
section. 4987

(3) The term and percentage of the tax credit, and the first 4988
year for which the credit may be claimed. 4989

(4) A requirement that the taxpayer maintain operations at 4990
the project site for at least twice the number of years as the 4991
term of the credit. 4992

(5) A requirement that the taxpayer retain a specified number 4993
of full-time employment positions at the project site and within 4994
this state for the term of the credit, including a requirement 4995
that the taxpayer continue to employ at least one thousand 4996
employees in full-time employment positions at the project site 4997

during the entire term of any agreement, subject to division 4998
(E)(7) of this section. 4999

(6) A requirement that the taxpayer annually report to the 5000
director of development the number of full-time employment 5001
positions subject to the credit, the amount of tax withheld from 5002
employees in those positions, the amount of the payments made for 5003
the capital investment project, and any other information the 5004
director needs to perform the director's duties under this 5005
section. 5006

(7) A requirement that the director of development annually 5007
review the annual reports of the taxpayer to verify the 5008
information reported under division (E)(6) of this section and 5009
compliance with the agreement. Upon verification, the director 5010
shall issue a certificate to the taxpayer stating that the 5011
information has been verified and identifying the amount of the 5012
credit for the taxable year. Unless otherwise specified by the tax 5013
credit authority in a resolution and included as part of the 5014
agreement, the director shall not issue a certificate for any year 5015
in which the total number of filled full-time employment positions 5016
for each day of the calendar year divided by three hundred 5017
sixty-five is less than ninety per cent of the full-time 5018
employment positions specified in division (E)(5) of this section. 5019
In determining the number of full-time employment positions, no 5020
position shall be counted that is filled by an employee who is 5021
included in the calculation of a tax credit under section 122.17 5022
of the Revised Code. 5023

(8)(a) A provision requiring that the taxpayer, except as 5024
otherwise provided in division (E)(8)(b) of this section, shall 5025
not relocate employment positions from elsewhere in this state to 5026
the project site that is the subject of the agreement for the 5027
lesser of five years from the date the agreement is entered into 5028
or the number of years the taxpayer is entitled to claim the 5029

credit. 5030

(b) The taxpayer may relocate employment positions from 5031
elsewhere in this state to the project site that is the subject of 5032
the agreement if the director of development determines both of 5033
the following: 5034

(i) That the site from which the employment positions would 5035
be relocated is inadequate to meet market and industry conditions, 5036
expansion plans, consolidation plans, or other business 5037
considerations affecting the taxpayer; 5038

(ii) That the legislative authority of the county, township, 5039
or municipal corporation from which the employment positions would 5040
be relocated has been notified of the relocation. 5041

For purposes of this section, the movement of an employment 5042
position from one political subdivision to another political 5043
subdivision shall be considered a relocation of an employment 5044
position unless the movement is confined to the project site. The 5045
transfer of an individual employee from one political subdivision 5046
to another political subdivision shall not be considered a 5047
relocation of an employment position as long as the individual's 5048
employment position in the first political subdivision is 5049
refilled. 5050

(9) A waiver by the taxpayer of any limitations periods 5051
relating to assessments or adjustments resulting from the 5052
taxpayer's failure to comply with the agreement. 5053

(F) If a taxpayer fails to meet or comply with any condition 5054
or requirement set forth in a tax credit agreement, the tax credit 5055
authority may amend the agreement to reduce the percentage or term 5056
of the credit. The reduction of the percentage or term shall take 5057
effect in the taxable year immediately following the taxable year 5058
in which the authority amends the agreement or in the first tax 5059
period beginning in the calendar year immediately following the 5060

calendar year in which the authority amends the agreement. If the 5061
taxpayer relocates employment positions in violation of the 5062
provision required under division (D)(8)(a) of this section, the 5063
taxpayer shall not claim the tax credit under section 5733.0610 of 5064
the Revised Code for any tax years following the calendar year in 5065
which the relocation occurs, ~~or~~ shall not claim the tax credit 5066
under section 5747.058 of the Revised Code for the taxable year in 5067
which the relocation occurs and any subsequent taxable years, and 5068
shall not claim the tax credit under division (A) of section 5069
5751.50 of the Revised Code for the tax period in which the 5070
relocation occurs and any subsequent tax periods. 5071

(G) Financial statements and other information submitted to 5072
the department of development or the tax credit authority by an 5073
applicant for or recipient of a tax credit under this section, and 5074
any information taken for any purpose from such statements or 5075
information, are not public records subject to section 149.43 of 5076
the Revised Code. However, the chairperson of the authority may 5077
make use of the statements and other information for purposes of 5078
issuing public reports or in connection with court proceedings 5079
concerning tax credit agreements under this section. Upon the 5080
request of the tax commissioner, the chairperson of the authority 5081
shall provide to the commissioner any statement or other 5082
information submitted by an applicant for or recipient of a tax 5083
credit in connection with the credit. The commissioner shall 5084
preserve the confidentiality of the statement or other 5085
information. 5086

(H) A taxpayer claiming a tax credit under this section shall 5087
submit to the tax commissioner a copy of the director of 5088
development's certificate of verification under division (E)(7) of 5089
this section for the taxable year or for the calendar year that 5090
includes the tax period. However, failure to submit a copy of the 5091
certificate does not invalidate a claim for a credit. 5092

(I) For the purposes of this section, a taxpayer may include 5093
a partnership, a corporation that has made an election under 5094
subchapter S of chapter one of subtitle A of the Internal Revenue 5095
Code, or any other business entity through which income flows as a 5096
distributive share to its owners. A tax credit received under this 5097
section by a partnership, S-corporation, or other such business 5098
entity shall be apportioned among the persons to whom the income 5099
or profit of the partnership, S-corporation, or other entity is 5100
distributed, in the same proportions as those in which the income 5101
or profit is distributed. 5102

(J) If the director of development determines that a taxpayer 5103
that received a tax credit under this section is not complying 5104
with the requirement under division (E)(4) of this section, the 5105
director shall notify the tax credit authority of the 5106
noncompliance. After receiving such a notice, and after giving the 5107
taxpayer an opportunity to explain the noncompliance, the 5108
authority may terminate the agreement and require the taxpayer to 5109
refund to the state all or a portion of the credit claimed in 5110
previous years, as follows: 5111

(1) If the taxpayer maintained operations at the project site 5112
for less than the term of the credit, the amount required to be 5113
refunded shall not exceed the amount of any tax credits previously 5114
allowed and received under this section. 5115

(2) If the taxpayer maintained operations at the project site 5116
longer than the term of the credit but less than one and one-half 5117
times the term of the credit, the amount required to be refunded 5118
shall not exceed fifty per cent of the sum of any tax credits 5119
previously allowed and received under this section. 5120

(3) If the taxpayer maintained operations at the project site 5121
for at least one and one-half times the term of the credit but 5122
less than twice the term of the credit, the amount required to be 5123

refunded shall not exceed twenty-five per cent of the sum of any 5124
tax credits previously allowed and received under this section. 5125

In determining the portion of the credit to be refunded to 5126
this state, the authority shall consider the effect of market 5127
conditions on the taxpayer's project and whether the taxpayer 5128
continues to maintain other operations in this state. After making 5129
the determination, the authority shall certify the amount to be 5130
refunded to the tax commissioner. The commissioner shall make an 5131
assessment for that amount against the taxpayer under Chapter 5132
5733. ~~or, 5747., or 5751.~~ of the Revised Code. The time 5133
limitations on assessments under ~~Chapter 5733. or 5747. of the~~ 5134
~~Revised Code~~ those chapters do not apply to an assessment under 5135
this division, but the commissioner shall make the assessment 5136
within one year after the date the authority certifies to the 5137
commissioner the amount to be refunded. 5138

If the director of development determines that a taxpayer 5139
that received a tax credit under this section has reduced the 5140
number of employees agreed to under division (E)(5) of this 5141
section by more than ten per cent, the director shall notify the 5142
tax credit authority of the noncompliance. After receiving such 5143
notice, and after providing the taxpayer an opportunity to explain 5144
the noncompliance, the authority may amend the agreement to reduce 5145
the percentage or term of the tax credit. The reduction in the 5146
percentage or term shall take effect in the taxable year, or in 5147
the calendar year that includes the tax period, in which the 5148
authority amends the agreement. 5149

(K) The director of development, after consultation with the 5150
tax commissioner and in accordance with Chapter 119. of the 5151
Revised Code, shall adopt rules necessary to implement this 5152
section. The rules may provide for recipients of tax credits under 5153
this section to be charged fees to cover administrative costs of 5154
the tax credit program. At the time the director gives public 5155

notice under division (A) of section 119.03 of the Revised Code of 5156
the adoption of the rules, the director shall submit copies of the 5157
proposed rules to the chairpersons of the standing committees on 5158
economic development in the senate and the house of 5159
representatives. 5160

(L) On or before the thirty-first day of March of each year, 5161
the director of development shall submit a report to the governor, 5162
the president of the senate, and the speaker of the house of 5163
representatives on the tax credit program under this section. The 5164
report shall include information on the number of agreements that 5165
were entered into under this section during the preceding calendar 5166
year, a description of the project that is the subject of each 5167
such agreement, and an update on the status of projects under 5168
agreements entered into before the preceding calendar year. 5169

(M)(1) A nonrefundable credit shall be allowed to an 5170
applicable corporation and its related members in an amount equal 5171
to the applicable difference. The credit is in addition to the 5172
credit granted to the corporation or related members under 5173
division (B) of this section. The credit is subject to divisions 5174
(B) to (E) and division (J) of this section. 5175

(2) A person qualifying as an applicable corporation under 5176
this section for a tax year does not necessarily qualify as an 5177
applicable corporation for any other tax year. No person is 5178
entitled to the credit allowed under division (M) of this section 5179
for the tax year immediately following the taxable year during 5180
which the person fails to meet the requirements in divisions 5181
(A)(6)(a)(i) and (A)(6)(b) of this section. No person is entitled 5182
to the credit allowed under division (M) of this section for any 5183
tax year for which the person is not eligible for the credit 5184
provided under division (B) of this section. 5185

Sec. 122.172. (A) As used in this section, "tax liability" 5186

means the tax owed under section 5733.06 or 5747.02 of the Revised Code after allowance of all nonrefundable credits and prior to the allowance of all refundable credits. The tax owed under section 5733.06 of the Revised Code shall take into account any adjustments to such tax required by division (G) of section 5733.01 of the Revised Code that apply prior to allowance of refundable credits.

(B)(1) The director of development shall administer the manufacturing equipment grant program to provide grants for new manufacturing machinery and equipment qualifying for the grant under section 122.173 of the Revised Code. Except as provided in division (C) of this section, the grants apply to the taxes imposed by sections 5733.06 and 5747.02 of the Revised Code for taxable years ending on or after July 1, 2005.

(2) To claim a grant, a taxpayer satisfying the requirements of section 122.173 of the Revised Code shall complete a grant request form, as prescribed by the director in consultation with the tax commissioner, and shall file the form with the tax return for the taxable year for which the grant is claimed. In no event shall the grant reduce a taxpayer's tax liability below the minimum tax owed for the taxable year. The grant request form shall provide the information required to allow the grant for the taxable year and is subject to audit by the director and the commissioner. Any portion of the grant in excess of the taxpayer's tax liability shall not be refundable but may be carried forward as provided in section 122.173 of the Revised Code. Upon the director's request, the commissioner shall provide completed grant request forms filed under this section to the director in a mutually agreed upon format.

(C) If a taxpayer is required to repay any credit allowed under section 5733.33 or 5747.31 of the Revised Code for a taxable

year ending prior to July 1, 2005, for a reason not specified in 5218
Chapter 5733. or 5747. of the Revised Code, a grant shall be 5219
available for that taxable year under section 122.173 of the 5220
Revised Code to the extent provided in that section. 5221

(D) Any tax liability under section 5733.06 or 5747.02 of the 5222
Revised Code that is underpaid as the result of an improper claim 5223
for a grant under this section may be assessed by the tax 5224
commissioner in the manner provided by section 5733.11 or 5747.11 5225
of the Revised Code. 5226

Sec. 122.173. (A) As used in this section: 5227

(1) "Manufacturing machinery and equipment" means engines and 5228
machinery, and tools and implements, of every kind used, or 5229
designed to be used, in refining and manufacturing. "Manufacturing 5230
machinery and equipment" does not include property acquired after 5231
December 31, 1999, that is used: 5232

(a) For the transmission and distribution of electricity; 5233

(b) For the generation of electricity, if fifty per cent or 5234
more of the electricity that the property generates is consumed, 5235
during the one-hundred-twenty-month period commencing with the 5236
date the property is placed in service, by persons that are not 5237
related members to the person who generates the electricity. 5238

(2) "New manufacturing machinery and equipment" means 5239
manufacturing machinery and equipment, the original use in this 5240
state of which commences with the taxpayer or with a partnership 5241
of which the taxpayer is a partner. "New manufacturing machinery 5242
and equipment" does not include property acquired after December 5243
31, 1999, that is used: 5244

(a) For the transmission and distribution of electricity; 5245

(b) For the generation of electricity, if fifty per cent or 5246
more of the electricity that the property generates is consumed, 5247

during the one-hundred-twenty-month period commencing with the 5248
date the property is placed in service, by persons that are not 5249
related members to the person who generates the electricity. 5250

(3)(a) "Purchase" has the same meaning as in section 5251
179(d)(2) of the Internal Revenue Code. 5252

(b) For purposes of this section, any property that is not 5253
manufactured or assembled primarily by the taxpayer is considered 5254
purchased at the time the agreement to acquire the property 5255
becomes binding. Any property that is manufactured or assembled 5256
primarily by the taxpayer is considered purchased at the time the 5257
taxpayer places the property in service in the county for which 5258
the taxpayer will calculate the county excess amount. 5259

(c) Notwithstanding section 179(d) of the Internal Revenue 5260
Code, a taxpayer's direct or indirect acquisition of new 5261
manufacturing machinery and equipment is not purchased on or after 5262
July 1, 1995, if the taxpayer, or a person whose relationship to 5263
the taxpayer is described in subparagraphs (A), (B), or (C) of 5264
section 179(d)(2) of the Internal Revenue Code, had directly or 5265
indirectly entered into a binding agreement to acquire the 5266
property at any time prior to July 1, 1995. 5267

(4) "Qualifying period" means the period that begins July 1, 5268
1995, and ends June 30, 2005. 5269

(5) "County average new manufacturing machinery and equipment 5270
investment" means either of the following: 5271

(a) The average annual cost of new manufacturing machinery 5272
and equipment purchased for use in the county during baseline 5273
years, in the case of a taxpayer that was in existence for more 5274
than one year during baseline years. 5275

(b) Zero, in the case of a taxpayer that was not in existence 5276
for more than one year during baseline years. 5277

(6) "Partnership" includes a limited liability company formed 5278
under Chapter 1705. of the Revised Code or under the laws of any 5279
other state, provided that the company is not classified for 5280
federal income tax purposes as an association taxable as a 5281
corporation. 5282

(7) "Partner" includes a member of a limited liability 5283
company formed under Chapter 1705. of the Revised Code or under 5284
the laws of any other state, provided that the company is not 5285
classified for federal income tax purposes as an association 5286
taxable as a corporation. 5287

(8) "Distressed area" means either a municipal corporation 5288
that has a population of at least fifty thousand or a county that 5289
meets two of the following criteria of economic distress, or a 5290
municipal corporation the majority of the population of which is 5291
situated in such a county: 5292

(a) Its average rate of unemployment, during the most recent 5293
five-year period for which data are available, is equal to at 5294
least one hundred twenty-five per cent of the average rate of 5295
unemployment for the United States for the same period; 5296

(b) It has a per capita income equal to or below eighty per 5297
cent of the median county per capita income of the United States 5298
as determined by the most recently available figures from the 5299
United States census bureau; 5300

(c)(i) In the case of a municipal corporation, at least 5301
twenty per cent of the residents have a total income for the most 5302
recent census year that is below the official poverty line; 5303

(ii) In the case of a county, in intercensal years, the 5304
county has a ratio of transfer payment income to total county 5305
income equal to or greater than twenty-five per cent. 5306

(9) "Eligible area" means a distressed area, a labor surplus 5307

<u>area, an inner city area, or a situational distress area.</u>	5308
<u>(10) "Inner city area" means, in a municipal corporation that</u>	5309
<u>has a population of at least one hundred thousand and does not</u>	5310
<u>meet the criteria of a labor surplus area or a distressed area,</u>	5311
<u>targeted investment areas established by the municipal corporation</u>	5312
<u>within its boundaries that are comprised of the most recent census</u>	5313
<u>block tracts that individually have at least twenty per cent of</u>	5314
<u>their population at or below the state poverty level or other</u>	5315
<u>census block tracts contiguous to such census block tracts.</u>	5316
<u>(11) "Labor surplus area" means an area designated as a labor</u>	5317
<u>surplus area by the United States department of labor.</u>	5318
<u>(12) "Official poverty line" has the same meaning as in</u>	5319
<u>division (A) of section 3923.51 of the Revised Code.</u>	5320
<u>(13) "Situational distress area" means a county or a</u>	5321
<u>municipal corporation that has experienced or is experiencing a</u>	5322
<u>closing or downsizing of a major employer that will adversely</u>	5323
<u>affect the county's or municipal corporation's economy. In order</u>	5324
<u>to be designated as a situational distress area, for a period not</u>	5325
<u>to exceed thirty-six months, the county or municipal corporation</u>	5326
<u>may petition the director of development. The petition shall</u>	5327
<u>include written documentation that demonstrates all of the</u>	5328
<u>following adverse effects on the local economy:</u>	5329
<u>(a) The number of jobs lost by the closing or downsizing;</u>	5330
<u>(b) The impact that the job loss has on the county's or</u>	5331
<u>municipal corporation's unemployment rate as measured by the state</u>	5332
<u>director of job and family services;</u>	5333
<u>(c) The annual payroll associated with the job loss;</u>	5334
<u>(d) The amount of state and local taxes associated with the</u>	5335
<u>job loss;</u>	5336
<u>(e) The impact that the closing or downsizing has on</u>	5337

<u>suppliers located in the county or municipal corporation.</u>	5338
<u>(14) "Cost" has the same meaning and limitation as in section</u>	5339
<u>179(d)(3) of the Internal Revenue Code.</u>	5340
<u>(15) "Baseline years" means:</u>	5341
<u>(a) Calendar years 1992, 1993, and 1994, with regard to a</u>	5342
<u>grant claimed for the purchase during calendar year 1995, 1996,</u>	5343
<u>1997, or 1998 of new manufacturing machinery and equipment;</u>	5344
<u>(b) Calendar years 1993, 1994, and 1995, with regard to a</u>	5345
<u>grant claimed for the purchase during calendar year 1999 of new</u>	5346
<u>manufacturing machinery and equipment;</u>	5347
<u>(c) Calendar years 1994, 1995, and 1996, with regard to a</u>	5348
<u>grant claimed for the purchase during calendar year 2000 of new</u>	5349
<u>manufacturing machinery and equipment;</u>	5350
<u>(d) Calendar years 1995, 1996, and 1997, with regard to a</u>	5351
<u>grant claimed for the purchase during calendar year 2001 of new</u>	5352
<u>manufacturing machinery and equipment;</u>	5353
<u>(e) Calendar years 1996, 1997, and 1998, with regard to a</u>	5354
<u>grant claimed for the purchase during calendar year 2002 of new</u>	5355
<u>manufacturing machinery and equipment;</u>	5356
<u>(f) Calendar years 1997, 1998, and 1999, with regard to a</u>	5357
<u>grant claimed for the purchase during calendar year 2003 of new</u>	5358
<u>manufacturing machinery and equipment;</u>	5359
<u>(g) Calendar years 1998, 1999, and 2000, with regard to a</u>	5360
<u>grant claimed for the purchase during calendar year 2004 of new</u>	5361
<u>manufacturing machinery and equipment;</u>	5362
<u>(h) Calendar years 1999, 2000, and 2001, with regard to a</u>	5363
<u>grant claimed for the purchase on or after January 1, 2005, and on</u>	5364
<u>or before June 30, 2005, of new manufacturing machinery and</u>	5365
<u>equipment.</u>	5366

(16) "Related member" has the same meaning as in section 5733.042 of the Revised Code. 5367
5368

(17) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code. 5369
5370

(18) "Tax liability" has the same meaning as in section 122.172 of the Revised Code. 5371
5372

(B)(1) Subject to divisions (I) and (J) of this section, a grant is allowed against the tax imposed by section 5733.06 or 5747.02 of the Revised Code for a taxpayer that purchases new manufacturing machinery and equipment during the qualifying period, provided that the new manufacturing machinery and equipment are installed in this state not later than June 30, 2006. The taxpayer need not be a manufacturer. 5373
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(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a grant may be claimed under this section in excess of one million dollars only if the cost of all manufacturing machinery and equipment owned in this state by the taxpayer claiming the grant on the last day of the calendar year exceeds the cost of all manufacturing machinery and equipment owned in this state by the taxpayer on the first day of that calendar year. 5380
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As used in division (B)(2)(a) of this section, "calendar year" means the calendar year in which the machinery and equipment for which the grant is claimed was purchased. 5387
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(b) Division (B)(2)(a) of this section does not apply if the taxpayer claiming the grant applies for and is issued a waiver of the requirement of that division. A taxpayer may apply to the director of development for such a waiver in the manner prescribed by the director, and the director may issue such a waiver if the director determines that granting the grant is necessary to increase or retain employees in this state, and that the grant has not caused relocation of manufacturing machinery and equipment 5390
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among counties within this state for the primary purpose of 5398
qualifying for the grant. 5399

(C)(1) Except as otherwise provided in division (C)(2) and 5400
division (I) of this section, the grant amount is equal to seven 5401
and one-half per cent of the excess of the cost of the new 5402
manufacturing machinery and equipment purchased during the 5403
calendar year for use in a county over the county average new 5404
manufacturing machinery and equipment investment for that county. 5405

(2) Subject to division (I) of this section, as used in 5406
division (C)(2) of this section, "county excess" means the 5407
taxpayer's excess cost for a county as computed under division 5408
(C)(1) of this section. 5409

Subject to division (I) of this section, a taxpayer with a 5410
county excess, whose purchases included purchases for use in any 5411
eligible area in the county, the grant amount is equal to thirteen 5412
and one-half per cent of the cost of the new manufacturing 5413
machinery and equipment purchased during the calendar year for use 5414
in the eligible areas in the county, provided that the cost 5415
subject to the thirteen and one-half per cent rate shall not 5416
exceed the county excess. If the county excess is greater than the 5417
cost of the new manufacturing machinery and equipment purchased 5418
during the calendar year for use in eligible areas in the county, 5419
the grant amount also shall include an amount equal to seven and 5420
one-half per cent of the amount of the difference. 5421

(3) If a taxpayer is allowed a grant for purchases of new 5422
manufacturing machinery and equipment in more than one county or 5423
eligible area, it shall aggregate the amount of those grants each 5424
year. 5425

(4) Except as provided in division (J) of this section, the 5426
taxpayer shall claim one-seventh of the grant amount for the 5427
taxable year ending in the calendar year in which the new 5428

manufacturing machinery and equipment is purchased for use in the 5429
county by the taxpayer or partnership. One-seventh of the taxpayer 5430
grant amount is allowed for each of the six ensuing taxable years. 5431
Except for carried-forward amounts, the taxpayer is not allowed 5432
any grant amount remaining if the new manufacturing machinery and 5433
equipment is sold by the taxpayer or partnership or is transferred 5434
by the taxpayer or partnership out of the county before the end of 5435
the seven-year period unless, at the time of the sale or transfer, 5436
the new manufacturing machinery and equipment has been fully 5437
depreciated for federal income tax purposes. 5438

(5)(a) A taxpayer that acquires manufacturing machinery and 5439
equipment as a result of a merger with the taxpayer with whom 5440
commenced the original use in this state of the manufacturing 5441
machinery and equipment, or with a taxpayer that was a partner in 5442
a partnership with whom commenced the original use in this state 5443
of the manufacturing machinery and equipment, is entitled to any 5444
remaining or carried-forward grant amounts to which the taxpayer 5445
was entitled. 5446

(b) A taxpayer that enters into an agreement under division 5447
(C)(3) of section 5709.62 of the Revised Code and that acquires 5448
manufacturing machinery or equipment as a result of purchasing a 5449
large manufacturing facility, as defined in section 5709.61 of the 5450
Revised Code, from another taxpayer with whom commenced the 5451
original use in this state of the manufacturing machinery or 5452
equipment, and that operates the large manufacturing facility so 5453
purchased, is entitled to any remaining or carried-forward grant 5454
amounts to which the other taxpayer who sold the facility would 5455
have been entitled under this section had the other taxpayer not 5456
sold the manufacturing facility or equipment. 5457

(c) New manufacturing machinery and equipment is not 5458
considered sold if a pass-through entity transfers to another 5459
pass-through entity substantially all of its assets as part of a 5460

plan of reorganization under which substantially all gain and loss 5461
is not recognized by the pass-through entity that is transferring 5462
the new manufacturing machinery and equipment to the transferee 5463
and under which the transferee's basis in the new manufacturing 5464
machinery and equipment is determined, in whole or in part, by 5465
reference to the basis of the pass-through entity that transferred 5466
the new manufacturing machinery and equipment to the transferee. 5467

(d) Division (C)(5) of this section applies only if the 5468
acquiring taxpayer or transferee does not sell the new 5469
manufacturing machinery and equipment or transfer the new 5470
manufacturing machinery and equipment out of the county before the 5471
end of the seven-year period to which division (C)(4) of this 5472
section refers. 5473

(e) Division (C)(5)(b) of this section applies only to the 5474
extent that the taxpayer that sold the manufacturing machinery or 5475
equipment, upon request, timely provides to the tax commissioner 5476
any information that the tax commissioner considers to be 5477
necessary to ascertain any remaining or carried-forward amounts to 5478
which the taxpayer that sold the facility would have been entitled 5479
under this section had the taxpayer not sold the manufacturing 5480
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 5481
this section shall be construed to allow a taxpayer to claim any 5482
grant amount with respect to the acquired manufacturing machinery 5483
or equipment that is greater than the amount that would have been 5484
available to the other taxpayer that sold the manufacturing 5485
machinery or equipment had the other taxpayer not sold the 5486
manufacturing machinery or equipment. 5487

(D) The taxpayer shall claim the grant allowed by this 5488
section in the manner provided by section 122.172 of the Revised 5489
Code. Any portion of the grant in excess of the taxpayer's tax 5490
liability for the taxable year shall not be refundable but may be 5491
carried forward for the next three consecutive taxable years. 5492

(E) A taxpayer purchasing new manufacturing machinery and equipment and intending to claim the grant shall file, with the director of development, a notice of intent to claim the grant on a form prescribed by the director of development. The director of development shall inform the tax commissioner of the notice of intent to claim the grant. No grant may be claimed under this section for any manufacturing machinery and equipment with respect to which a notice was not filed by the date of a timely filed return, including extensions, for the taxable year that includes September 30, 2005, but a notice filed on or before such date under division (E) of section 5733.33 of the Revised Code of the intent to claim the credit under that section or section 5747.31 of the Revised Code also shall be considered a notice of the intent to claim a grant under this section.

(F) The director of development shall annually certify, by the first day of January of each year during the qualifying period, the eligible areas for the tax grant for the calendar year that includes that first day of January. The director shall send a copy of the certification to the tax commissioner.

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31, 5733.311, 5747.26, or 5747.261 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the grant under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a grant claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the grant.

(2) Division (H)(1) of this section shall not apply after the 5524
twenty-fourth month following the last day of the period described 5525
in divisions (A)(1)(b) and (2)(b) of this section. 5526

(I) Notwithstanding any other provision of this section to 5527
the contrary, in the case of a qualifying controlled group, the 5528
grant available under this section to a taxpayer or taxpayers in 5529
the qualifying controlled group shall be computed as if all 5530
corporations in the group were a single corporation. The grant 5531
shall be allocated to such a taxpayer or taxpayers in the group in 5532
any amount elected for the taxable year by the group. The election 5533
shall be revocable and amendable during the period described in 5534
division (B) of section 5733.12 of the Revised Code. 5535

This division applies to all purchases of new manufacturing 5536
machinery and equipment made on or after January 1, 2001, and to 5537
all baseline years used to compute any grant attributable to such 5538
purchases; provided, that this division may be applied solely at 5539
the election of the qualifying controlled group with respect to 5540
all purchases of new manufacturing machinery and equipment made 5541
before that date, and to all baseline years used to compute any 5542
grant attributable to such purchases. The qualifying controlled 5543
group at any time may elect to apply this division to purchases 5544
made prior to January 1, 2001, subject to the following: 5545

(1) The election is irrevocable; 5546

(2) The election need not accompany a timely filed report, 5547
but the election may accompany a subsequently filed but timely 5548
application for refund, a subsequently filed but timely amended 5549
report, or a subsequently filed but timely petition for 5550
reassessment. 5551

(J) Except as provided in division (B) of section 122.172 of 5552
the Revised Code, no grant under this section may be claimed for 5553
any taxable year for which a credit is allowed under section 5554

5733.33 or 5747.31 of the Revised Code. If the tax imposed by 5555
section 5733.06 of the Revised Code for which a grant is allowed 5556
under this section has been prorated under division (G)(2) of 5557
section 5733.01 of the Revised Code, the grant shall be prorated 5558
by the same percentage as the tax. 5559

Sec. 122.18. (A) As used in this section: 5560

(1) "Facility" means all real property and interests in real 5561
property owned by a landlord and leased to a tenant pursuant to a 5562
project that is the subject of an agreement under this section+. 5563

(2) "Full-time employee" has the same meaning as under 5564
section 122.17 of the Revised Code+. 5565

(3) "Landlord" means a county or municipal corporation, or a 5566
corporate entity that is an instrumentality of a county or 5567
municipal corporation and that is not subject to the tax imposed 5568
by section 5733.06 or 5747.02 of the Revised Code+. 5569

(4) "New employee" means a full-time employee first employed 5570
by, or under or pursuant to a contract with, the tenant in the 5571
project that is the subject of the agreement after a landlord 5572
enters into an agreement with the tax credit authority under this 5573
section+. 5574

(5) "New income tax revenue" means the total amount withheld 5575
under section 5747.06 of the Revised Code by the tenant or tenants 5576
at a facility during a year from the compensation of new employees 5577
for the tax levied under Chapter 5747. of the Revised Code+. 5578

(6) "Retained income tax revenue" means the total amount 5579
withheld under section 5747.06 of the Revised Code from employees 5580
retained at an existing facility recommended for closure to the 5581
base realignment and closure commission in the United States 5582
department of defense. 5583

(7) "Tenant" means the United States, any department, agency, 5584

or instrumentality of the United States, or any person under 5585
contract with the United States or any department, agency, or 5586
instrumentality of the United States. 5587

(B) The tax credit authority may enter into an agreement with 5588
a landlord under which an annual payment equal to the new income 5589
tax revenue or retained income tax revenue, as applicable, or the 5590
amount called for under division (D)(3) or (4) of this section 5591
shall be made to the landlord from moneys of this state that were 5592
not raised by taxation, and shall be credited by the landlord to 5593
the rental owing from the tenant to the landlord for a facility. 5594

(C) A landlord that proposes a project to create new jobs in 5595
this state or retain jobs in this state within a municipal 5596
corporation at an existing facility recommended for closure to the 5597
base realignment and closure commission in the United States 5598
department of defense may apply to the tax credit authority to 5599
enter into an agreement for annual payments under this section. 5600
The director of development shall prescribe the form of the 5601
application. After receipt of an application, the authority may 5602
enter into an agreement with the landlord for annual payments 5603
under this section if it determines all of the following: 5604

(1) The project will create new jobs in this state+ or retain 5605
jobs within a municipal corporation at a facility recommended for 5606
closure to the base realignment and closure commission in the 5607
United States department of defense. 5608

(2) The project is economically sound and will benefit the 5609
people of this state by increasing opportunities for employment 5610
and strengthening the economy of this state+. 5611

(3) Receiving the annual payments will be a major factor in 5612
the decision of the landlord and tenant to go forward with the 5613
project. 5614

(D) An agreement with a landlord for annual payments shall 5615

include all of the following: 5616

(1) A description of the project that is the subject of the 5617
agreement; 5618

(2) The term of the agreement, which shall not exceed twenty 5619
years; 5620

(3) Based on the estimated new income tax revenue or retained 5621
income tax revenue, as applicable, to be derived from the facility 5622
at the time the agreement is entered into, provision for a 5623
guaranteed payment to the landlord commencing with the issuance by 5624
the landlord of any bonds or other forms of financing for the 5625
construction of the facility and continuing for the term approved 5626
by the authority; 5627

(4) Provision for offsets to this state of the annual payment 5628
in years in which such annual payment is greater than the 5629
guaranteed payment of amounts previously paid by this state to the 5630
landlord in excess of the new income tax revenue or retained 5631
income tax revenue, as applicable, by reason of the guaranteed 5632
payment; 5633

(5) A specific method for determining how many new employees 5634
are employed during a year; 5635

(6) A requirement that the landlord annually shall obtain 5636
from the tenant and report to the director of development the 5637
number of new employees, and the new income tax revenue withheld 5638
in connection with the new employees, or the number of retained 5639
employees and the retained income tax revenue withheld in 5640
connection with the retained employees, as applicable, and any 5641
other information the director needs to perform the director's 5642
duties under this section; 5643

(7) A requirement that the director of development annually 5644
shall verify the amounts reported under division (D)(6) of this 5645

section, and after doing so shall issue a certificate to the 5646
landlord stating that the amounts have been verified. 5647

(E) The director of development, in accordance with Chapter 5648
119. of the Revised Code, shall adopt rules necessary to implement 5649
this section. 5650

Sec. 122.40. (A) There is hereby created the development 5651
financing advisory council to assist in carrying out the programs 5652
created pursuant to sections 122.39 to 122.62 and Chapter 166. of 5653
the Revised Code. 5654

(B) The council shall consist of seven members appointed by 5655
the governor, with the advice and consent of the senate, who are 5656
selected for their knowledge of and experience in economic 5657
development financing, one member of the senate appointed by the 5658
president of the senate, one member of the house of 5659
representatives appointed by the speaker of the house of 5660
representatives, and the director of development or the director's 5661
designee. With respect to the council: 5662

(1) No more than four members of the council appointed by the 5663
governor shall be members of the same political party. 5664

(2) Each member shall hold office from the date of the 5665
member's appointment until the end of the term for which the 5666
member was appointed. 5667

(3) The terms of office for the seven members appointed by 5668
the governor shall be for five years commencing on the first day 5669
of January and ending on the thirty-first day of December. The 5670
seven members appointed by the governor who are serving terms of 5671
office of seven years on ~~the effective date of this amendment~~ 5672
December 30, 2004, shall continue to serve those terms, but their 5673
successors in office, including the filling of a vacancy occurring 5674
prior to the expiration of those terms, shall be appointed for 5675

- terms of five years in accordance with this division. 5676
- (4) Any member of the council is eligible for reappointment. 5677
- (5) As a term of a member of the council appointed by the 5678
governor expires, the governor shall appoint a successor with the 5679
advice and consent of the senate. 5680
- (6) Except as otherwise provided in division (B)(3) of this 5681
section, any member appointed to fill a vacancy occurring prior to 5682
the expiration of the term for which the member's predecessor was 5683
appointed shall hold office for the remainder of the predecessor's 5684
term. 5685
- (7) Any member shall continue in office subsequent to the 5686
expiration date of the member's term until the member's successor 5687
takes office, or until a period of sixty days has elapsed, 5688
whichever occurs first. 5689
- (8) Before entering upon duties as a member of the council, 5690
each member shall take an oath provided by Section 7 of Article 5691
XV, Ohio Constitution. 5692
- (9) The governor may, at any time, remove any nonlegislative 5693
member pursuant to section 3.04 of the Revised Code. 5694
- (10) Members of the council, notwithstanding section 101.26 5695
of the Revised Code with respect to members who are members of the 5696
general assembly, shall receive their necessary and actual 5697
expenses while engaged in the business of the council and shall be 5698
paid at the per diem rate of step 1, pay range 31, of section 5699
124.15 of the Revised Code. 5700
- (11) ~~Four~~ Six members of the council constitute a quorum and 5701
the affirmative vote of six members is necessary for any action 5702
taken by the council. 5703
- (12) In the event of the absence of a member appointed by the 5704
president of the senate or by the speaker of the house of 5705

representatives, the following persons may serve in the member's
absence: the president of the senate or the speaker of the house,
as the case may be, or a member of the senate or of the house of
representatives, of the same political party as the development
financing advisory council member, designated by the president of
the senate or the speaker of the house.

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

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

(B) When a participating financial institution makes a
capital access loan, it shall require the eligible business to pay
to the participating financial institution a fee in an amount that
is not less than one and one-half per cent, and not more than
three per cent, of the principal amount of the loan. The
participating financial institution shall deposit the fee into its
program reserve account, and it also shall deposit into the
account an amount of its own funds equal to the amount of the fee.
The participating financial institution may recover from the

eligible business all or part of the amount that the participating 5737
financial institution is required to deposit into the account 5738
under this division in any manner agreed to by the participating 5739
financial institution and the eligible business. 5740

(C) For each capital access loan made by a participating 5741
financial institution, the participating financial institution 5742
shall certify to the director, within a period specified by the 5743
director, that the participating financial institution has made 5744
the loan. The certification shall include the amount of the loan, 5745
the amount of the fee received from the eligible business, the 5746
amount of its own funds that the participating financial 5747
institution deposited into its program reserve account to reflect 5748
that fee, and any other information specified by the director. 5749

(D) ~~On~~ Upon receipt of each of the first three certifications 5750
from a participating financial institution made under division (C) 5751
of this section and subject to section 122.602 of the Revised 5752
Code, the director shall disburse to the participating financial 5753
institution from the capital access loan program fund an amount 5754
equal to fifty per cent of the principal amount of the particular 5755
capital access loan for deposit into the participating financial 5756
institution's program reserve account. Thereafter, upon receipt of 5757
a certification from that participating financial institution made 5758
under division (C) of this section and subject to section 122.602 5759
of the Revised Code, the director shall disburse to the 5760
participating financial institution from the capital access loan 5761
program fund an amount equal to ten per cent of the principal 5762
amount of the particular capital access loan for deposit into the 5763
participating financial institution's program reserve account. The 5764
disbursement of moneys from the fund to a participating financial 5765
institution does not require approval from the controlling board. 5766

(E) If the amount in a program reserve account exceeds an 5767
amount equal to thirty-three per cent of a participating financial 5768

institution's outstanding capital access loans, the department may 5769
cause the withdrawal of the excess amount and the deposit of the 5770
withdrawn amount into the capital access loan program fund. 5771

(F)(1) The department may cause the withdrawal of the total 5772
amount in a participating financial institution's program reserve 5773
account if any of the following applies: 5774

(a) The financial institution is no longer eligible to 5775
participate in the program. 5776

(b) The participation agreement expires without renewal by 5777
the department or the financial institution. 5778

(c) The financial institution has no outstanding capital 5779
access loans. 5780

(d) The financial institution has not made a capital access 5781
loan within the preceding twenty-four months. 5782

(2) If the department causes a withdrawal under division 5783
(F)(1) of this section, the department shall deposit the withdrawn 5784
amount into the capital access loan program fund. 5785

Sec. 122.71. As used in sections 122.71 to 122.83 of the 5786
Revised Code: 5787

(A) "Financial institution" means any banking corporation, 5788
trust company, insurance company, savings and loan association, 5789
building and loan association, or corporation, partnership, 5790
federal lending agency, foundation, or other institution engaged 5791
in lending or investing funds for industrial or business purposes. 5792

(B) "Project" means any real or personal property connected 5793
with or being a part of an industrial, distribution, commercial, 5794
or research facility to be acquired, constructed, reconstructed, 5795
enlarged, improved, furnished, or equipped, or any combination 5796
thereof, with the aid provided under sections 122.71 to 122.83 of 5797

the Revised Code, for industrial, commercial, distribution, and 5798
research development of the state. 5799

(C) "Mortgage" means the lien imposed on a project by a 5800
mortgage on real property, or by financing statements on personal 5801
property, or a combination of a mortgage and financing statements 5802
when a project consists of both real and personal property. 5803

(D) "Mortgagor" means the principal user of a project or the 5804
person, corporation, partnership, or association unconditionally 5805
guaranteeing performance by the principal user of its obligations 5806
under the mortgage. 5807

(E)(1) "Minority business enterprise" means an individual who 5808
is a United States citizen and owns and controls a business, or a 5809
partnership, corporation, or joint venture of any kind that is 5810
owned and controlled by United States citizens, which citizen or 5811
citizens are residents of this state and are members of one of the 5812
following economically disadvantaged groups: Blacks or African 5813
Americans, American Indians, Hispanics or Latinos, and ~~Oriental~~ 5814
Asians. 5815

(2) "Owned and controlled" means that at least fifty-one per 5816
cent of the business, including corporate stock if a corporation, 5817
is owned by persons who belong to one or more of the groups set 5818
forth in division (E)(1) of this section, and that those owners 5819
have control over the management and day-to-day operations of the 5820
business and an interest in the capital, assets, and profits and 5821
losses of the business proportionate to their percentage of 5822
ownership. In order to qualify as a minority business enterprise, 5823
a business shall have been owned and controlled by those persons 5824
at least one year prior to being awarded a contract pursuant to 5825
this section. 5826

(F) "Community improvement corporation" means a corporation 5827
organized under Chapter 1724. of the Revised Code. 5828

(G) "Ohio development corporation" means a corporation 5829
organized under Chapter 1726. of the Revised Code. 5830

(H) "Minority contractors business assistance organization" 5831
means an entity engaged in the provision of management and 5832
technical business assistance to minority business enterprise 5833
entrepreneurs. 5834

(I) "Minority business supplier development council" means a 5835
nonprofit organization established as an affiliate of the national 5836
minority supplier development council. 5837

(J) "Regional economic development entity" means an entity 5838
that is under contract with the director of development to 5839
administer a loan program under this chapter in a particular area 5840
of the state. 5841

Sec. 122.72. (A) There is hereby created the minority 5842
development financing advisory board to assist in carrying out the 5843
programs created pursuant to sections 122.71 to ~~122.89~~ 122.90 of 5844
the Revised Code. 5845

(B) The board shall consist of ~~seven~~ ten members. The 5846
director of development or the director's designee shall be a 5847
voting member on the board. Seven members shall be appointed by 5848
the governor with the advice and consent of the senate and 5849
selected because of their knowledge of and experience in 5850
industrial, business, and commercial financing, suretyship, 5851
construction, and their understanding of the problems of minority 5852
business enterprises; one member also shall be a member of the 5853
senate and appointed by the president of the senate, and one 5854
member also shall be a member of the house of representatives and 5855
appointed by the speaker of the house of representatives. With 5856
respect to the board, all of the following apply: 5857

(1) Not more than four of the members of the board appointed 5858

by the governor shall be of the same political party. 5859

(2) Each member shall hold office from the date of the 5860
member's appointment until the end of the term for which the 5861
member was appointed. 5862

(3) The terms of office for the seven members appointed by 5863
the governor shall be for seven years, commencing on the first day 5864
of October and ending on the thirtieth day of September of the 5865
seventh year, except that of the original seven members, three 5866
shall be appointed for three years and two shall be appointed for 5867
five years. 5868

(4) Any member of the board is eligible for reappointment. 5869

(5) Any member appointed to fill a vacancy occurring prior to 5870
the expiration of the term for which ~~his~~ the member's predecessor 5871
was appointed shall hold office for the remainder of ~~his~~ the 5872
predecessor's term. 5873

(6) Any member shall continue in office subsequent to the 5874
expiration date of ~~his~~ the member's term until ~~his~~ the member's 5875
successor takes office, or until a period of sixty days has 5876
elapsed, whichever occurs first. 5877

(7) Before entering upon ~~his~~ official duties as a member of 5878
the board, each member shall take an oath as provided by Section 7 5879
of Article XV, Ohio Constitution. 5880

(8) The governor may, at any time, remove any member 5881
appointed by ~~him~~ the governor pursuant to section 3.04 of the 5882
Revised Code. 5883

(9) Notwithstanding section 101.26 of the Revised Code, 5884
members shall receive their necessary and actual expenses while 5885
engaged in the business of the board and shall be paid at the per 5886
diem rate of step 1 of pay range 31 of section 124.15 of the 5887
Revised Code. 5888

(10) ~~Five~~ Six members of the board constitute a quorum and 5889
the affirmative vote of ~~five~~ six members is necessary for any 5890
action taken by the board. 5891

(11) In the event of the absence of a member appointed by the 5892
president of the senate or by the speaker of the house of 5893
representatives, either of the following persons may serve in the 5894
member's absence: 5895

(a) The president of the senate or the speaker of the house 5896
of representatives, whoever appointed the absent member; 5897

(b) A member of the senate or of the house of representatives 5898
of the same political party as the absent member, as designated by 5899
the president of the senate or the speaker of the house of 5900
representatives, whoever appointed the absent member. 5901

(12) The board shall annually elect one of its members as 5902
~~chairman~~ chairperson and another as ~~vice-chairman~~ 5903
vice-chairperson. 5904

Sec. 122.73. (A) The minority development financing advisory 5905
board and the director of development are invested with the powers 5906
and duties provided in sections 122.71 to ~~122.89~~ 122.90 of the 5907
Revised Code, in order to promote the welfare of the people of the 5908
state by encouraging the establishment and expansion of minority 5909
business enterprises_{7i} to stabilize the economy_{7i} to provide 5910
employment_{7i} to assist in the development within the state of 5911
industrial, commercial, distribution, and research activities 5912
required for the people of the state, and for their gainful 5913
employment_{7i} or otherwise to create or preserve jobs and 5914
employment opportunities, or improve the economic welfare of the 5915
people of the state. It is hereby determined that the 5916
accomplishment of those purposes is essential so that the people 5917
of the state may maintain their present high standards of living 5918

in comparison with the people of other states and so that 5919
opportunities for employment and for favorable markets for the 5920
products of the state's natural resources, agriculture, and 5921
manufacturing shall be improved ~~and~~. It further is determined that 5922
it is necessary for the state to establish the programs authorized 5923
under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code to 5924
establish the minority development financing advisory board, and 5925
to invest it and the director of development with the powers and 5926
duties provided in sections 122.71 to ~~122.89~~ 122.90 of the Revised 5927
Code. 5928

(B) The minority development financing advisory board shall 5929
do all of the following: 5930

(1) Make recommendations to the director as to applications 5931
for assistance pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 5932
Revised Code. The board may revise its recommendations to reflect 5933
any changes in the proposed assistance made by the director. 5934

(2) Advise the director in the administration of sections 5935
122.71 to ~~122.89~~ 122.90 of the Revised Code. 5936

(3) Adopt bylaws to govern the conduct of the business of the 5937
board. 5938

Sec. 122.74. (A)(1) The director of development shall do all 5939
of the following: 5940

~~(1)~~(a) Receive applications for assistance under sections 5941
122.71 to ~~122.89~~ 122.90 of the Revised Code, and, after processing 5942
but subject to division (A)(2) of this section, forward them to 5943
the minority development financing advisory board together with 5944
necessary supporting information; 5945

~~(2)~~(b) Receive the recommendations of the board and make a 5946
final determination whether to approve the application for 5947
assistance; 5948

~~(3)~~(c) Receive recommendations from a regional economic development entity for loans made under section 122.76 of the Revised Code and make a final determination, notwithstanding divisions (A)(1) and (2) of this section, whether to approve the proposed loan; 5949
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(d) Transmit the director's determinations to approve assistance to the controlling board together with any information the controlling board requires for its review and decision as to whether to approve the assistance. 5954
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(2) The director is not required to submit any determination, data, terms, or any other application materials or information to the minority development financing advisory board when provision of the assistance has been recommended to the director by a regional economic development entity. 5958
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(B) The director may do all of the following: 5963

(1) Fix the rate of interest and charges to be made upon or with respect to moneys loaned or guaranteed by the director and the terms upon which mortgages and lease rentals may be guaranteed and the rates of charges to be made for them and make provisions for the operation of the funds established by the director in accordance with this section and sections 122.80 ~~and~~, 122.88, and 122.90 of the Revised Code; 5964
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(2) Loan and guarantee moneys from the fund established in accordance with section 122.80 of the Revised Code pursuant to and in compliance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code. 5971
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(3) Acquire in the name of the director any property of any kind or character in accordance with sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, by purchase, purchase at foreclosure, or exchange on such terms and in such manner as the director considers proper; 5975
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(4) Make and enter into all contracts and agreements 5980
necessary or incidental to the performance of the director's 5981
duties and the exercise of the director's powers under sections 5982
122.71 to ~~122.89~~ 122.90 of the Revised Code; 5983

(5) Maintain, protect, repair, improve, and insure any 5984
property that the director has acquired and dispose of it by sale, 5985
exchange, or lease for the consideration and on the terms and in 5986
the manner as the director considers proper, but the director 5987
shall not operate any such property as a business except as the 5988
lessor of it; 5989

(6)(a) When the cost of any contract for the maintenance, 5990
protection, repair, or improvement of any property held by the 5991
director, other than compensation for personal services, involves 5992
an expenditure of more than fifty thousand dollars, the director 5993
shall make a written contract with the lowest responsive and 5994
responsible bidder in accordance with section 9.312 of the Revised 5995
Code after advertisement for not less than two consecutive weeks 5996
in a newspaper of general circulation in the county where such 5997
contract, or some substantial part of it, is to be performed, and 5998
in such other publications as the director determines, which 5999
notice shall state the general character of the work and the 6000
general character of the materials to be furnished, the place 6001
where plans and specifications therefor may be examined, and the 6002
time and place of receiving bids. 6003

(b) Each bid for a contract for the construction, demolition, 6004
alteration, repair, or reconstruction of an improvement shall 6005
contain the full name of every person interested in it and meet 6006
the requirements of section 153.54 of the Revised Code. 6007

(c) Each bid for a contract, except as provided in division 6008
(B)(6)(b) of this section, shall contain the full name of every 6009
person interested in it and shall be accompanied by bond or 6010

certified check on a solvent bank, in such amount as the director
considers sufficient, that if the bid is accepted a contract will
be entered into and the performance of the proposal secured.

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

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

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

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

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

(10) Adopt rules under Chapter 119. of the Revised Code

necessary to implement sections 122.71 to ~~122.83~~ 122.90 of the Revised Code. 6042
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(11) Do all acts and things necessary or proper to carry out the powers expressly granted and the duties imposed in sections 122.71 to ~~122.89~~ 122.90 of the Revised Code. 6044
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(C)(1) All expenses and obligations incurred by the director in carrying out the director's powers and in exercising the director's duties under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code shall be payable solely from revenues or other receipts or income of the director, from grants, gifts, and contributions, or funds established in accordance with such sections. Such sections do not authorize the director to incur indebtedness or to impose liability on the state or any political subdivision of the state. 6047
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(2) Financial statements and other data submitted to the director by any corporation, partnership, or person in connection with financial assistance provided under sections 122.71 to ~~122.89~~ 122.90 of the Revised Code, or any information taken from such statements or data for any purpose, shall not be open to public inspection. 6056
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Sec. 122.75. The director of development shall, for the minority business development loan program ~~and~~, the minority business bonding program, and the minority business bond guarantee program under sections 122.87 to ~~122.89~~ 122.90 of the Revised Code, do all of the following: 6062
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(A) Hire employees, consultants, and agents and fix their compensation; 6067
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(B) Adopt bylaws and rules for the regulation of the business of the minority development financing advisory board; 6069
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(C) Receive and accept grants, gifts, and contributions of 6071

money, property, labor, and other things of value, to be held, 6072
used, and applied only for the purpose for which the grants, 6073
gifts, and contributions are made, from individuals, private and 6074
public corporations, the United States or any agency of the United 6075
States, the state or any agency of the state, and any political 6076
subdivision of the state. The director may agree to repay any 6077
contribution of money or to return any property contributed or its 6078
value at such times, in ~~such~~ amounts, and on ~~such~~ terms and 6079
conditions, excluding the payment of interest, as the director 6080
determines at the time the contribution is made. The director may 6081
evidence the obligations by written contracts, subject to section 6082
122.76 of the Revised Code; provided, that the director shall not 6083
thereby incur indebtedness of or impose liability upon the state 6084
or any political subdivision. 6085

(D) Establish funds with the treasurer of state in addition 6086
to the minority business bonding fund created under section 122.88 6087
of the Revised Code; 6088

(E) Invest money in the funds the director establishes 6089
pursuant to division (D) of this section that is in excess of 6090
current needs, in notes, bonds, or other obligations that are 6091
direct obligations of or are guaranteed by the United States, or 6092
in certificates of deposit or withdrawable accounts of banks, 6093
trust companies, ~~and~~ or savings and loan associations organized 6094
under the laws of this state or the United States, and may credit 6095
the income or sell the investments at the director's discretion; 6096

(F) Acquire any property of any kind or character in 6097
accordance with sections 122.71 to 122.83 of the Revised Code, by 6098
purchase, purchase at foreclosure, or exchange on terms and in a 6099
manner the director considers proper; 6100

(G)(1) Maintain, protect, repair, improve, and insure any 6101
property the director has acquired and dispose of it by sale, 6102

exchange, or lease for the consideration and on terms and in a
manner the director considers proper. The director may not operate
any property as a business except as a lessor of the property.
When the cost of any contract for the maintenance, protection,
repair, or improvement of any property of the advisory board
connected with the minority business development loan program,
other than compensation for personal services, involves an
expenditure of more than one thousand dollars, the director shall
enter into a written contract with the lowest and best bidder
after advertisement for not less than four consecutive weeks in a
newspaper of general circulation in the county where the contract,
or some substantial part of it, is to be performed, and in other
publications as the director determines. The notice shall state
the general character of the work and the general character of the
materials to be furnished, the place where plans and
specifications for the work and materials may be examined, and the
time and place of receiving bids.

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

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

(H) Expend money appropriated to the department of

development by the general assembly for the purposes of sections 6135
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code; 6136

(I) Do all acts and things necessary or proper to carry out 6137
the powers expressly granted and the duties imposed in sections 6138
122.71 to 122.83 and 122.87 to ~~122.89~~ 122.90 of the Revised Code. 6139

Sec. 122.751. The minority development financing advisory 6140
board or a regional economic development entity shall only 6141
consider an application for a loan from any applicant after a 6142
certification by the equal employment opportunity coordinator of 6143
the department of administrative services under division (B)(1) of 6144
section 123.151 of the Revised Code that the applicant is a 6145
minority business enterprise, or after a certification by the 6146
minority business supplier development council that the applicant 6147
is a minority business, and that the applicant satisfies all 6148
criteria regarding eligibility for assistance pursuant to section 6149
122.76 of the Revised Code. 6150

Sec. 122.76. (A) The director of development, with 6151
controlling board approval, may lend funds to minority business 6152
enterprises and to community improvement corporations, Ohio 6153
development corporations, minority contractors business assistance 6154
organizations, and minority business supplier development councils 6155
for the purpose of loaning funds to minority business enterprises 6156
and for the purpose of procuring or improving real or personal 6157
property, or both, for the establishment, location, or expansion 6158
of industrial, distribution, commercial, or research facilities in 6159
the state, if the director determines, in the director's sole 6160
discretion, that all of the following apply: 6161

(1) The project is economically sound and will benefit the 6162
people of the state by increasing opportunities for employment, by 6163
strengthening the economy of the state, or expanding minority 6164

business enterprises. 6165

(2) The proposed minority business enterprise borrower is 6166
unable to finance the proposed project through ordinary financial 6167
channels at comparable terms. 6168

(3) The value of the project is or, upon completion, will be 6169
at least equal to the total amount of the money expended in the 6170
procurement or improvement of the project, and one or more 6171
financial institutions or other governmental entities have loaned 6172
not less than thirty per cent of that amount. 6173

(4) The amount to be loaned by the director will not exceed 6174
sixty per cent of the total amount expended in the procurement or 6175
improvement of the project. 6176

(5) The amount to be loaned by the director will be 6177
adequately secured by a first or second mortgage upon the project 6178
or by mortgages, leases, liens, assignments, or pledges on or of 6179
other property or contracts as the director requires, and such 6180
mortgage will not be subordinate to any other liens or mortgages 6181
except the liens securing loans or investments made by financial 6182
institutions referred to in division (A)(3) of this section, and 6183
the liens securing loans previously made by any financial 6184
institution in connection with the procurement or expansion of all 6185
or part of a project. 6186

(B) Any proposed minority business enterprise borrower 6187
submitting an application for assistance under this section shall 6188
not have defaulted on a previous loan from the director, and no 6189
full or limited partner, major shareholder, or holder of an equity 6190
interest of the proposed minority business enterprise borrower 6191
shall have defaulted on a loan from the director. 6192

(C) The proposed minority business enterprise borrower shall 6193
demonstrate to the satisfaction of the director that it is able to 6194
successfully compete in the private sector if it obtains the 6195

necessary financial, technical, or managerial support and that
support is available through the director, the minority business
development office of the department of development, or other
identified and acceptable sources. In determining whether a
minority business enterprise borrower will be able to successfully
compete, the director may give consideration to such factors as
the successful completion of or participation in courses of study,
recognized by the board of regents as providing financial,
technical, or managerial skills related to the operation of the
business, by the economically disadvantaged individual, owner, or
partner, and the prior success of the individual, owner, or
partner in personal, career, or business activities, as well as to
other factors identified by the director.

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

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

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

(2) The proposed small business borrower is unable to finance

the proposed project through ordinary financial channels at 6227
comparable terms~~+~~. 6228

(3) The value of the project is, or upon completion of it 6229
will be, at least equal to the total amount of the money expended 6230
in the procurement or improvement of the project and of which 6231
amount one or more financial institutions or other governmental 6232
entities have loaned not less than thirty per cent~~+~~. 6233

(4) The amount to be guaranteed by the director will not 6234
exceed ~~fifty~~ eighty per cent of the total amount expended in the 6235
procurement or improvement of the project~~+~~. 6236

(5) The amount to be guaranteed by the director will be 6237
adequately secured by a first or second mortgage upon the project, 6238
or by mortgages, leases, liens, assignments, or pledges on or of 6239
other property or contracts as the director shall require and that 6240
such mortgage will not be subordinate to any other liens or 6241
mortgages except the liens securing loans or investments made by 6242
financial institutions referred to in division (A)(3) of this 6243
section, and the liens securing loans previously made by any 6244
financial institution in connection with the procurement or 6245
expansion of all or part of a project. 6246

(B) The proposed small business borrower shall not have 6247
defaulted on a previous loan or guarantee from the director, and 6248
no full or limited partner, or major shareholder, or holder of any 6249
equity interest of the proposed minority business enterprise 6250
borrower shall have defaulted on a loan or guarantee from the 6251
director. 6252

(C) The proposed small business borrower shall demonstrate to 6253
the satisfaction of the director that it is able to successfully 6254
compete in the private sector if it obtains the necessary 6255
financial, technical, or managerial support and that support is 6256
available through the director, the minority business development 6257

office of the department of development, or other identified and 6258
acceptable sources. In determining whether a small business 6259
borrower will be able to successfully compete, the director may 6260
give consideration to such factors as the successful completion of 6261
or participation in courses of study, recognized by the board of 6262
regents as providing financial, technical, or managerial skills 6263
related to the operation of the business, by the economically 6264
disadvantaged individual, owner, or partner, and the prior success 6265
of the individual, owner, or partner in personal, career, or 6266
business activities, as well as to other factors identified by the 6267
director. 6268

(D) The director shall not guarantee funds for the purpose of 6269
procuring or improving motor vehicles, ~~power driven vehicles,~~ 6270
~~office equipment, raw materials, small tools, supplies,~~ 6271
~~inventories,~~ or accounts receivable. 6272

Sec. 122.78. Fees, charges, rates of interest, times of 6273
payment of interest and principal, and other terms, conditions, 6274
and provisions of the loans and guarantees made by the director of 6275
development pursuant to sections 122.71 to ~~122.89~~ 122.90 of the 6276
Revised Code shall be such as the director determines to be 6277
appropriate and in furtherance of the purpose for which the loans 6278
and guarantees are made, but the mortgage lien securing any money 6279
loaned or guaranteed by the director may be subordinate to the 6280
mortgage lien securing any money loaned or invested by a financial 6281
institution, but shall be superior to that securing any money 6282
loaned or expended by any other corporation or person. The funds 6283
used in making these loans or guarantees shall be disbursed upon 6284
order of the director. 6285

Sec. 122.79. The exercise of the powers granted by sections 6286
122.71 to ~~122.89~~ 122.90 of the Revised Code, will be in all 6287

respects for the benefit of the people of the state, for the 6288
increase of their commerce and prosperity, for the increase and 6289
expansion of minority business enterprises, and for the 6290
improvement of conditions of employment, and will constitute the 6291
performance of essential governmental functions; therefore, the 6292
director of development shall not be required to pay any taxes 6293
upon any property or assets held by ~~him~~ the director, or upon any 6294
property acquired or used by ~~him~~ the director under sections 6295
122.71 to ~~122.89~~ 122.90 of the Revised Code, or upon the income 6296
from it, provided that this exemption shall not apply to any 6297
property held by the director while it is in the possession of a 6298
private person, partnership, or corporation and used for private 6299
purposes for profit, in which case such tax liability shall accrue 6300
to ~~such~~ the private person, partnership, or corporation. 6301

Sec. 122.82. All moneys, funds, properties, and assets 6302
acquired by the director of development shall be held by ~~him~~ the 6303
director in trust to carry out ~~his~~ the director's powers and 6304
duties, shall be used as provided in sections 122.71 to ~~122.89~~ 6305
122.90 of the Revised Code, and shall at no time be part of other 6306
public funds. 6307

Sec. 122.83. Any person who intentionally misrepresents that 6308
person's self as owning, controlling, operating, or participating 6309
in a minority business enterprise for the purpose of obtaining 6310
funds, contracts, subcontracts, services, or any other benefits 6311
under sections 122.71 to 122.85 or 122.87 to ~~122.89~~ 122.90 of the 6312
Revised Code is guilty of theft by deception, pursuant to section 6313
2913.02 of the Revised Code. 6314

Sec. 122.95. As used in sections 122.95 to 122.952 of the 6315
Revised Code: 6316

(A) "Commercial or industrial areas" means areas ~~established~~ 6317

~~by a state, county, municipal, or other zoned either commercial or industrial by the local zoning authority as being most appropriate for business, commerce, industry, or trade or an area not zoned by state or local law, regulation, or ordinance, but in which there is located one or more commercial or industrial activities.~~ 6318
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(B) "Eligible county" means any of the following: 6323

(1) A county designated as being in the "Appalachian region" under the "Appalachian Regional Development Act of 1965," 79 Stat. 5, 40 U.S.C. App. 403; 6324
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(2) A county that is a "distressed area" as defined in section 122.16 of the Revised Code; 6327
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(3) A county that within the previous calendar year has had a population of less than one hundred thousand according to the most recent federal decennial census and in which three hundred fifty or more residents of the county were, during the most recently completed calendar year, permanently or temporarily terminated from a private sector employment position for any reason not reflecting discredit on the employee; 6329
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~~(4) A county that has a population of one hundred thousand or more according to the most recent federal decennial census and in which one thousand or more residents of the county were, during the most recently completed calendar year, permanently or temporarily terminated from a private sector employment position for any reason not reflecting discredit on the employee job loss numbering two hundred or more of which one hundred or more are manufacturing-related as reported in the notices prepared by the department of job and family services pursuant to the "Worker Adjustment and Retraining Notification Act," 102 Stat. 890 (1988), 29 U.S.C. 2101 et seq., as amended.~~ 6336
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Sec. 122.951. (A) If the director of development determines 6347

that a grant from the industrial site improvement fund ~~will~~ may 6348
create new jobs or preserve existing jobs and employment 6349
opportunities in an eligible county, the director may grant up to 6350
~~one million~~ five hundred thousand dollars from the fund to the 6351
eligible county for the purpose of acquiring commercial or 6352
industrial land or buildings and making improvements to commercial 6353
or industrial areas within the eligible county, including, but not 6354
limited to: 6355

(1) Expanding, remodeling, renovating, and modernizing 6356
buildings, structures, and other improvements; 6357

(2) Remediating environmentally contaminated property on 6358
which hazardous substances exist under conditions that have caused 6359
or would cause the property to be identified as contaminated by 6360
the Ohio or United States environmental protection agency; and 6361

(3) Infrastructure improvements, including, but not limited 6362
to, site preparation, including building demolition and removal; 6363
streets, roads, bridges, and traffic control devices; parking lots 6364
and facilities; water and sewer lines and treatment plants; gas, 6365
electric, and telecommunications, including broadband, hook-ups; 6366
and water and railway access improvements. 6367

A grant awarded under this section shall provide not more 6368
than seventy-five per cent of the estimated total cost of the 6369
project for which an application is submitted under this section. 6370
In addition, not more than ten per cent of the amount of the grant 6371
shall be used to pay the costs of professional services related to 6372
the project. 6373

(B) An eligible county may apply to the director for a grant 6374
under this section in the form and manner prescribed by the 6375
director. The eligible county shall include on the application all 6376
information required by the director. The application shall 6377
require the eligible county to provide a detailed description of 6378

how the eligible county would use a grant to improve commercial or
industrial areas within the eligible county, and to specify how a
grant will lead to the creation of new jobs or the preservation of
existing jobs and employment opportunities in the eligible county.
The eligible county shall specify in the application the amount of
the grant for which the eligible county is applying.

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

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

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

(1) To prepare, or contract to be prepared, by licensed
engineers or architects, surveys, general and detailed plans,
specifications, bills of materials, and estimates of cost for any
projects, improvements, or public buildings to be constructed by
state agencies that may be authorized by legislative
appropriations or any other funds made available therefor,
provided that the construction of the projects, improvements, or
public buildings is a statutory duty of the department. This
section does not require the independent employment of an

architect or engineer as provided by section 153.01 of the Revised
Code in the cases to which that section applies nor affect or
alter the existing powers of the director of transportation.

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

(3) To make contracts for and supervise the construction of
any projects and improvements or the construction and repair of
buildings under the control of a state agency, except contracts
for the repair of buildings under the management and control of
the departments of public safety, job and family services, mental
health, mental retardation and developmental disabilities,
rehabilitation and correction, and youth services, the bureau of
workers' compensation, the rehabilitation services commission, and
boards of trustees of educational and benevolent institutions and
except contracts for the construction of projects that are
necessary to remediate conditions at a hazardous waste facility,
solid waste facility, or other location at which the director of
environmental protection has reason to believe there is a
substantial threat to public health or safety or the environment.
These contracts shall be made and entered into by the directors of
public safety, job and family services, mental health, mental
retardation and developmental disabilities, rehabilitation and
correction, and youth services, the administrator of workers'
compensation, the rehabilitation services commission, and the
boards of trustees of such institutions, and the director of
environmental protection, respectively. All such contracts may be
in whole or in part on unit price basis of maximum estimated cost,
with payment computed and made upon actual quantities or units.

(4) To prepare and suggest comprehensive plans for the

development of grounds and buildings under the control of a state agency; 6442
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(5) To acquire, by purchase, gift, devise, lease, or grant, all real estate required by a state agency, in the exercise of which power the department may exercise the power of eminent domain, in the manner provided by sections 163.01 to 163.22 of the Revised Code; 6444
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(6) To make and provide all plans, specifications, and models for the construction and perfection of all systems of sewerage, drainage, and plumbing for the state in connection with buildings and grounds under the control of a state agency; 6449
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(7) To erect, supervise, and maintain all public monuments and memorials erected by the state, except where the supervision and maintenance is otherwise provided by law; 6453
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(8) To procure, by lease, storage accommodations for a state agency; 6456
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(9) To lease or grant easements or licenses for unproductive and unused lands or other property under the control of a state agency. Such leases, easements, or licenses shall be granted for a period not to exceed fifteen years and shall be executed for the state by the director of administrative services and the governor and shall be approved as to form by the attorney general, provided that leases, easements, or licenses may be granted to any county, township, municipal corporation, port authority, water or sewer district, school district, library district, health district, park district, soil and water conservation district, conservancy district, or other political subdivision or taxing district, or any agency of the United States government, for the exclusive use of that agency, political subdivision, or taxing district, without any right of sublease or assignment, for a period not to exceed fifteen years, and provided that the director shall grant leases, 6458
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easements, or licenses of university land for periods not to
exceed twenty-five years for purposes approved by the respective
university's board of trustees wherein the uses are compatible
with the uses and needs of the university and may grant leases of
university land for periods not to exceed forty years for purposes
approved by the respective university's board of trustees pursuant
to section 123.77 of the Revised Code.

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

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

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

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

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

(a) Whenever any building, structure, or other improvement is
to be so leased by a state agency, the department shall retain
either basic plans, specifications, bills of materials, and
estimates of cost with sufficient detail to afford bidders all

needed information or, alternatively, all of the following plans, 6504
details, bills of materials, and specifications: 6505

(i) Full and accurate plans suitable for the use of mechanics 6506
and other builders in the improvement; 6507

(ii) Details to scale and full sized, so drawn and 6508
represented as to be easily understood; 6509

(iii) Accurate bills showing the exact quantity of different 6510
kinds of material necessary to the construction; 6511

(iv) Definite and complete specifications of the work to be 6512
performed, together with such directions as will enable a 6513
competent mechanic or other builder to carry them out and afford 6514
bidders all needed information; 6515

(v) A full and accurate estimate of each item of expense and 6516
of the aggregate cost thereof. 6517

(b) The department shall give public notice, in such 6518
newspaper, in such form, and with such phraseology as the director 6519
of administrative services prescribes, published once each week 6520
for four consecutive weeks, of the time when and place where bids 6521
will be received for entering into an agreement to lease to a 6522
state agency a building, structure, or other improvement. The last 6523
publication shall be at least eight days preceding the day for 6524
opening the bids. The bids shall contain the terms upon which the 6525
builder would propose to lease the building, structure, or other 6526
improvement to the state agency. The form of the bid approved by 6527
the department shall be used, and a bid is invalid and shall not 6528
be considered unless that form is used without change, alteration, 6529
or addition. Before submitting bids pursuant to this section, any 6530
builder shall comply with Chapter 153. of the Revised Code. 6531

(c) On the day and at the place named for receiving bids for 6532
entering into lease agreements with a state agency, the director 6533

of administrative services shall open the bids and shall publicly
proceed immediately to tabulate the bids upon duplicate sheets. No
lease agreement shall be entered into until the bureau of workers'
compensation has certified that the person to be awarded the lease
agreement has complied with Chapter 4123. of the Revised Code,
until, if the builder submitting the lowest and best bid is a
foreign corporation, the secretary of state has certified that the
corporation is authorized to do business in this state, until, if
the builder submitting the lowest and best bid is a person
nonresident of this state, the person has filed with the secretary
of state a power of attorney designating the secretary of state as
its agent for the purpose of accepting service of summons in any
action brought under Chapter 4123. of the Revised Code, and until
the agreement is submitted to the attorney general and the
attorney general's approval is certified thereon. Within thirty
days after the day on which the bids are received, the department
shall investigate the bids received and shall determine that the
bureau and the secretary of state have made the certifications
required by this section of the builder who has submitted the
lowest and best bid. Within ten days of the completion of the
investigation of the bids, the department shall award the lease
agreement to the builder who has submitted the lowest and best bid
and who has been certified by the bureau and secretary of state as
required by this section. If bidding for the lease agreement has
been conducted upon the basis of basic plans, specifications,
bills of materials, and estimates of costs, upon the award to the
builder the department, or the builder with the approval of the
department, shall appoint an architect or engineer licensed in
this state to prepare such further detailed plans, specifications,
and bills of materials as are required to construct the building,
structure, or improvement. The department shall adopt such rules
as are necessary to give effect to this section. The department
may reject any bid. Where there is reason to believe there is

collusion or combination among bidders, the bids of those 6567
concerned therein shall be rejected. 6568

(15) To acquire by purchase, gift, devise, or grant and to 6569
transfer, lease, or otherwise dispose of all real property 6570
required to assist in the development of a conversion facility as 6571
defined in section 5709.30 of the Revised Code as that section 6572
existed before its repeal by Amended Substitute House Bill 95 of 6573
the 125th general assembly; 6574

(16) To lease for a period not to exceed forty years, 6575
notwithstanding any other division of this section, the 6576
state-owned property located at 408-450 East Town Street, 6577
Columbus, Ohio, formerly the state school for the deaf, to a 6578
developer in accordance with this section. "Developer," as used in 6579
this section, has the same meaning as in section 123.77 of the 6580
Revised Code. 6581

Such a lease shall be for the purpose of development of the 6582
land for use by senior citizens by constructing, altering, 6583
renovating, repairing, expanding, and improving the site as it 6584
existed on June 25, 1982. A developer desiring to lease the land 6585
shall prepare for submission to the department a plan for 6586
development. Plans shall include provisions for roads, sewers, 6587
water lines, waste disposal, water supply, and similar matters to 6588
meet the requirements of state and local laws. The plans shall 6589
also include provision for protection of the property by insurance 6590
or otherwise, and plans for financing the development, and shall 6591
set forth details of the developer's financial responsibility. 6592

The department may employ, as employees or consultants, 6593
persons needed to assist in reviewing the development plans. Those 6594
persons may include attorneys, financial experts, engineers, and 6595
other necessary experts. The department shall review the 6596
development plans and may enter into a lease if it finds all of 6597

the following: 6598

(a) The best interests of the state will be promoted by 6599
entering into a lease with the developer; 6600

(b) The development plans are satisfactory; 6601

(c) The developer has established the developer's financial 6602
responsibility and satisfactory plans for financing the 6603
development. 6604

The lease shall contain a provision that construction or 6605
renovation of the buildings, roads, structures, and other 6606
necessary facilities shall begin within one year after the date of 6607
the lease and shall proceed according to a schedule agreed to 6608
between the department and the developer or the lease will be 6609
terminated. The lease shall contain such conditions and 6610
stipulations as the director considers necessary to preserve the 6611
best interest of the state. Moneys received by the state pursuant 6612
to this lease shall be paid into the general revenue fund. The 6613
lease shall provide that at the end of the lease period the 6614
buildings, structures, and related improvements shall become the 6615
property of the state without cost. 6616

(17) To lease to any person any tract of land owned by the 6617
state and under the control of the department, or any part of such 6618
a tract, for the purpose of drilling for or the pooling of oil or 6619
gas. Such a lease shall be granted for a period not exceeding 6620
forty years, with the full power to contract for, determine the 6621
conditions governing, and specify the amount the state shall 6622
receive for the purposes specified in the lease, and shall be 6623
prepared as in other cases. 6624

(18) To manage the use of space owned and controlled by the 6625
department, including space in property under the jurisdiction of 6626
the Ohio building authority, by doing all of the following: 6627

(a) Biennially implementing, by state agency location, a census of agency employees assigned space;	6628 6629
(b) Periodically in the discretion of the director of administrative services:	6630 6631
(i) Requiring each state agency to categorize the use of space allotted to the agency between office space, common areas, storage space, and other uses, and to report its findings to the department;	6632 6633 6634 6635
(ii) Creating and updating a master space utilization plan for all space allotted to state agencies. The plan shall incorporate space utilization metrics.	6636 6637 6638
(iii) Conducting a cost-benefit analysis to determine the effectiveness of state-owned buildings;	6639 6640
(iv) Assessing the alternatives associated with consolidating the commercial leases for buildings located in Columbus.	6641 6642
(c) Commissioning a comprehensive space utilization and capacity study in order to determine the feasibility of consolidating existing commercially leased space used by state agencies into a new state-owned facility.	6643 6644 6645 6646
(B) This section and section 125.02 of the Revised Code shall not interfere with any of the following:	6647 6648
(1) The power of the adjutant general to purchase military supplies, or with the custody of the adjutant general of property leased, purchased, or constructed by the state and used for military purposes, or with the functions of the adjutant general as director of state armories;	6649 6650 6651 6652 6653
(2) The power of the director of transportation in acquiring rights-of-way for the state highway system, or the leasing of lands for division or resident district offices, or the leasing of lands or buildings required in the maintenance operations of the	6654 6655 6656 6657

department of transportation, or the purchase of real property for 6658
garage sites or division or resident district offices, or in 6659
preparing plans and specifications for and constructing such 6660
buildings as the director may require in the administration of the 6661
department; 6662

(3) The power of the director of public safety and the 6663
registrar of motor vehicles to purchase or lease real property and 6664
buildings to be used solely as locations to which a deputy 6665
registrar is assigned pursuant to division (B) of section 4507.011 6666
of the Revised Code and from which the deputy registrar is to 6667
conduct the deputy registrar's business, the power of the director 6668
of public safety to purchase or lease real property and buildings 6669
to be used as locations for division or district offices as 6670
required in the maintenance of operations of the department of 6671
public safety, and the power of the superintendent of the state 6672
highway patrol in the purchase or leasing of real property and 6673
buildings needed by the patrol, to negotiate the sale of real 6674
property owned by the patrol, to rent or lease real property owned 6675
or leased by the patrol, and to make or cause to be made repairs 6676
to all property owned or under the control of the patrol; 6677

(4) The power of the division of liquor control in the 6678
leasing or purchasing of retail outlets and warehouse facilities 6679
for the use of the division; 6680

(5) The power of the director of development to enter into 6681
leases of real property, buildings, and office space to be used 6682
solely as locations for the state's foreign offices to carry out 6683
the purposes of section 122.05 of the Revised Code; 6684

(6) The power of the director of environmental protection to 6685
enter into environmental covenants, to grant and accept easements, 6686
or to sell property pursuant to division (G) of section 3745.01 of 6687
the Revised Code. 6688

(C) Purchases for, and the custody and repair of, buildings 6689
under the management and control of the capitol square review and 6690
advisory board, the rehabilitation services commission, the bureau 6691
of workers' compensation, or the departments of public safety, job 6692
and family services, mental health, mental retardation and 6693
developmental disabilities, and rehabilitation and correction, and 6694
buildings of educational and benevolent institutions under the 6695
management and control of boards of trustees, are not subject to 6696
the control and jurisdiction of the department of administrative 6697
services. 6698

(D) Any instrument by which real property is acquired 6699
pursuant to this section shall identify the agency of the state 6700
that has the use and benefit of the real property as specified in 6701
section 5301.012 of the Revised Code. 6702

Sec. 123.152. (A) As used in this section, "EDGE business 6703
enterprise" means a sole proprietorship, association, partnership, 6704
corporation, limited liability corporation, or joint venture 6705
certified as a participant in the encouraging diversity, growth, 6706
and equity program by the director of administrative services 6707
under this section of the Revised Code. 6708

(B) The director of administrative services shall establish a 6709
business assistance program known as the encouraging diversity, 6710
growth, and equity program and shall adopt rules in accordance 6711
with Chapter 119. of the Revised Code to administer the program 6712
~~and~~ that do all of the following: 6713

(1) Establish procedures by which a sole proprietorship, 6714
association, partnership, corporation, limited liability 6715
corporation, or joint venture may apply for certification as an 6716
EDGE business enterprise; 6717

(2) ~~Establish~~ Except as provided in division (B)(14) of this 6718

section, establish agency procurement goals for contracting with 6719
EDGE business enterprises in the award of contracts under Chapters 6720
123., 125., and 153. of the Revised Code based on the availability 6721
of eligible program participants by region or geographic area, as 6722
determined by the director, and by standard industrial code or 6723
equivalent code classification. 6724

(a) Goals established under division (B)(2) of this section 6725
shall be based on a percentage level of participation and a 6726
percentage of contractor availability. 6727

(b) Goals established under division (B)(2) of this section 6728
shall be applied at the contract level, relative to an overall 6729
dollar goal for each state agency, in accordance with the 6730
following certification categories: construction, architecture, 6731
and engineering; professional services; goods and services; and 6732
information technology services. 6733

(3) Establish a system of certifying EDGE business 6734
enterprises based on a requirement that the business owner or 6735
owners show both social and economic disadvantage based on the 6736
following, as determined to be sufficient by the director: 6737

(a) Relative wealth of the business seeking certification as 6738
well as the personal wealth of the owner or owners of the 6739
business; 6740

(b) Social disadvantage based on any of the following: 6741

(i) A rebuttable presumption when the business owner or 6742
owners demonstrate membership in a racial minority group or show 6743
personal disadvantage due to color, ethnic origin, gender, 6744
physical disability, long-term residence in an environment 6745
isolated from the mainstream of American society, location in an 6746
area of high unemployment; 6747

(ii) Some other demonstration of personal disadvantage not 6748
common to other small businesses; 6749

(iii) By business location in a qualified census tract.	6750
(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.	6751 6752 6753 6754
(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;	6755 6756 6757
(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;	6758 6759 6760 6761
(6) Establish a point system <u>or comparable system</u> to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;	6762 6763 6764 6765
(7) Establish a system to track data and analyze each certification category established under division (B)(2)(b) of this section;	6766 6767 6768
(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;	6769 6770
(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;	6771 6772 6773
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	6774 6775 6776
(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;	6777 6778 6779

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

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

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

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

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

(B) ~~The~~ Not later than December 30, 2005, the state architect 6810
shall establish a local administration competency certification 6811
program to certify institutions of higher education to administer 6812
capital facilities projects pursuant to section 3345.51 of the 6813
Revised Code without the supervision, control, or approval of the 6814
department of administrative services. The program shall offer 6815
instruction in the administration of capital facilities projects 6816
for employees of institutions of higher education who are 6817
responsible for such administration and who are selected by their 6818
employing institutions to participate in the program. 6819

(C) The program shall provide instruction about the 6820
provisions of Chapters 9., 123., and 153. of the Revised Code and 6821
any rules or policies adopted by the department regarding the 6822
planning, design, and construction of capital facilities, 6823
including all of the following: 6824

(1) The planning, design, and construction process; 6825

(2) Contract requirements; 6826

(3) Construction management; 6827

(4) Project management. 6828

(D) The state architect shall award local administration 6829
competency certification to any institution of higher education if 6830
all of the following apply: 6831

(1) The institution applied for certification on a form and 6832
in a manner prescribed by the state architect. 6833

(2) The state architect determines that a sufficient number 6834
of the institution's employees, representing a sufficient number 6835
of employee classifications, responsible for the administration of 6836
capital facilities projects ~~has~~ have successfully completed the 6837
certification program to ensure that any capital facilities 6838
project undertaken by the institution will be administered 6839

successfully and in accordance with all provisions of the Revised 6840
Code, and the board of trustees of the institution provides 6841
written assurance to the state architect that the institution will 6842
select new employees to participate in the certification program 6843
as necessary to compensate for employee turnover. 6844

(3) The state architect determines that the employees of the 6845
institution enrolled in the program demonstrate successful 6846
completion of the competency certification training and a 6847
satisfactory level of knowledge of and competency in the 6848
requirements for administering capital facilities projects. 6849

(4) The institution pays the fee prescribed by division 6850
~~(E)~~(F) of this section. 6851

(5) The board of trustees of the institution provides written 6852
assurance to the state architect that the institution will conduct 6853
biennial audits of the institution's administration of capital 6854
facilities projects in accordance with division (C) of section 6855
3345.51 of the Revised Code. 6856

(6) The board of trustees of the institution agrees in 6857
writing to indemnify and hold harmless the state and the 6858
department for any claim of injury, loss, or damage that results 6859
from the institution's administration of a capital facilities 6860
project. 6861

(E) Local administration competency certification granted 6862
under this section shall remain in effect for as long as the Ohio 6863
board of regents determines that both of the following apply: 6864

(1) The institution of higher education maintains a 6865
sufficient number of employees responsible for the administration 6866
of capital facilities projects who have successfully completed the 6867
certification program and have demonstrated a satisfactory level 6868
of knowledge of and competency in the requirements for 6869
administering capital facilities projects; 6870

(2) The institution is performing the biennial audits 6871
prescribed in division (C) of section 3345.51 of the Revised Code. 6872

If the board of regents determines that an institution of 6873
higher education has failed to comply with the conditions of 6874
division (E)(1) or (2) of this section, the board shall notify the 6875
state architect of that fact. Upon such notification, the state 6876
architect shall revoke the institution's certification and shall 6877
notify the board of trustees of the institution in writing of the 6878
revocation. 6879

(F) The state architect shall establish, subject to the 6880
approval of the director of budget and management, the amount of 6881
the fee required to be paid by any institution of higher education 6882
that seeks certification under this section. The amount of the 6883
fees shall be set to cover the costs to implement this section, 6884
including the costs for materials and the competency certification 6885
training sessions. Any fees received under this section shall be 6886
paid into the state treasury to the credit of the state 6887
architect's fund established under section 123.10 of the Revised 6888
Code. 6889

~~(F)~~(G) Nothing in this section shall prohibit an institution 6890
that administers a capital facilities project under section 6891
3345.51 of the Revised Code from requesting guidance or other 6892
services from the department of administrative services. 6893

Sec. 124.01. ~~As~~ Except as otherwise provided in this chapter, 6894
as used in Chapter 124. of the Revised Code this chapter: 6895

(A) "Civil service" includes all offices and positions of 6896
trust or employment in the service of the state and in the service 6897
of the counties, cities, city health districts, general health 6898
districts, and city school districts ~~thereof~~ of the state. 6899

(B) "State service" includes all ~~such~~ offices and positions 6900

in the service of the state, and the counties, and general health 6901
districts thereof, ~~except~~ of the state. "State service" does not 6902
include offices and positions in the service of the cities, city 6903
health districts, and city school districts of the state. 6904

(C) "Classified service" means the competitive classified 6905
civil service of the state, the several counties, cities, city 6906
health districts, general health districts, and city school 6907
districts ~~thereof~~ of the state, and civil service townships. 6908

(D) "Appointing authority" means the officer, commission, 6909
board, or body having the power of appointment to, or removal 6910
from, positions in any office, department, commission, board, or 6911
institution. 6912

(E) "Commission" means the municipal civil service commission 6913
of any city, except that, when in reference to the commission that 6914
serves a city school district, "commission" means the civil 6915
service commission determined under section 124.011 of the Revised 6916
Code. 6917

(F) "Employee" means any person holding a position subject to 6918
appointment, removal, promotion, or reduction by an appointing 6919
officer. 6920

(G) "Civil service township" means any township with a 6921
population of ten thousand or more persons residing within the 6922
township and outside any municipal corporation, which has a police 6923
or fire department of ten or more full-time paid employees, and 6924
which has a civil service commission established under division 6925
(B) of section 124.40 of the Revised Code. 6926

(H) "Flexible hours employee" means an employee who may work 6927
more or less than eight hours on any given day so long as ~~he~~ the 6928
employee works forty hours in the same week. 6929

(I) "Classification series" means any group of classification 6930
titles that have the identical name but different numerical 6931

designations, or identical titles except for designated levels of supervision, except for those classification series established by the director of administrative services in accordance with division (A) of section 124.14 of the Revised Code.

(J) "Classification change" means a change in an employee's classification in the job classification plan.

(K) "Service of the state" or "civil service of the state" includes all offices and positions of trust or employment with the government of the state. "Service of the state" and "civil service of the state" do not include offices and positions of trust or employment with state-supported colleges and universities, counties, cities, city health districts, city school districts, general health districts, and civil service townships of the state.

Sec. 124.02. The director of administrative services, with regard to offices and positions of trust or employment in the service of the state, and the state personnel board of review shall exercise all functions, powers, and duties that formerly were by law devolved upon, vested in, and imposed upon the state civil service commission and, the offices of commissioners and members of that commission, and upon their employees, agents, and representatives.

Whenever in any law or rule of this state or any political subdivision, "state civil service commission," "commission," "commissioner," or "member," meaning the state civil service commission or the offices of commissioners or members of ~~said that~~ that commission, is used, ~~such terms~~ the term shall be construed as referring to the department of administrative services, the director of administrative services, the state personnel board of review, or the members of the state personnel board of review, as this chapter may require.

Sec. 124.04. In addition to those powers enumerated in 6963
Chapters 123. and 125. of the Revised Code and as provided 6964
elsewhere by law, the powers, duties, and functions of the 6965
department of administrative services not specifically vested in 6966
and assigned to, or to be performed by, the state personnel board 6967
of review are hereby vested in and assigned to, and shall be 6968
performed by, the director of administrative services. These 6969
powers, duties, and functions shall include, but shall not be 6970
limited to, the following powers, duties, and functions: 6971

(A) To prepare, conduct, and grade all competitive 6972
examinations for positions in the classified ~~state~~ civil service 6973
of the state; 6974

(B) To prepare, conduct, and grade all noncompetitive 6975
examinations for positions in the classified ~~state~~ civil service 6976
of the state; 6977

(C) To prepare eligible lists containing the names of persons 6978
qualified for appointment to positions in the classified ~~state~~ 6979
civil service of the state; 6980

(D) To prepare or amend, in accordance with section 124.14 of 6981
the Revised Code, specifications descriptive of duties, 6982
responsibilities, requirements, and desirable qualifications of 6983
the various classifications of positions in the ~~state~~ service of 6984
the state; 6985

(E) To allocate and reallocate, upon the motion of the 6986
director or upon request of an appointing authority and in 6987
accordance with section 124.14 of the Revised Code, any position, 6988
office, or employment in the ~~state~~ service of the state to the 6989
appropriate classification on the basis of the duties, 6990
responsibilities, requirements, and qualifications of that 6991
position, office, or employment; 6992

(F) To develop and conduct personnel recruitment services for positions in the state service <u>of the state</u> ;	6993 6994
(G) To conduct research on specifications, classifications, and salaries of positions in the state service <u>of the state</u> ;	6995 6996
(H) To develop and conduct personnel training programs in cooperation with appointing authorities <u>of positions in the service of the state</u> ;	6997 6998 6999
(I) To include periodically in communications sent to state employees both of the following:	7000 7001
(1) Information developed under section 2108.15 of the Revised Code promoting the donation of anatomical gifts under Chapter 2108. of the Revised Code;	7002 7003 7004
(2) Information about the liver or kidney donor and bone marrow donor leave granted under section 124.139 of the Revised Code.	7005 7006 7007
(J) To enter into agreements with universities and colleges for in-service training of personnel in the civil service <u>as authorized by law</u> ;	7008 7009 7010
(K) To appoint examiners, inspectors, clerks, and other assistants necessary in the exercise of the powers and performance of the duties and functions which the director is by law authorized and required to exercise and perform, and to prescribe the duties of all of those employees;	7011 7012 7013 7014 7015
(L) To maintain a journal, which shall be open to public inspection, in which the director shall keep a record of the director's final decision pertaining to the classification or reclassification of positions in the state classified <u>civil service of the state</u> and assignment or reassignment of employees in the state classified <u>civil service of the state</u> to specific position classifications;	7016 7017 7018 7019 7020 7021 7022

(M) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any other state agency of this state as the director considers necessary; 7023
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~~(N) To delegate any of the powers, functions, or duties granted or assigned to the director under this chapter to any political subdivision with the concurrence of the legislative authority of the political subdivision. 7027
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Sec. 124.07. (A) The director of administrative services shall appoint ~~such~~ examiners, inspectors, clerks, and other assistants as ~~are~~ necessary to carry out sections 124.01 to 124.64 of the Revised Code. The director may designate persons in or out of the ~~official~~ service of the state to serve as examiners or assistants under the director's direction. An examiner or assistant shall receive ~~such~~ the compensation for each day actually and necessarily spent in the discharge of duties as an examiner or assistant ~~as is determined by that~~ the director determines; provided, ~~that,~~ if ~~any such the~~ examiner or assistant is in the ~~official~~ service of the state ~~or any political subdivision of the state~~, it shall be a part of the examiner's or assistant's official duties to render ~~such~~ those services in connection with ~~such~~ an examination without extra compensation. 7031
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(B)(1) Each state agency and each state-supported college ~~and~~ or university shall pay the cost of the services and facilities furnished to it by the department of administrative services that are necessary to provide and maintain payroll services as prescribed in section 125.21 of the Revised Code and state merit standards as prescribed in sections 124.01 to 124.64 of the Revised Code for the agency, or state-supported college, or university. If a municipal corporation chooses to use the services and facilities furnished by the department that are necessary to 7045
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provide and maintain the standards so prescribed, the municipal 7054
corporation shall pay the cost of the services and facilities that 7055
the department furnishes to it. ~~Such~~ 7056

Subject to division (B)(2) of this section, the charges 7057
against a state agency, a state-supported college or university, 7058
or a municipal corporation shall be computed on a reasonable cost 7059
basis in accordance with procedures prescribed by the director of 7060
budget and management. ~~Any~~ 7061

(2) The department shall biennially report to the governor, 7062
the speaker of the house of representatives, and the president of 7063
the senate regarding the components of the formula that the 7064
department uses to determine the amounts it charges each state 7065
agency and state-supported college or university under division 7066
(B)(1) of this section. The formula shall require that the charges 7067
that a state agency or a state-supported college or university 7068
must pay shall decrease as the percentage of the employees of that 7069
state agency or state-supported college or university who are in 7070
the unclassified civil services increases. Before calculating and 7071
assessing the amount of the charges that a state agency in which 7072
all of the employees are in the unclassified civil service must 7073
pay, the department shall negotiate the amount with that state 7074
agency. 7075

(3) Any moneys the department of administrative services 7076
receives from ~~any such~~ a state agency, a state-supported college, 7077
or university, or a municipal corporation ~~which~~ under this 7078
division that are in excess of the amount necessary to pay the 7079
cost of furnishing ~~such~~ the department's services and facilities 7080
during any fiscal year shall be either refunded to or credited for 7081
the ensuing fiscal year to the state agency, the state-supported 7082
college, or university, or the municipal corporation ~~that~~ 7083
~~contributed the excess moneys.~~ 7084

(C) The director of administrative services may enter into an 7085

agreement with any municipal corporation or other political 7086
subdivision to furnish services and facilities of the department 7087
~~of administrative services~~ in the administration of ~~its a~~ merit 7088
program or other functions related to human resources. ~~Such The~~ 7089
agreement shall provide that the department shall be reimbursed 7090
for the reasonable costs of ~~such~~ those services and facilities as 7091
determined by the director. 7092

(D) All moneys received by the department ~~of administrative~~ 7093
~~services~~ as reimbursement for payroll ~~and, merit program, or other~~ 7094
human resources services performed and facilities furnished under 7095
this section shall be paid into the state treasury to the credit 7096
of the human resources services fund, which is hereby created. 7097

(E) In counties of the state in which are located cities 7098
having municipal civil service commissions, the director of of 7099
administrative services may designate the municipal civil service 7100
commission of the largest city within ~~such~~ the county as the 7101
director's agent for the purpose of carrying out ~~such~~ the 7102
provisions of sections 124.01 to 124.64 of the Revised Code, 7103
within ~~such counties~~ the county, ~~as that~~ the director designates. 7104
Each municipal civil service commission designated as an agent of 7105
the director shall render to the director, at the end of each 7106
month, ~~render~~ an itemized statement ~~to the director~~ of the cost 7107
incurred by ~~such~~ the commission for work done as the agent of the 7108
director, and the director ~~shall~~, after approving ~~such~~ that 7109
statement, shall pay the total amount of it to the treasurer of 7110
~~such~~ the municipal corporation in the same manner as other 7111
expenses of the department of administrative services. 7112

(F) The director, ~~of administrative services and the~~ 7113
examiners, inspectors, clerks, and assistants referred to in this 7114
section shall receive, in addition to their salaries, ~~receive~~ 7115
reimbursement for ~~such~~ necessary traveling and other expenses ~~as~~ 7116
~~are~~ incurred in the actual discharge of their official duties. The 7117

director may also incur the necessary expenses for stationery, 7118
printing, and other supplies incident to the business of the 7119
department ~~of administrative services.~~ 7120

Sec. 124.09. The director of administrative services shall do 7121
all of the following: 7122

(A) Prescribe, amend, and enforce administrative rules for 7123
the purpose of carrying out the functions, powers, and duties 7124
vested in and imposed upon the director by this chapter. Except in 7125
the case of rules adopted pursuant to section 124.14 of the 7126
Revised Code, the prescription, amendment, and enforcement of 7127
rules under this division are subject to approval, disapproval, or 7128
modification by the state personnel board of review. 7129

(B) Keep records of the director's proceedings and records of 7130
all applications for examinations and all examinations conducted 7131
by the director. All ~~such~~ of those records, except examinations 7132
and recommendations of former employers, shall be open to public 7133
inspection under reasonable regulations; provided the governor, or 7134
any person designated by the governor, may, for the purpose of 7135
investigation, have free access to all ~~such~~ of those records, 7136
whenever the governor has reason to believe that this chapter, or 7137
the administrative rules of the director prescribed under ~~such~~ 7138
~~sections~~ this chapter, are being violated. 7139

(C) Prepare, continue, and keep in the office of the 7140
department a complete roster of all persons in the classified 7141
civil service ~~who are paid directly by warrant of the auditor of~~ 7142
the state. This roster shall be open to public inspection at all 7143
reasonable hours. It shall show in reference to each of those 7144
persons, the person's name, address, date of appointment to or 7145
employment in the classified civil service of the state, and 7146
salary or compensation, the title of the place or office that the 7147
person holds, the nature of the duties of that place or office, 7148

and, in case of the person's removal or resignation, the date of 7149
the termination of that service. 7150

(D) Approve the establishment of all new positions in the 7151
civil service of the state and the reestablishment of abolished 7152
positions. 7153

(E) Require the abolishment of any position in the civil 7154
service of the state that is not filled after a period of twelve 7155
months unless it is determined that the position is seasonal in 7156
nature or that the vacancy is otherwise justified. 7157

(F) Make investigations concerning all matters touching the 7158
enforcement and effect of this chapter and the administrative 7159
rules of the director prescribed under this chapter. In the course 7160
of ~~such~~ those investigations, the director or the director's 7161
deputy may administer oaths and affirmations and take testimony 7162
relative to any matter which the director has authority to 7163
investigate. 7164

(G) Have the power to subpoena and require the attendance and 7165
testimony of witnesses and the production of books, papers, public 7166
records, and other documentary evidence pertinent to the 7167
investigations, inquiries, or hearings on any matter which the 7168
director has authority to investigate, inquire into, or hear, and 7169
to examine them in relation to any matter which the director has 7170
authority to investigate, inquire into, or hear. Fees shall be 7171
allowed to witnesses, and on their certificate, duly audited, 7172
shall be paid by the treasurer of state, or in the case of 7173
municipal or civil service township civil service commissions, by 7174
the county treasurer, for attendance and traveling, as is provided 7175
in section 2335.06 of the Revised Code for witnesses in courts of 7176
record. ~~All~~ 7177

All officers in the civil service of the state or in the 7178
civil service of any of the political subdivisions ~~thereof~~ of the 7179

state and their deputies, clerks, and employees shall attend and 7180
testify when summoned to do so by the director or the state 7181
personnel board of review. Depositions of witnesses may be taken 7182
by the director or the board, or any member ~~thereof~~ of the board, 7183
in the manner prescribed by law for like depositions in civil 7184
actions in the courts of common pleas. In case any person, in 7185
disobedience to any subpoena issued by the director ~~or~~, the board, 7186
~~or~~ any member ~~thereof~~ of the board, or the chief examiner, fails 7187
or refuses to attend and testify to any matter regarding which the 7188
person may be lawfully interrogated, or produce any documentary 7189
evidence pertinent to any investigation, inquiry, or hearing, the 7190
court of common pleas of any county, or any judge ~~thereof~~ of the 7191
court of common pleas of any county, where ~~such~~ the disobedience, 7192
failure, or refusal occurs, upon application of the director ~~or~~, 7193
the board, ~~or~~ any member ~~thereof~~ of the board, ~~or~~ a municipal or 7194
civil service township civil service commission, ~~or~~ any 7195
commissioner ~~thereof~~ of such a commission, or their chief 7196
examiner, shall compel obedience by attachment proceedings for 7197
contempt as in the case of disobedience of the requirements of a 7198
subpoena issued from ~~such courts~~ the court or a refusal to testify 7199
~~therein~~ in the court. 7200

(H) Make a report to the governor, on or before the first day 7201
of January of each year, showing the director's actions, the rules 7202
and all exceptions ~~thereto~~ to the rules in force, and any 7203
recommendations for the more effectual accomplishment of the 7204
purposes of this chapter. The director shall also furnish any 7205
special reports to the governor whenever the governor requests 7206
them. ~~Such~~ The reports shall be printed for public distribution 7207
under the same regulations as are the reports of other state 7208
officers, boards, or commissions. 7209

Sec. 124.11. The civil service of the state and the civil 7210
service of the several counties, cities, civil service townships, 7211

city health districts, general health districts, and city school 7212
districts ~~thereof~~ of the state shall be divided into the 7213
unclassified service and the classified service. 7214

(A) The unclassified service shall comprise the following 7215
positions, which shall not be included in the classified service, 7216
and which shall be exempt from all examinations required by this 7217
chapter: 7218

(1) All officers elected by popular vote or persons appointed 7219
to fill vacancies in ~~such~~ those offices; 7220

(2) All election officers as defined in section 3501.01 of 7221
the Revised Code; 7222

(3) The members of all boards and commissions, and heads of 7223
principal departments, boards, and commissions appointed by the 7224
governor or by and with the governor's consent; and the members of 7225
all boards and commissions and all heads of departments appointed 7226
by the mayor, or, if there is no mayor, such other similar chief 7227
appointing authority of any city or city school district; ~~except.~~ 7228
Except as otherwise provided in division (A)(17) or (C) of this 7229
section, this chapter does not exempt the chiefs of police 7230
departments and chiefs of fire departments of cities or civil 7231
service townships from the competitive classified service. 7232

(4) The members of county or district licensing boards or 7233
commissions and boards of revision, and deputy county auditors; 7234

(5) All officers and employees elected or appointed by either 7235
or both branches of the general assembly, and ~~such~~ employees of 7236
the city legislative authority ~~as are~~ engaged in legislative 7237
duties; 7238

(6) All commissioned, warrant, and noncommissioned officers 7239
and enlisted persons in the Ohio organized militia, including 7240
military appointees in the adjutant general's department; 7241

(7)(a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and such employees as are engaged in educational or research duties connected with the public school system, colleges, and universities, as determined by the governing body of the public school system, colleges, and universities;

(b) The library staff of any library in the state supported wholly or in part at public expense.

(8) Four clerical and administrative support employees for each of the elective state officers⁺, and three clerical and administrative support employees for other elective officers and each of the principal appointive executive officers, boards, or commissions, except for civil service commissions, that are authorized to appoint such clerical and administrative support employees⁺. In the case of a county employee designated as such a clerical or administrative support employee, the employee shall receive notification of the unclassified service designation in writing, and a copy of the notification shall be kept in the employee's personnel file.

(9) The deputies and assistants of state agencies authorized to act for and on behalf of the agency, or holding a fiduciary or administrative relation to that agency and those persons employed by and directly responsible to elected county officials or a county administrator and holding a fiduciary or administrative relationship to such elected county officials or county administrator, and the employees of such county officials whose fitness would be impracticable to determine by competitive examination, provided that division (A)(9) of this section shall not affect those persons in county employment in the classified service as of September 19, 1961. Nothing in division (A)(9) of this section applies to any position in a county department of job

and family services created pursuant to Chapter 329. of the 7274
Revised Code. 7275

(10) Bailiffs, constables, official stenographers, and 7276
commissioners of courts of record, deputies of clerks of the 7277
courts of common pleas who supervise, or who handle public moneys 7278
or secured documents, and such officers and employees of courts of 7279
record and such deputies of clerks of the courts of common pleas 7280
as the director of administrative services finds it impracticable 7281
to determine their fitness by competitive examination; 7282

(11) Assistants to the attorney general, special counsel 7283
appointed or employed by the attorney general, assistants to 7284
county prosecuting attorneys, and assistants to city directors of 7285
law; 7286

(12) Such teachers and employees in the agricultural 7287
experiment stations; such students in normal schools, colleges, 7288
and universities of the state who are employed by the state or a 7289
political subdivision of the state in student or intern 7290
classifications; and such unskilled labor positions as the 7291
director of administrative services or any municipal civil service 7292
commission may find it impracticable to include in the competitive 7293
classified service; provided such exemptions shall be by order of 7294
the commission or the director, duly entered on the record of the 7295
commission or the director with the reasons for each such 7296
exemption; 7297

(13) Any physician or dentist who is a full-time employee of 7298
the department of mental health or the department of mental 7299
retardation and developmental disabilities or of an institution 7300
under the jurisdiction of either department; and physicians who 7301
are in residency programs at the institutions; 7302

(14) Up to twenty positions at each institution under the 7303
jurisdiction of the department of mental health or the department 7304

of mental retardation and developmental disabilities that the 7305
department director determines to be primarily administrative or 7306
managerial; and up to fifteen positions in any division of either 7307
department, excluding administrative assistants to the director 7308
and division chiefs, which are within the immediate staff of a 7309
division chief and which the director determines to be primarily 7310
and distinctively administrative and managerial; 7311

(15) Noncitizens of the United States employed by the state, 7312
or its counties or cities, as physicians or nurses who are duly 7313
licensed to practice their respective professions under the laws 7314
of ~~Ohio~~ this state, or medical assistants, in mental or chronic 7315
disease hospitals, or institutions; 7316

(16) Employees of the governor's office; 7317

(17) Fire chiefs and chiefs of police in civil service 7318
townships appointed by boards of township trustees under section 7319
505.38 or 505.49 of the Revised Code; 7320

(18) Executive directors, deputy directors, and program 7321
directors employed by boards of alcohol, drug addiction, and 7322
mental health services under Chapter 340. of the Revised Code, and 7323
secretaries of the executive directors, deputy directors, and 7324
program directors; 7325

(19) Superintendents, and management employees as defined in 7326
section 5126.20 of the Revised Code, of county boards of mental 7327
retardation and developmental disabilities; 7328

(20) Physicians, nurses, and other employees of a county 7329
hospital who are appointed pursuant to sections 339.03 and 339.06 7330
of the Revised Code; 7331

(21) The executive director of the state medical board, who 7332
is appointed pursuant to division (B) of section 4731.05 of the 7333
Revised Code; 7334

(22) County directors of job and family services as provided 7335
in section 329.02 of the Revised Code and administrators appointed 7336
under section 329.021 of the Revised Code; 7337

(23) A director of economic development who is hired pursuant 7338
to division (A) of section 307.07 of the Revised Code; 7339

(24) Chiefs of construction and compliance, of operations and 7340
maintenance, and of licensing and certification in the division of 7341
industrial compliance in the department of commerce; 7342

(25) The executive director of a county transit system 7343
appointed under division (A) of section 306.04 of the Revised 7344
Code; 7345

(26) Up to five positions at each of the administrative 7346
departments listed in section 121.02 of the Revised Code and at 7347
the department of taxation, department of the adjutant general, 7348
department of education, Ohio board of regents, bureau of workers' 7349
compensation, industrial commission, state lottery commission, and 7350
public utilities commission of Ohio that the head of that 7351
administrative department or of that other state agency determines 7352
to be involved in policy development and implementation. The head 7353
of the administrative department or other state agency shall set 7354
the compensation for employees in these positions at a rate that 7355
is not less than the minimum compensation specified in pay range 7356
41 but not more than the maximum compensation specified in pay 7357
range 44 of salary schedule E-2 in section 124.152 of the Revised 7358
Code. The authority to establish positions in the unclassified 7359
service under division (A)(26) of this section is in addition to 7360
and does not limit any other authority that an administrative 7361
department or state agency has under the Revised Code to establish 7362
positions, appoint employees, or set compensation. 7363

(27) Employees of the department of agriculture employed 7364
under section 901.09 of the Revised Code; 7365

(28) For cities, counties, civil service townships, city health districts, general health districts, and city school districts, the deputies and assistants of elective or principal executive officers authorized to act for and in the place of their principals or holding a fiduciary relation to their principals;

(29) Employees who receive external interim, intermittent, or temporary appointments under division (B) of section 124.30 of the Revised Code;

(30) Employees appointed to administrative staff positions for which an appointing authority is given specific statutory authority to set compensation;

(31) Employees appointed to highway patrol cadet or highway patrol cadet candidate classifications.

(B) The classified service shall comprise all persons in the employ of the state and the several counties, cities, city health districts, general health districts, and city school districts ~~thereof~~ of the state, not specifically included in the unclassified service. Upon the creation by the board of trustees of a civil service township civil service commission, the classified service shall also comprise, except as otherwise provided in division (A)(17) or (C) of this section, all persons in the employ of a civil service township police or fire ~~departments~~ department having ten or more full-time paid employees. The classified service consists of two classes, which shall be designated as the competitive class and the unskilled labor class.

(1) The competitive class shall include all positions and employments in the state and the counties, cities, city health districts, general health districts, and city school districts ~~thereof~~ of the state, and, upon the creation by the board of trustees of a civil service township of a township civil service

commission, all positions in a civil service township police or 7397
fire ~~departments~~ department having ten or more full-time paid 7398
employees, for which it is practicable to determine the merit and 7399
fitness of applicants by competitive examinations. Appointments 7400
shall be made to, or employment shall be given in, all positions 7401
in the competitive class that are not filled by promotion, 7402
reinstatement, transfer, or reduction, as provided in this 7403
chapter, and the rules of the director of administrative services, 7404
by appointment from those certified to the appointing officer in 7405
accordance with this chapter. 7406

(2) The unskilled labor class shall include ordinary 7407
unskilled laborers. Vacancies in the labor class shall be filled 7408
by appointment from lists of applicants registered by the director 7409
or a commission, as applicable. The director or the commission, by 7410
rule, shall require an applicant for registration in the labor 7411
class to furnish ~~such~~ evidence or take ~~such~~ tests as the director 7412
or commission considers proper with respect to age, residence, 7413
physical condition, ability to labor, honesty, sobriety, industry, 7414
capacity, and experience in the work or employment for which 7415
application is made. Laborers who fulfill the requirements shall 7416
be placed on the eligible list for the kind of labor or employment 7417
sought, and preference shall be given in employment in accordance 7418
with the rating received from ~~such that~~ evidence or in ~~such those~~ 7419
tests. Upon the request of an appointing officer, stating the kind 7420
of labor needed, the pay and probable length of employment, and 7421
the number to be employed, the director or commission shall 7422
certify from the highest on the list double the number to be 7423
employed; from this number, the appointing officer shall appoint 7424
the number actually needed for the particular work. If more than 7425
one applicant receives the same rating, priority in time of 7426
application shall determine the order in which their names shall 7427
be certified for appointment. 7428

(C) A municipal or civil service township civil service 7429
commission may place volunteer firefighters who are paid on a 7430
fee-for-service basis in either the classified or the unclassified 7431
civil service. 7432

(D) This division does not apply to persons in the 7433
unclassified service who have the right to resume positions in the 7434
classified service under sections 4121.121, 5119.071, 5120.07, 7435
5120.38, 5120.381, 5120.382, 5123.08, 5139.02, and 5501.19 of the 7436
Revised Code. 7437

An appointing authority whose employees are paid directly by 7438
warrant of the auditor of state may appoint a person who holds a 7439
certified position in the classified service within the appointing 7440
authority's agency to a position in the unclassified service 7441
within that agency. A person appointed pursuant to this division 7442
to a position in the unclassified service shall retain the right 7443
to resume the position and status held by the person in the 7444
classified service immediately prior to the person's appointment 7445
to the position in the unclassified service, regardless of the 7446
number of positions the person held in the unclassified service. 7447
Reinstatement to a position in the classified service shall be to 7448
a position substantially equal to that position in the classified 7449
service held previously, ~~as certified by the director of~~ 7450
~~administrative services held~~. If the position the person 7451
previously held in the classified service has been placed in the 7452
unclassified service or is otherwise unavailable, the person shall 7453
be appointed to a position in the classified service within the 7454
appointing authority's agency that ~~the director of administrative~~ 7455
~~services certifies~~ is certified as comparable in compensation to 7456
the position the person previously held in the classified service. 7457
Service in the position in the unclassified service shall be 7458
counted as service in the position in the classified service held 7459
by the person immediately prior to the person's appointment to the 7460

position in the unclassified service. When a person is reinstated 7461
to a position in the classified service as provided in this 7462
division, the person is entitled to all rights, status, and 7463
benefits accruing to the position in the classified service during 7464
the person's time of service in the position in the unclassified 7465
service. 7466

Sec. 124.133. The director of administrative services may 7467
establish, by rule adopted under Chapter 119. of the Revised Code, 7468
an experimental program to be implemented on a limited basis only 7469
which grants to employees in the service of the state vacation 7470
leave, sick leave, disability leave, personal leave, life 7471
insurance, or medical insurance benefits that differ from these 7472
benefits as granted by sections 124.13, 124.134, 124.382, 124.385, 7473
124.386, 124.81, and 124.82 of the Revised Code. However, this 7474
program shall not reduce the number of hours of vacation leave, 7475
sick leave, or personal leave which an employee has accrued as of 7476
the effective date of the rule. 7477

Sec. 124.14. (A)(1) The director of administrative services 7478
shall establish, and may modify or repeal, by rule, a job 7479
classification plan for all ~~positions, offices, and employments~~ 7480
~~the salaries of which are paid in whole or in part by~~ positions in 7481
the civil service of the state. The director shall group jobs 7482
within a classification so that the positions are similar enough 7483
in duties and responsibilities to be described by the same title, 7484
to have the same pay assigned with equity, and to have the same 7485
qualifications for selection applied. The director shall, by rule, 7486
assign a classification title to each classification within the 7487
classification plan. However, the director shall consider in 7488
establishing classifications, including classifications with 7489
parenthetical titles, and assigning pay ranges such factors as 7490
duties performed only on one shift, special skills in short supply 7491

in the labor market, recruitment problems, separation rates, 7492
comparative salary rates, the amount of training required, and 7493
other conditions affecting employment. The director shall describe 7494
the duties and responsibilities of ~~the class and~~ positions in each 7495
classification, establish the qualifications for being employed in 7496
~~that~~ each position in the classification, and ~~shall~~ file with the 7497
secretary of state a copy of specifications for all of the 7498
classifications. The director shall file new, additional, or 7499
revised specifications with the secretary of state before ~~being~~ 7500
they are used. 7501

The director shall, by rule, assign each classification, 7502
either on a statewide basis or in particular counties or state 7503
institutions, to a pay range established under section 124.15 or 7504
section 124.152 of the Revised Code. The director may assign a 7505
classification to a pay range on a temporary basis for a period of 7506
time designated in the rule. The director may establish, by rule 7507
adopted under Chapter 119. of the Revised Code, experimental 7508
classification plans for some or all employees ~~paid directly by~~ 7509
~~warrant of the auditor~~ in the service of the state. The rule shall 7510
include specifications for each classification within ~~the~~ such a 7511
plan and shall specifically address compensation ranges, and 7512
methods for advancing within the ranges, for the classifications, 7513
which may be assigned to pay ranges other than the pay ranges 7514
established under section 124.15 or 124.152 of the Revised Code. 7515

(2) The director may reassign to a proper classification 7516
those positions that have been assigned to an improper 7517
classification. If the compensation of an employee in such a 7518
reassigned position exceeds the maximum rate of pay for the 7519
employee's new classification, the employee shall be placed in pay 7520
step X and shall not receive an increase in compensation until the 7521
maximum rate of pay for that classification exceeds the employee's 7522
compensation. 7523

(3) The director may reassign an exempt employee, as defined 7524
in section 124.152 of the Revised Code, to a bargaining unit 7525
classification if the director determines that the bargaining unit 7526
classification is the proper classification for that employee. 7527
Notwithstanding Chapter 4117. of the Revised Code or instruments 7528
and contracts negotiated under it, ~~such~~ these placements are ~~at~~ in 7529
the director's discretion. 7530

(4) The director shall, by rule, assign related 7531
classifications, which form a career progression, to a 7532
classification series. The director shall, by rule, assign each 7533
classification in the classification plan a five-digit number, the 7534
first four digits of which shall denote the classification series 7535
to which the classification is assigned. When a career progression 7536
encompasses more than ten classifications, the director shall, by 7537
rule, identify the additional classifications belonging to a 7538
classification series. ~~Such~~ The additional classifications shall 7539
be part of the classification series, notwithstanding the fact 7540
that the first four digits of the number assigned to the 7541
additional classifications do not correspond to the first four 7542
digits of the numbers assigned to other classifications in the 7543
classification series. 7544

~~(5) The director shall adopt rules in accordance with Chapter 7545
119. of the Revised Code for the establishment of a classification 7546
plan for county agencies that elect not to use the services and 7547
facilities of a county personnel department. The rules shall 7548
include a methodology for the establishment of titles unique to 7549
county agencies, the use of state classification titles and 7550
classification specifications for common positions, the criteria 7551
for a county to meet in establishing its own classification plan, 7552
and the establishment of what constitutes a classification series 7553
for county agencies. 7554~~

(B) Division (A) of this section and sections 124.15 and 7555

124.152 of the Revised Code do not apply to the following persons,
positions, offices, and employments:

(1) Elected officials;

(2) Legislative employees, employees of the legislative service commission, employees in the office of the governor, employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the secretary of state, auditor of state, treasurer of state, and attorney general, and employees of the supreme court;

(3) Employees of a county children services board that establishes compensation rates under section 5153.12 of the Revised Code;

(4) Any position for which the authority to determine compensation is given by law to another individual or entity;

(5) Employees of the bureau of workers' compensation whose compensation the administrator of workers' compensation establishes under division (B) of section 4121.121 of the Revised Code.

(C) The director of administrative services may employ a consulting agency to aid and assist the director in carrying out this section.

(D)(1) When the director of administrative services proposes to modify a classification or the assignment of classes to appropriate pay ranges, the director shall send written notice of the proposed rule to the appointing authorities of the affected employees thirty days before the hearing on the proposed rule. The appointing authorities shall notify the affected employees regarding the proposed rule. The director shall also send ~~such~~ those appointing authorities notice of any final rule ~~which~~ that is adopted within ten days after adoption.

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(2) When the director proposes to reclassify any employee so 7586
that the employee is adversely affected, the director shall give 7587
to the employee affected and to the employee's appointing 7588
authority a written notice setting forth the proposed new 7589
classification, pay range, and salary. Upon the request of any 7590
classified employee who is not serving in a probationary period, 7591
the director shall perform a job audit to review the 7592
classification of the employee's position to determine whether the 7593
position is properly classified. The director shall give to the 7594
employee affected and to the employee's appointing authority a 7595
written notice of the director's determination whether or not to 7596
reclassify the position or to reassign the employee to another 7597
classification. An employee or appointing authority desiring a 7598
hearing shall file a written request for the hearing with the 7599
state personnel board of review within thirty days after receiving 7600
the notice. The board shall set the matter for a hearing and 7601
notify the employee and appointing authority of the time and place 7602
of the hearing. The employee, the appointing authority, or any 7603
authorized representative of the employee who wishes to submit 7604
facts for the consideration of the board shall be afforded 7605
reasonable opportunity to do so. After the hearing, the board 7606
shall consider anew the reclassification and may order the 7607
reclassification of the employee and require the director to 7608
assign the employee to ~~such~~ the appropriate classification as the 7609
facts and evidence warrant. As provided in division (A) of section 7610
124.03 of the Revised Code, the board may determine the most 7611
appropriate classification for the position of any employee coming 7612
before the board, with or without a job audit. The board shall 7613
disallow any reclassification or reassignment classification of 7614
any employee when it finds that changes have been made in the 7615
duties and responsibilities of any particular employee for 7616
political, religious, or other unjust reasons. 7617

(E)(1) Employees of each county department of job and family services shall be paid a salary or wage established by the board of county commissioners. The provisions of section 124.18 of the Revised Code concerning the standard work week apply to employees of county departments of job and family services. A board of county commissioners may do either of the following:

(a) Notwithstanding any other section of the Revised Code, supplement the sick leave, vacation leave, personal leave, and other benefits of any employee of the county department of job and family services of that county, if the employee is eligible for the supplement under a written policy providing for the supplement;

(b) Notwithstanding any other section of the Revised Code, establish alternative schedules of sick leave, vacation leave, personal leave, or other benefits for employees not inconsistent with the provisions of a collective bargaining agreement covering the affected employees.

(2) ~~The provisions of division~~ Division (E)(1) of this section ~~do~~ does not apply to employees for whom the state employment relations board establishes appropriate bargaining units pursuant to section 4117.06 of the Revised Code, except in either of the following situations:

(a) The employees for whom the state employment relations board establishes appropriate bargaining units elect no representative in a board-conducted representation election.

(b) After the state employment relations board establishes appropriate bargaining units for such employees, all employee organizations withdraw from a representation election.

(F) With respect to officers and employees of state-supported colleges and universities and except for the powers and duties of the state personnel board of review set forth in section 124.03 of

the Revised Code, the powers, duties, and functions of the
department of administrative services and of the director of
administrative services concerning offices and positions in the
service of the state specified in this chapter are hereby vested
in and assigned to the boards of trustees of those colleges and
universities, or those officers to whom the boards ~~of trustees~~
have delegated ~~these~~ those powers, duties, and functions, subject
to a periodic audit and review by the director. In exercising the
powers, duties, and functions ~~of the director~~, the boards ~~of~~
~~trustees~~ or the officers to whom ~~these~~ the powers, duties, and
functions were delegated need not establish a job classification
plan for unclassified employees and may proceed under section
111.15 of the Revised Code when exercising ~~the director's~~
rule-making authority. The adoption, amendment, rescission, and
enforcement of rules under this division is not subject to
approval, disapproval, or modification by the state personnel
board of review. Nothing in this division shall be construed to
limit the right of any classified employee who possesses the right
of appeal to the state personnel board of review to continue to
possess that right of appeal.

Upon the director's determination or finding of the misuse by
the board ~~of trustees of~~ or a designated officer of a
state-supported college or university of the authority granted
under this division, the director shall order and direct the
personnel functions of that state-supported college or university
until sections 124.01 to 124.64 of the Revised Code have been
fully complied with.

(G)(1) With respect to officers and employees of counties and
except for the powers and duties of the state personnel board of
review, authority and responsibility for the classification of
positions in the civil service of the counties and for the
administration of other functions under this chapter related to

the civil service of the counties, including, but not limited to, examinations, resignations, appointments, promotions, removals, transfers, layoffs, suspensions, reductions, and reinstatements, shall be vested in and assigned to each elected official, board, agency, or other appointing authority of the county, subject to division (G)(2) of this section. No rule adopted by the director of administrative services shall apply to officers and employees of counties. Nothing in division (G)(1) of this section shall be construed to limit the right of any classified employee who possesses the right to appeal to the state personnel board of review to continue to possess that right of appeal.

(2)(a) Each board of county commissioners may, by a resolution adopted by a majority of its members, establish a county personnel department to exercise the powers, duties, authority and functions responsibility specified in division (G)(1) of this section and the powers, duties, and functions specified in Chapter 325. of the Revised Code, except for the powers, duties, and functions of the state personnel board of review. The powers, duties, and functions of the board shall not be construed as having been modified or diminished in any manner by division (G)(1) or (3) of this section, with respect to the classified employees for whom a board of county commissioners is the appointing authority or co-appointing authority. As

(b) As used in division (G) of this section, "county personnel department" means a county personnel department established by a board of county commissioners under division (G)~~(1)~~(2) of this section.

~~(2) Each board of county commissioners may, by a resolution adopted by a majority of its members, designate the county personnel department of the county to exercise the powers, duties, and functions of the department of administrative services and the director of administrative services specified in sections 124.01~~

to 124.64 and Chapter 325. of the Revised Code, except for the 7713
powers and duties of the state personnel board of review, which 7714
powers and duties shall not be construed as having been modified 7715
or diminished in any manner by division (G)(2) of this section, 7716
with respect to the employees for whom the board of county 7717
commissioners is the appointing authority or co appointing 7718
authority. Upon certification of a copy of the resolution by the 7719
board to the director, these powers, duties, and functions are 7720
vested in and assigned to the county personnel department with 7721
respect to the employees for whom the board of county 7722
commissioners is the appointing authority or co appointing 7723
authority. The certification to the director shall be provided not 7724
later than one hundred twenty days before the first day of July of 7725
an odd numbered year, and, following the certification, the 7726
powers, duties, and functions specified in sections 124.01 to 7727
124.64 and Chapter 325. of the Revised Code shall be vested in and 7728
assigned to the county personnel department on that first day of 7729
July. Nothing in division (G)(2) of this section shall be 7730
construed to limit the right of any employee who possesses the 7731
right of appeal to the state personnel board of review to continue 7732
to possess that right of appeal. 7733

(3)(a) A county personnel department may adopt rules, which 7734
shall provide for public notice and comment, to implement the 7735
authority and responsibility referred to in division (G)(1) of 7736
this section and the powers, duties, and functions specified in 7737
Chapter 325. of the Revised Code. 7738

(b) Any board of county commissioners ~~that has established a~~ 7739
~~county personnel department~~ may contract with the department of 7740
administrative services, another political subdivision, or an 7741
appropriate public or private entity to provide competitive 7742
testing services or other appropriate services. 7743

~~(3)(4)~~ After the county personnel department of a county has 7744

assumed the ~~powers, duties, authority~~ and functions of the 7745
department of administrative services and the director as 7746
~~described responsibility referred to~~ in division (G)~~(2)~~(1) of this 7747
section and the powers, duties, and functions specified in Chapter 7748
325. of the Revised Code, any elected official, board, agency, or 7749
other appointing authority of that county may, upon notification 7750
to the ~~director~~ department, elect to use the services ~~and~~ 7751
~~facilities~~ of the county ~~personnel~~ department. Upon receipt of the 7752
~~acceptance by the director of such~~ notification, the county 7753
~~personnel~~ department shall exercise the ~~powers, duties, authority~~ 7754
~~and functions of the department of administrative services and the~~ 7755
~~director as described responsibility referred to~~ in division 7756
(G)~~(2)~~(1) of this section and the powers, duties, and functions 7757
specified in Chapter 325. of the Revised Code with respect to the 7758
classified employees of that elected official, board, agency, or 7759
other appointing authority. ~~The notification to the director shall~~ 7760
~~be provided not later than one hundred twenty days before the~~ 7761
~~first day of July of an odd numbered year, and, following the~~ 7762
~~notification, the powers, duties, and functions specified in~~ 7763
~~sections 124.01 to 124.64 and Chapter 325. of the Revised Code~~ 7764
~~with respect to the employees of that elected official, board,~~ 7765
~~agency, or other appointing authority shall be vested in and~~ 7766
~~assigned to the county personnel department on that first day of~~ 7767
~~July. Except for those employees under the jurisdiction of the~~ 7768
~~county personnel department, the director shall continue to~~ 7769
~~exercise these powers, duties, and functions with respect to~~ 7770
~~employees of the county.~~ 7771

An elected official, board, agency, or other appointing 7772
authority may cease to use the services of the county personnel 7773
department upon notification to the department. 7774

~~(4)~~(5) Each board of county commissioners that has 7775
established a county personnel department may, by a resolution 7776

~~adopted by a majority of its members, disband the county personnel
department and return to the department of administrative services
for the administration of sections 124.01 to 124.64 and Chapter
325. of the Revised Code. The board shall, not later than one
hundred twenty days before the first day of July of an
odd numbered year, send the director a certified copy of the
resolution disbanding the county personnel department. All powers,
duties, and functions previously vested in and assigned to the
county personnel department shall return to the director on that
first day of July.~~

Any board of county commissioners that does not create or
that disbands a county personnel department, and elected
officials, boards, agencies or other appointing authorities that
elect not to use the services of a county personnel department,
may adopt policies to implement the authority and responsibility
referred to in division (G)(1) of this section and the powers,
duties, and functions specified Chapter 325. of the Revised Code.

~~(5) Any elected official, board, agency, or appointing
authority of a county may return to the department of
administrative services for the administration of sections 124.01
to 124.64 and Chapter 325. of the Revised Code. The elected
official, board, agency, or appointing authority shall, not later
than one hundred twenty days before the first day of July of an
odd numbered year, send the director a certified copy of the
resolution that states its decision. All powers, duties, and
functions previously vested in and assigned to the county
personnel department with respect to the employees of that elected
official, board, agency, or appointing authority shall return to
the director on that first day of July.~~

~~(6) The director, by rule adopted in accordance with Chapter
119. of the Revised Code, shall prescribe criteria and procedures
for granting to each county personnel department the powers,~~

~~duties, and functions of the department of administrative services 7809
and the director as described in division (G)(2) of this section 7810
with respect to the employees of an elected official, board, 7811
agency, or other appointing authority or co-appointing authority. 7812
The rules shall cover the following criteria and procedures: 7813~~

~~(a) The notification to the department of administrative 7814
services that an elected official, board, agency, or other 7815
appointing authority of a county has elected to use the services 7816
and facilities of the county personnel department; 7817~~

~~(b) A requirement that each county personnel department, in 7818
carrying out its duties, adhere to merit system principles with 7819
regard to employees of county departments of job and family 7820
services, child support enforcement agencies, and public child 7821
welfare agencies so that there is no threatened loss of federal 7822
funding for these agencies, and a requirement that the county be 7823
financially liable to the state for any loss of federal funds due 7824
to the action or inaction of the county personnel department. The 7825
costs associated with audits conducted to monitor compliance with 7826
division (G)(6)(b) of this section shall be borne equally by the 7827
department of administrative services and the county. 7828~~

~~(c) The termination of services and facilities rendered by 7829
the department of administrative services, to include rate 7830
adjustments, time periods for termination, and other related 7831
matters; 7832~~

~~(d) Authorization for the director of administrative services 7833
to conduct periodic audits and reviews of county personnel 7834
departments to guarantee the uniform application of this granting 7835
of the director's powers, duties, and functions. The costs of the 7836
audits and reviews shall be borne equally by the department of 7837
administrative services and the county for which the services were 7838
performed. 7839~~

~~(e) The dissemination of audit findings under division 7840
(G)(5)(d) of this section, any appeals process relating to adverse 7841
findings by the department, and the methods whereby the county 7842
personnel program will revert to the authority of the director of 7843
administrative services due to misuse or nonuniform application of 7844
the authority granted to the county under division (G)(2) or (3) 7845
of this section. 7846~~

(H) With respect to officers and employees of general health 7847
districts, and except for the powers and duties of the state 7848
personnel board of review set forth in section 124.03 of the 7849
Revised Code, the powers, duties, and functions of the department 7850
of administrative services and of the director of administrative 7851
services concerning offices and positions in the service of the 7852
state specified in this chapter are hereby vested in and assigned 7853
to the boards of health of the general health districts or those 7854
officers to whom the boards have delegated those powers, duties, 7855
and functions. Nothing in this division shall be construed to 7856
limit the right of any classified employee who possesses the right 7857
to appeal to the state personnel board of review to continue to 7858
possess that right of appeal. 7859

(I) The director of administrative services shall establish 7860
the rate and method of compensation for all employees who are paid 7861
directly by warrant of the auditor in the service of the state and 7862
who are serving in positions which that the director has 7863
determined impracticable to include in the state job 7864
classification plan. This division does not apply to elected 7865
officials, legislative employees, employees of the legislative 7866
service commission, employees who are in the unclassified civil 7867
service and exempt from collective bargaining coverage in the 7868
office of the secretary of state, auditor of state, treasurer of 7869
state, and attorney general, employees of the courts, employees of 7870
the bureau of workers' compensation whose compensation the 7871

administrator of workers' compensation establishes under division 7872
(B) of section 4121.121 of the Revised Code, or employees of an 7873
appointing authority authorized by law to fix the compensation of 7874
those employees. 7875

~~(I)~~(J) The director of administrative services shall set the 7876
rate of compensation for all intermittent, interim, seasonal, 7877
temporary, emergency, and casual employees who are in the service 7878
of the state and who are not considered public employees under 7879
section 4117.01 of the Revised Code. ~~Such~~ Those employees are not 7880
entitled to receive employee benefits. This rate of compensation 7881
shall be equitable in terms of the rate of employees serving in 7882
the same or similar classifications. This division does not apply 7883
to elected officials, legislative employees, employees of the 7884
legislative service commission, employees who are in the 7885
unclassified civil service and exempt from collective bargaining 7886
coverage in the office of the secretary of state, auditor of 7887
state, treasurer of state, and attorney general, employees of the 7888
courts, employees of the bureau of workers' compensation whose 7889
compensation the administrator establishes under division (B) of 7890
section 4121.121 of the Revised Code, or employees of an 7891
appointing authority authorized by law to fix the compensation of 7892
those employees. 7893

Sec. 124.15. (A) Board and commission members appointed prior 7894
to July 1, 1991, shall be paid a salary or wage in accordance with 7895
the following schedules of rates: 7896

Schedule B 7897

Pay Ranges and Step Values 7898

Range	Step 1	Step 2	Step 3	Step 4	7899
23 Hourly	5.72	5.91	6.10	6.31	7900
Annually	11897.60	12292.80	12688.00	13124.80	7901
	Step 5	Step 6			7902

	Hourly	6.52	6.75			7903
	Annually	13561.60	14040.00			7904
		Step 1	Step 2	Step 3	Step 4	7905
24	Hourly	6.00	6.20	6.41	6.63	7906
	Annually	12480.00	12896.00	13332.80	13790.40	7907
		Step 5	Step 6			7908
	Hourly	6.87	7.10			7909
	Annually	14289.60	14768.00			7910
		Step 1	Step 2	Step 3	Step 4	7911
25	Hourly	6.31	6.52	6.75	6.99	7912
	Annually	13124.80	13561.60	14040.00	14539.20	7913
		Step 5	Step 6			7914
	Hourly	7.23	7.41			7915
	Annually	15038.40	15412.80			7916
		Step 1	Step 2	Step 3	Step 4	7917
26	Hourly	6.63	6.87	7.10	7.32	7918
	Annually	13790.40	14289.60	14768.00	15225.60	7919
		Step 5	Step 6			7920
	Hourly	7.53	7.77			7921
	Annually	15662.40	16161.60			7922
		Step 1	Step 2	Step 3	Step 4	7923
27	Hourly	6.99	7.23	7.41	7.64	7924
	Annually	14534.20	15038.40	15412.80	15891.20	7925
		Step 5	Step 6	Step 7		7926
	Hourly	7.88	8.15	8.46		7927
	Annually	16390.40	16952.00	17596.80		7928
		Step 1	Step 2	Step 3	Step 4	7929
28	Hourly	7.41	7.64	7.88	8.15	7930
	Annually	15412.80	15891.20	16390.40	16952.00	7931
		Step 5	Step 6	Step 7		7932
	Hourly	8.46	8.79	9.15		7933
	Annually	17596.80	18283.20	19032.00		7934
		Step 1	Step 2	Step 3	Step 4	7935

29	Hourly	7.88	8.15	8.46	8.79	7936
	Annually	16390.40	16952.00	17596.80	18283.20	7937
		Step 5	Step 6	Step 7		7938
	Hourly	9.15	9.58	10.01		7939
	Annually	19032.00	19926.40	20820.80		7940
		Step 1	Step 2	Step 3	Step 4	7941
30	Hourly	8.46	8.79	9.15	9.58	7942
	Annually	17596.80	18283.20	19032.00	19926.40	7943
		Step 5	Step 6	Step 7		7944
	Hourly	10.01	10.46	10.99		7945
	Annually	20820.80	21756.80	22859.20		7946
		Step 1	Step 2	Step 3	Step 4	7947
31	Hourly	9.15	9.58	10.01	10.46	7948
	Annually	19032.00	19962.40	20820.80	21756.80	7949
		Step 5	Step 6	Step 7		7950
	Hourly	10.99	11.52	12.09		7951
	Annually	22859.20	23961.60	25147.20		7952
		Step 1	Step 2	Step 3	Step 4	7953
32	Hourly	10.01	10.46	10.99	11.52	7954
	Annually	20820.80	21756.80	22859.20	23961.60	7955
		Step 5	Step 6	Step 7	Step 8	7956
	Hourly	12.09	12.68	13.29	13.94	7957
	Annually	25147.20	26374.40	27643.20	28995.20	7958
		Step 1	Step 2	Step 3	Step 4	7959
33	Hourly	10.99	11.52	12.09	12.68	7960
	Annually	22859.20	23961.60	25147.20	26374.40	7961
		Step 5	Step 6	Step 7	Step 8	7962
	Hourly	13.29	13.94	14.63	15.35	7963
	Annually	27643.20	28995.20	30430.40	31928.00	7964
		Step 1	Step 2	Step 3	Step 4	7965
34	Hourly	12.09	12.68	13.29	13.94	7966
	Annually	25147.20	26374.40	27643.20	28995.20	7967
		Step 5	Step 6	Step 7	Step 8	7968

	Hourly	14.63	15.35	16.11	16.91	7969
	Annually	30430.40	31928.00	33508.80	35172.80	7970
		Step 1	Step 2	Step 3	Step 4	7971
35	Hourly	13.29	13.94	14.63	15.35	7972
	Annually	27643.20	28995.20	30430.40	31928.00	7973
		Step 5	Step 6	Step 7	Step 8	7974
	Hourly	16.11	16.91	17.73	18.62	7975
	Annually	33508.80	35172.80	36878.40	38729.60	7976
		Step 1	Step 2	Step 3	Step 4	7977
36	Hourly	14.63	15.35	16.11	16.91	7978
	Annually	30430.40	31928.00	33508.80	35172.80	7979
		Step 5	Step 6	Step 7	Step 8	7980
	Hourly	17.73	18.62	19.54	20.51	7981
	Annually	36878.40	38729.60	40643.20	42660.80	7982

Schedule C 7983

Pay Range and Values 7984

Range	Minimum	Maximum	
41 Hourly	10.44	15.72	7986
Annually	21715.20	32697.60	7987
42 Hourly	11.51	17.35	7988
Annually	23940.80	36088.00	7989
43 Hourly	12.68	19.12	7990
Annually	26374.40	39769.60	7991
44 Hourly	13.99	20.87	7992
Annually	29099.20	43409.60	7993
45 Hourly	15.44	22.80	7994
Annually	32115.20	47424.00	7995
46 Hourly	17.01	24.90	7996
Annually	35380.80	51792.00	7997
47 Hourly	18.75	27.18	7998
Annually	39000.00	56534.40	7999
48 Hourly	20.67	29.69	8000
Annually	42993.60	61755.20	8001

49 Hourly	22.80	32.06	8002
Annually	47424.00	66684.80	8003

(B) The pay schedule of all employees shall be on a biweekly basis, with amounts computed on an hourly basis. 8004
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(C) Part-time employees in the service of the state shall be compensated on an hourly basis for time worked, at the rates shown in division (A) of this section or in section 124.152 of the Revised Code. 8006
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(D) The salary and wage rates in division (A) of this section or in section 124.152 of the Revised Code represent base rates of compensation and may be augmented by the provisions of section 124.181 of the Revised Code. In those cases where lodging, meals, laundry, or other personal services are furnished an employee in the service of the state, the actual costs or fair market value of the personal services shall be paid by the employee in such amounts and manner as determined by the director of administrative services and approved by the director of budget and management, and those personal services shall not be considered as a part of the employee's compensation. An appointing authority that appoints employees in the service of the state, with the approval of the director of administrative services and the director of budget and management, may establish payments to employees for uniforms, tools, equipment, and other requirements of the department and payments for the maintenance of them. 8010
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The director of administrative services may review collective bargaining agreements entered into under Chapter 4117. of the Revised Code that cover ~~state~~ employees in the service of the state and determine whether certain benefits or payments provided to ~~state~~ the employees covered by those agreements should also be provided to employees in the service of the state who are exempt from collective bargaining coverage and are paid in accordance with section 124.152 of the Revised Code or are listed in division 8026
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(B)(2) or (4) of section 124.14 of the Revised Code. On completing 8034
the review, the director of administrative services, with the 8035
approval of the director of budget and management, may provide to 8036
some or all of these employees any payment or benefit, except for 8037
salary, contained in such a collective bargaining agreement even 8038
if it is similar to a payment or benefit already provided by law 8039
to some or all of these employees. Any payment or benefit so 8040
provided shall not exceed the highest level for that payment or 8041
benefit specified in such a collective bargaining agreement. The 8042
director of administrative services shall not provide, and the 8043
director of budget and management shall not approve, any payment 8044
or benefit to such an employee under this division unless the 8045
payment or benefit is provided pursuant to a collective bargaining 8046
agreement to a state employee who is in a position with similar 8047
duties as, is supervised by, or is employed by the same appointing 8048
authority as, the employee to whom the benefit or payment is to be 8049
provided. 8050

As used in this division, "payment or benefit already 8051
provided by law" includes, but is not limited to, bereavement, 8052
personal, vacation, administrative, and sick leave, disability 8053
benefits, holiday pay, and pay supplements provided under the 8054
Revised Code, but does not include wages or salary. 8055

(E) New employees paid in accordance with schedule B of 8056
division (A) of this section or schedule E-1 of section 124.152 of 8057
the Revised Code shall be employed at the minimum rate established 8058
for the range unless otherwise provided. Employees with 8059
qualifications that are beyond the minimum normally required for 8060
the position and that are determined by the director to be 8061
exceptional may be employed in, or may be transferred or promoted 8062
to, a position at an advanced step of the range. Further, in time 8063
of a serious labor market condition when it is relatively 8064
impossible to recruit employees at the minimum rate for a 8065

particular classification, the entrance rate may be set at an
advanced step in the range by the director of administrative
services. This rate may be limited to geographical regions of the
state. Appointments made to an advanced step under the provision
regarding exceptional qualifications shall not affect the step
assignment of employees already serving. However, anytime the
hiring rate of an entire classification is advanced to a higher
step, all incumbents of that classification being paid at a step
lower than that being used for hiring, shall be advanced beginning
at the start of the first pay period thereafter to the new hiring
rate, and any time accrued at the lower step will be used to
calculate advancement to a succeeding step. If the hiring rate of
a classification is increased for only a geographical region of
the state, only incumbents who work in that geographical region
shall be advanced to a higher step. When an employee in the
unclassified service changes from one state position to another or
is appointed to a position in the classified service, or if an
employee in the classified service is appointed to a position in
the unclassified service, the employee's salary or wage in the new
position shall be determined in the same manner as if the employee
were an employee in the classified service. When an employee in
the unclassified service who is not eligible for step increases is
appointed to a classification in the classified service under
which step increases are provided, future step increases shall be
based on the date on which the employee last received a pay
increase. If the employee has not received an increase during the
previous year, the date of the appointment to the classified
service shall be used to determine the employee's annual step
advancement eligibility date. In reassigning any employee to a
classification resulting in a pay range increase or to a new pay
range as a result of a promotion, an increase pay range
adjustment, or other classification change resulting in a pay
range increase, the director shall assign such employee to the

step in the new pay range that will provide an increase of 8099
approximately four per cent if the new pay range can accommodate 8100
the increase. When an employee is being assigned to a 8101
classification or new pay range as the result of a class plan 8102
change, if the employee has completed a probationary period, the 8103
employee shall be placed in a step no lower than step two of the 8104
new pay range. If the employee has not completed a probationary 8105
period, the employee may be placed in step one of the new pay 8106
range. Such new salary or wage shall become effective on such date 8107
as the director determines. 8108

(F) If employment conditions and the urgency of the work 8109
require such action, the director of administrative services may, 8110
upon the application of a department head, authorize payment at 8111
any rate established within the range for the class of work, for 8112
work of a casual or intermittent nature or on a project basis. 8113
Payment at such rates shall not be made to the same individual for 8114
more than three calendar months in any one calendar year. Any such 8115
action shall be subject to the approval of the director of budget 8116
and management as to the availability of funds. This section and 8117
sections 124.14 and 124.152 of the Revised Code do not repeal any 8118
authority of any department or public official to contract with or 8119
fix the compensation of professional persons who may be employed 8120
temporarily for work of a casual nature or for work on a project 8121
basis. 8122

(G)(1) Except as provided in division (G)(2) of this section, 8123
each state employee paid in accordance with schedule B of this 8124
section or schedule E-1 of section 124.152 of the Revised Code 8125
shall be eligible for advancement to succeeding steps in the range 8126
for the employee's class or grade according to the schedule 8127
established in this division. Beginning on the first day of the 8128
pay period within which the employee completes the prescribed 8129
probationary period in the employee's classification with the 8130

state, each employee shall receive an automatic salary adjustment 8131
equivalent to the next higher step within the pay range for the 8132
employee's class or grade. 8133

Each employee paid in accordance with schedule E-1 of section 8134
124.152 of the Revised Code shall be eligible to advance to the 8135
next higher step until the employee reaches the top step in the 8136
range for the employee's class or grade, if the employee has 8137
maintained satisfactory performance in accordance with criteria 8138
established by the employee's appointing authority. Those step 8139
advancements shall not occur more frequently than once in any 8140
twelve-month period. 8141

When an employee is promoted or reassigned to a higher pay 8142
range, the employee's step indicator shall return to "0" or be 8143
adjusted to account for a probationary period, as appropriate. 8144
Step advancement shall not be affected by demotion. A promoted 8145
employee shall advance to the next higher step of the pay range on 8146
the first day of the pay period in which the required probationary 8147
period is completed. Step advancement shall become effective at 8148
the beginning of the pay period within which the employee attains 8149
the necessary length of service. Time spent on authorized leave of 8150
absence shall be counted for this purpose. 8151

If determined to be in the best interest of the state 8152
service, the director of administrative services may, either 8153
statewide or in selected agencies, adjust the dates on which 8154
annual step advancements are received by employees paid in 8155
accordance with schedule E-1 of section 124.152 of the Revised 8156
Code. 8157

(2)(a)(i) Except as provided in division (G)(2)(a)(ii) of 8158
this section, there shall be a moratorium on step advancements 8159
under division (G)(1) of this section from the pay period 8160
beginning June 29, 2003, through the pay period ending June 25, 8161

2005. Step advancements shall resume with the pay period beginning 8162
June 26, 2005. Upon the resumption of step advancements, there 8163
shall be no retroactive step advancements for the period the 8164
moratorium was in effect. The moratorium shall not affect an 8165
employee's performance evaluation schedule. 8166

(ii) During the moratorium under division (G)(2)(a)(i) of 8167
this section, an employee who is hired or promoted and serves a 8168
probationary period in the employee's new position shall advance 8169
to the next step in the employee's pay range upon successful 8170
completion of the employee's probationary period. Thereafter, the 8171
employee is subject to the moratorium. 8172

(b) The moratorium under division (G)(2)(a)(i) of this 8173
section shall apply to the employees of the secretary of state, 8174
the auditor of state, the treasurer of state, and the attorney 8175
general, who are subject to this section unless the secretary of 8176
state, the auditor of state, the treasurer of state, or the 8177
attorney general decides to exempt the office's employees from the 8178
moratorium and so notifies the director of administrative services 8179
in writing on or before July 1, 2003. 8180

(H) Employees in appointive managerial or professional 8181
positions paid in accordance with schedule C of this section or 8182
schedule E-2 of section 124.152 of the Revised Code may be 8183
appointed at any rate within the appropriate pay range. This rate 8184
of pay may be adjusted higher or lower within the respective pay 8185
range at any time the appointing authority so desires as long as 8186
the adjustment is based on the employee's ability to successfully 8187
administer those duties assigned to the employee. Salary 8188
adjustments shall not be made more frequently than once in any 8189
six-month period under this provision to incumbents holding the 8190
same position and classification. 8191

(I) When an employee is assigned to duty outside this state, 8192

the employee may be compensated, upon request of the department 8193
head and with the approval of the director of administrative 8194
services, at a rate not to exceed fifty per cent in excess of the 8195
employee's current base rate for the period of time spent on that 8196
duty. 8197

(J) Unless compensation for members of a board or commission 8198
is otherwise specifically provided by law, the director of 8199
administrative services shall establish the rate and method of 8200
payment for members of boards and commissions pursuant to the pay 8201
schedules listed in section 124.152 of the Revised Code. 8202

(K) Regular full-time employees in positions assigned to 8203
classes within the instruction and education administration series 8204
under the rules of the director of administrative services, except 8205
certificated employees on the instructional staff of the state 8206
school for the blind or the state school for the deaf, whose 8207
positions are scheduled to work on the basis of an academic year 8208
rather than a full calendar year, shall be paid according to the 8209
pay range assigned by such rules but only during those pay periods 8210
included in the academic year of the school where the employee is 8211
located. 8212

(1) Part-time or substitute teachers or those whose period of 8213
employment is other than the full academic year shall be 8214
compensated for the actual time worked at the rate established by 8215
this section. 8216

(2) Employees governed by this division are exempt from 8217
sections 124.13 and 124.19 of the Revised Code. 8218

(3) Length of service for the purpose of determining 8219
eligibility for step advancements as provided by division (G) of 8220
this section and for the purpose of determining eligibility for 8221
longevity pay supplements as provided by division (E) of section 8222
124.181 of the Revised Code shall be computed on the basis of one 8223

full year of service for the completion of each academic year. 8224

(L) The superintendent of the state school for the deaf and 8225
the superintendent of the state school for the blind shall, 8226
subject to the approval of the superintendent of public 8227
instruction, carry out both of the following: 8228

(1) Annually, between the first day of April and the last day 8229
of June, establish for the ensuing fiscal year a schedule of 8230
hourly rates for the compensation of each certificated employee on 8231
the instructional staff of that superintendent's respective school 8232
constructed as follows: 8233

(a) Determine for each level of training, experience, and 8234
other professional qualification for which an hourly rate is set 8235
forth in the current schedule, the per cent that rate is of the 8236
rate set forth in such schedule for a teacher with a bachelor's 8237
degree and no experience. If there is more than one such rate for 8238
such a teacher, the lowest rate shall be used to make the 8239
computation. 8240

(b) Determine which six city, local, and exempted village 8241
school districts with territory in Franklin county have in effect 8242
on, or have adopted by, the first day of April for the school year 8243
that begins on the ensuing first day of July, teacher salary 8244
schedules with the highest minimum salaries for a teacher with a 8245
bachelor's degree and no experience; 8246

(c) Divide the sum of such six highest minimum salaries by 8247
ten thousand five hundred sixty; 8248

(d) Multiply each per cent determined in division (L)(1)(a) 8249
of this section by the quotient obtained in division (L)(1)(c) of 8250
this section; 8251

(e) One hundred five per cent of each product thus obtained 8252
shall be the hourly rate for the corresponding level of training, 8253

experience, or other professional qualification in the schedule 8254
for the ensuing fiscal year. 8255

(2) Annually, assign each certificated employee on the 8256
instructional staff of the superintendent's respective school to 8257
an hourly rate on the schedule that is commensurate with the 8258
employee's training, experience, and other professional 8259
qualifications. 8260

If an employee is employed on the basis of an academic year, 8261
the employee's annual salary shall be calculated by multiplying 8262
the employee's assigned hourly rate times one thousand seven 8263
hundred sixty. If an employee is not employed on the basis of an 8264
academic year, the employee's annual salary shall be calculated in 8265
accordance with the following formula: 8266

(a) Multiply the number of days the employee is required to 8267
work pursuant to the employee's contract by eight; 8268

(b) Multiply the product of division (L)(2)(a) of this 8269
section by the employee's assigned hourly rate. 8270

Each employee shall be paid an annual salary in biweekly 8271
installments. The amount of each installment shall be calculated 8272
by dividing the employee's annual salary by the number of biweekly 8273
installments to be paid during the year. 8274

Sections 124.13 and 124.19 of the Revised Code do not apply 8275
to an employee who is paid under this division. 8276

As used in this division, "academic year" means the number of 8277
days in each school year that the schools are required to be open 8278
for instruction with pupils in attendance. Upon completing an 8279
academic year, an employee paid under this division shall be 8280
deemed to have completed one year of service. An employee paid 8281
under this division is eligible to receive a pay supplement under 8282
division (L)(1), (2), or (3) of section 124.181 of the Revised 8283

Code for which the employee qualifies, but is not eligible to
receive a pay supplement under division (L)(4) or (5) of that
section. An employee paid under this division is eligible to
receive a pay supplement under division (L)(6) of section 124.181
of the Revised Code for which the employee qualifies, except that
the supplement is not limited to a maximum of five per cent of the
employee's regular base salary in a calendar year.

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

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

Sec. 124.20. The director of administrative services, with
the approval of the state personnel board of review, shall adopt
rules:

(A) For the classification of ~~officers, offices and~~
~~positions, and employments,~~ in the civil service of the state ~~and~~
~~the several counties thereof;~~

(B) For appointment, promotions, transfers, layoffs,
suspensions, reductions, reinstatements, and removals ~~therein in~~
and examinations and registrations for offices and positions in
the civil service of the state. ~~Except as otherwise provided in~~
~~this division, appointing~~ Appointing authorities with officers or
employees in the civil service of the state shall submit personnel
action information to the department of administrative services as
the director requires. ~~County boards of mental retardation and~~
~~developmental disabilities shall be required to submit personnel~~

~~action forms to the department of administrative services only 8314
when an employee is hired by a board, when a disciplinary action 8315
appealable pursuant to this chapter is taken by a board, or when 8316
the board terminates the employment of an employee for any reason. 8317
Any submittals required by this section shall be made to the 8318
county personnel department with jurisdiction in the matter, if 8319
one has been established. 8320~~

(C) For maintaining and keeping records of the efficiency of 8321
officers and employees in the civil service of the state in 8322
accordance with sections 124.01 to 124.64 of the Revised Code. 8323

Due notice of the contents of ~~such~~ these rules and of all 8324
changes ~~therein~~ in the rules shall be given to appointing 8325
authorities affected by ~~such~~ the rules, and ~~such~~ the rules shall 8326
also be printed for public distribution. 8327

Sec. 124.23. (A) All applicants for positions and places in 8328
the classified service shall be subject to examination, except for 8329
applicants for positions as professional or certified service and 8330
paraprofessional employees of county boards of mental retardation 8331
and developmental disabilities, who shall be hired in the manner 8332
provided in section 124.241 of the Revised Code. 8333

(B) Any examination administered under this section shall be 8334
public, and be open to all citizens of the United States and those 8335
persons who have legally declared their intentions of becoming 8336
United States citizens, within certain limitations ~~to be~~ 8337
~~determined by the director of administrative services,~~ as to 8338
citizenship, age, experience, education, health, habit, and moral 8339
character; ~~provided any, which shall be determined by the director~~ 8340
of administrative services when the examination is for an office 8341
or position in the service of the state. Any soldier, sailor, 8342
marine, coast guarder, member of the auxiliary corps as 8343
established by congress, member of the army nurse corps or navy 8344

nurse corps, or red cross nurse who has served in the army, navy, 8345
or hospital service of the United States, and such other military 8346
service as is designated by congress, including World War I, World 8347
War II, or during the period beginning May 1, 1949, and lasting so 8348
long as the armed forces of the United States are engaged in armed 8349
conflict or occupation duty, or the selective service or similar 8350
conscriptive acts are in effect in the United States, whichever is 8351
the later date, who has been honorably discharged ~~therefrom~~ or 8352
transferred to the reserve with evidence of satisfactory service, 8353
and who is a resident of Ohio, this state may file ~~with the~~ 8354
~~director of administrative services~~ a certificate of service or 8355
honorable discharge, ~~whereupon~~ and, upon that filing, the person 8356
shall receive additional credit of twenty per cent of the person's 8357
total grade given in the regular examination in which the person 8358
receives a passing grade; that filing shall be with the director
of administrative services in the case of offices or positions in
the service of the state. ~~Such~~ 8361

An examination may include an evaluation of such factors as 8362
education, training, capacity, knowledge, manual dexterity, and 8363
physical or psychological fitness. ~~Examinations~~ An examination 8364
shall consist of one or more tests in any combination. Tests may 8365
be written, oral, physical, demonstration of skill, or an 8366
evaluation of training and experiences and shall be designed to 8367
fairly test the relative capacity of the persons examined to 8368
discharge the particular duties of the position for which 8369
appointment is sought. ~~Where~~ If minimum or maximum requirements 8370
are established for any examination, they shall be specified in 8371
the examination announcement. 8372

(C) The director of administrative services shall have 8373
control of all examinations for offices or positions in the 8374
service of the state, except as otherwise provided in sections 8375
124.01 to 124.64 of the Revised Code. ~~No~~ 8376

(D) No questions in any examination shall relate to political 8377
or religious opinions or affiliations. No credit for seniority, 8378
efficiency, or any other reason shall be added to an applicant's 8379
examination grade unless the applicant achieves at least the 8380
minimum passing grade on the examination without counting ~~such~~ 8381
that extra credit. 8382

(E) Except as otherwise provided in sections 124.01 to 124.64 8383
of the Revised Code, the director of administrative services shall 8384
give reasonable notice of the time, place, and general scope of 8385
every competitive examination for appointment to a an office or 8386
position in the classified civil service of the state. The 8387
director ~~of administrative services~~ shall send written, printed, 8388
or electronic notices of every examination ~~of~~ to be conducted in 8389
the ~~state~~ classified civil service of the state to each agency of 8390
the type the director of job and family services specifies and, in 8391
the case of a county in which no such agency is located, to the 8392
clerk of the court of common pleas of that county and to the clerk 8393
of each city ~~of~~ located within that county. ~~Such~~ Those notices, 8394
promptly upon receipt, shall be posted in conspicuous public 8395
places in the designated agencies and the courthouse, and city 8396
hall of the cities, of the counties in which no such agency is 8397
located. ~~Such~~ The notices shall be posted in a conspicuous place 8398
in the office of the director ~~of administrative services~~ for at 8399
least two weeks ~~before~~ preceding any examination involved. In case 8400
of examinations limited by the director ~~of administrative services~~ 8401
to a district, county, city, or department, the director ~~of~~ 8402
~~administrative services~~ shall provide by rule for adequate 8403
publicity of ~~such examinations~~ an examination in the district, 8404
county, city, or department within which competition is permitted. 8405

Sec. 124.231. (A)(1) As used in this section, "legally blind 8406
person" means any person who qualifies as being blind under any 8407

Ohio or federal statute, or any rule adopted ~~thereunder~~ under any 8408
Ohio or federal statute. As used in this section, "legally deaf 8409
person" means any person who qualifies as being deaf under any 8410
Ohio or federal statute, or any rule adopted ~~thereunder~~ under any 8411
Ohio or federal statute. 8412

~~(B)~~(2) The director of administrative services shall, 8413
whenever practicable, arrange for special examinations to be 8414
administered to legally blind or legally deaf persons applying for 8415
original appointments in the classified civil service of the state 8416
to ensure that the abilities of ~~such~~ the applicants are properly 8417
assessed and that ~~such~~ the applicants are not subject to 8418
discrimination because they are legally blind or legally deaf 8419
persons. 8420

~~(C)~~(3) The director may administer equitable programs for the 8421
employment of legally blind persons and legally deaf persons in 8422
the classified civil service of the state. 8423

(B) Nothing in this section shall be construed to prohibit 8424
the appointment of a legally blind or legally deaf person to a 8425
position in the classified service under the procedures otherwise 8426
provided in this chapter. 8427

Sec. 124.241. As used in this section, "professional 8428
employee" has the same meaning as in section 5126.20 of the 8429
Revised Code, and "registered service employee" means a service 8430
employee, as defined in section 5126.20 of the Revised Code, who 8431
is registered under section 5126.25 of the Revised Code. 8432

County boards of mental retardation and developmental 8433
disabilities may hire professional employees and registered 8434
service employees in the classified service on the basis of the 8435
candidates' qualifications rather than on the basis of the results 8436
of an examination ~~administered by the director of administrative~~ 8437
~~services pursuant to section 124.23 of the Revised Code.~~ 8438

Sec. 124.25. The director of administrative services shall 8439
require persons applying for an examination for original 8440
appointment to office or position in the service of the state to 8441
file with the director, within reasonable time prior to the 8442
examination, a formal application, in which the applicant shall 8443
state the applicant's name, address, and ~~such~~ any other 8444
information as may reasonably be required concerning the 8445
applicant's education and experience. No inquiry shall be made as 8446
to religious or political affiliations or as to racial or ethnic 8447
origin of the applicant, except as necessary to gather equal 8448
employment opportunity or other statistics that, when compiled, 8449
will not identify any specific individual. 8450

Blank forms for applications shall be furnished by the 8451
director without charge to any person requesting ~~the same~~ an 8452
application. The director may require in connection with ~~such~~ an 8453
application ~~such~~ a certificate of persons having knowledge of the 8454
applicant as the good of the service demands. The director may 8455
refuse to appoint or examine an applicant, or, after an 8456
examination, refuse to certify the applicant as eligible, who is 8457
found to lack any of the established preliminary requirements for 8458
the examination, who is addicted to the habitual use of 8459
intoxicating liquors or drugs to excess, who has a pattern of poor 8460
work habits and performance with previous employers, who has been 8461
convicted of a felony, who has been guilty of infamous or 8462
notoriously disgraceful conduct, who has been dismissed from 8463
either branch of the civil service for delinquency or misconduct, 8464
or who has made false statements of any material fact, or 8465
practiced, or attempted to practice, any deception or fraud in the 8466
application or examination, in establishing eligibility, or in 8467
securing an appointment. 8468

Sec. 124.26. (A) Except as provided in ~~divisions~~ division (B) 8469

and ~~(C)~~ of this section, from the returns of the examinations for 8470
offices or positions in the service of the state, the director of 8471
administrative services shall prepare an eligible list of the 8472
persons whose general average standing upon examinations for ~~such~~ 8473
the grade or class is not less than the minimum fixed by the rules 8474
of the director, and who are otherwise eligible; ~~and such.~~ Those 8475
persons shall take rank upon the eligible list as candidates in 8476
the order of their relative excellence as determined by the 8477
examination without reference to priority of the time of 8478
examination. ~~In the event~~ If two or more applicants receive the 8479
same mark in an open competitive examination, priority in the time 8480
of filing the application with the director shall determine the 8481
order in which their names shall be placed on the eligible list; 8482
~~provided,~~ except that applicants eligible for veteran's preference 8483
under section 124.23 of the Revised Code shall receive priority in 8484
rank on the eligible list over nonveterans on the list with a 8485
rating equal to that of the veteran. Ties among veterans shall be 8486
decided by priority of filing the application. ~~In the event of~~ If 8487
two or more applicants ~~receiving~~ receive the same mark on a 8488
promotional examination, seniority shall determine the order in 8489
which their names shall be placed on the eligible list. The term 8490
of eligibility of each list shall be fixed by the director at not 8491
less than one ~~nor~~ or more than two years. ~~When~~ 8492

When an eligible list is reduced to ten names or less, a new 8493
list may be prepared. The director may consolidate two or more 8494
eligible lists of the same kind by the rearranging of eligibles 8495
named ~~therein~~ in the lists, according to their grades. 8496

(B) A person serving as a provisional employee who passes an 8497
examination for an office or position in the service of the state, 8498
given for the department in which ~~he~~ the person is employed, for 8499
the class or grade in which the person holds the office or 8500
position shall be appointed as a certified employee in the office 8501

or position before the director of administrative services 8502
prepares an eligible list. 8503

Sec. 124.27. (A) The head of a department, office, or 8504
institution, in which a position in the classified civil service 8505
of the state is to be filled, shall notify the director of 8506
administrative services of the fact, and the director shall, 8507
except as otherwise provided in this section and sections 124.30 8508
and 124.31 of the Revised Code, certify to the appointing 8509
authority the names and addresses of the ten candidates standing 8510
highest on the eligible list for the class or grade to which the 8511
position belongs; ~~provided, except~~ that the director may certify 8512
less than ten names if ten names are not available. When less than 8513
ten names are certified to an appointing authority, appointment 8514
from that list shall not be mandatory. When a position in the 8515
classified service in the department of mental health or the 8516
department of mental retardation and developmental disabilities is 8517
to be filled, the director of administrative services shall make 8518
such certification to the appointing authority within seven 8519
working days of the date the eligible list is requested. 8520

(B) ~~The An~~ appointing authority shall notify the director of 8521
administrative services of ~~such a~~ position in the classified civil 8522
service of the state to be filled, and the appointing authority 8523
shall fill ~~such the vacant~~ position by appointment of one of the 8524
ten persons certified by the director. If more than one position 8525
is to be filled, the director ~~of administrative services~~ may 8526
certify a group of names from the eligible list and the appointing 8527
authority shall appoint in the following manner: ~~Beginning~~ 8528
beginning at the top of the list, each time a selection is made it 8529
must be from one of the first ten candidates remaining on the list 8530
who is willing to accept consideration for the position. If an 8531
eligible list becomes exhausted, and until a new list can be 8532
created, or when no eligible list for ~~such a~~ position exists, 8533

names may be certified from eligible lists most appropriate for 8534
the group or class in which the position to be filled is 8535
classified. A person who is certified from an eligible list more 8536
than three times to the same appointing authority for the same or 8537
similar positions, may be omitted from future certification to 8538
~~such that~~ that appointing authority, provided that certification for a 8539
temporary appointment shall not be counted as one of ~~such those~~ 8540
certifications. Every soldier, sailor, marine, coast guarder, 8541
member of the auxiliary corps as established by congress, member 8542
of the army nurse corps, or navy nurse corps, or red cross nurse 8543
who has served in the army, navy, or hospital service of the 8544
United States, and such other military service as is designated by 8545
congress in the war with Spain, including the Philippine 8546
insurrection and the Chinese relief expedition, or from April 21, 8547
1898, to July 4, 1902, World War I, World War II, or during the 8548
period beginning May 1, 1949, and lasting so long as the armed 8549
forces of the United States are engaged in armed conflict or 8550
occupation duty, or the selective service or similar conscriptive 8551
acts are in effect in the United States, whichever is the later 8552
date, who has been honorably discharged or separated under 8553
honorable conditions ~~therefrom~~, who is a resident of this state, 8554
and whose name is on the eligible list for a position, shall be 8555
entitled to preference in an original appointment ~~appointments~~ appointment to 8556
~~any such a~~ a competitive position in the civil service of the state 8557
~~and the civil divisions thereof~~, over all persons eligible for 8558
~~such appointments~~ the appointment and standing on the list 8559
~~therefor~~ for the appointment, with a rating equal to that of ~~each~~ 8560
~~such person~~ the veteran. Appointments to all positions in the 8561
classified civil service of the state, that are not filled by 8562
promotion, transfer, or reduction, as provided in sections 124.01 8563
to 124.64 of the Revised Code and the rules of the director 8564
prescribed under those sections, shall be made only from those 8565
persons whose names are certified to the appointing authority, and 8566

no employment, except as provided in those sections, shall be 8567
otherwise given in the classified civil service of ~~this~~ the state 8568
~~or any political subdivision of the state.~~ 8569

(C) All original and promotional appointments, including 8570
provisional appointments made pursuant to section 124.30 of the 8571
Revised Code, shall be for a probationary period, not less than 8572
sixty days ~~nor~~ or more than one year, to be fixed by the 8573
appropriate rules ~~of the director~~, except as provided in section 8574
124.231 of the Revised Code, or except original appointments to a 8575
police department as a police officer⁷, or to a fire department as 8576
a firefighter which shall be for a probationary period of one 8577
year~~, and no.~~ No appointment or promotion is final until the 8578
appointee has satisfactorily served the probationary period. 8579
Service as a provisional employee in the same or similar class 8580
shall be included in the probationary period. If the service of 8581
the probationary employee is unsatisfactory, the employee may be 8582
removed or reduced at any time during the probationary period. If 8583
the appointing authority's decision is to remove the appointee, 8584
the appointing authority's communication to the director or 8585
commission shall indicate the reason for that decision. A 8586
probationary employee duly removed or reduced in position for 8587
unsatisfactory service does not have the right to appeal the 8588
removal or reduction under section 124.34 of the Revised Code. 8589

Sec. 124.29. Any person who, at the time of holding an office 8590
or position in the public service, enters the uniformed services, 8591
as defined in section 5903.01 of the Revised Code, is entitled to 8592
reinstatement in accordance with the "Uniformed Services 8593
Employment and Reemployment Rights Act of 1994," 108 Stat. 3149, 8594
38 U.S.C.A. 4301 to 4333. 8595

The director of administrative services shall adopt rules in 8596
accordance with Chapter 119. of the Revised Code for the 8597

implementation of this section with regard to the reinstatement of 8598
persons in the service of the state. 8599

Sec. 124.30. (A) Positions in the classified civil service of of 8600
the state may be filled without competition as follows: 8601

(1) Whenever there are urgent reasons for filling a vacancy 8602
in any position in the classified civil service of the state and 8603
the director of administrative services is unable to certify to 8604
the appointing authority, upon ~~requisition by the latter~~ its 8605
request, a list of persons eligible for appointment to ~~such~~ the 8606
position after a competitive examination, the appointing authority 8607
may nominate a person to the director for noncompetitive 8608
examination, and if ~~such~~ the nominee is certified by the director 8609
as qualified after ~~such~~ the noncompetitive examination, the 8610
nominee may be appointed provisionally to fill ~~such~~ the vacancy 8611
until a selection and appointment can be made after competitive 8612
examination; ~~but such.~~ However, the provisional appointment shall 8613
continue in force only until a regular appointment can be made 8614
from eligible lists prepared by the director, and ~~such~~ the 8615
eligible lists shall be prepared within six months, provided that 8616
an examination for the position must be held within the six-month 8617
period from the date of ~~such~~ the provisional appointment. In the 8618
case of provisional appointees in ~~county departments of job and~~ 8619
~~family services and in~~ the department of job and family services 8620
and department of health, if the salary is paid in whole or in 8621
part from federal funds, ~~such~~ the eligible lists shall be prepared 8622
within six months, provided that an examination for the position 8623
must be held within the six-month period from the date of ~~such~~ the 8624
provisional appointment. In case of an emergency, an appointment 8625
may be made without regard to the rules of sections 124.01 to 8626
124.64 of the Revised Code, but in no case to continue longer than 8627
thirty days, and in no case shall successive appointments be made. 8628

Interim or temporary appointments, made necessary by reason of 8629
sickness, disability, or other approved leave of absence of 8630
regular officers or employees shall continue only during ~~such the~~ 8631
period of sickness, disability, or other approved leave of 8632
absence, subject to rules ~~to be provided for by~~ of the director. 8633

(2) In case of a vacancy in a position in the classified 8634
civil service of the state where peculiar and exceptional 8635
qualifications of a scientific, managerial, professional, or 8636
educational character are required, and upon satisfactory evidence 8637
that for specified reasons competition in ~~such this~~ special case 8638
is impracticable and that the position can best be filled by a 8639
selection of some designated person of high and recognized 8640
attainments in ~~such those~~ qualities, the director may suspend the 8641
provisions of sections 124.01 to 124.64 of the Revised Code, 8642
~~requiring that require~~ competition in ~~such this special~~ case, but 8643
no suspension shall be general in its application, ~~and all. All~~ 8644
such cases of suspension shall be reported in the annual report of 8645
the director with the reasons for ~~the~~ each suspension. The 8646
director shall suspend the provisions when the director of job and 8647
family services provides ~~the director~~ certification under section 8648
5101.051 of the Revised Code that a position with the department 8649
of job and family services can best be filled if the provisions 8650
are suspended. 8651

(3) ~~Where~~ If the services to be rendered by an appointee are 8652
for a temporary period, not to exceed six months, and the need of 8653
~~such the~~ service is important and urgent, the appointing authority 8654
may select for ~~such~~ temporary service any person on the proper 8655
list of those eligible for permanent appointment. Successive 8656
temporary appointments to the same position shall not be made 8657
under this division. The acceptance or refusal by an eligible 8658
person of a temporary appointment shall not affect the person's 8659
standing on the ~~register~~ eligible list for permanent ~~employment~~. 8660

appointment, nor shall the period of temporary service be counted 8661
as a part of the probationary service in case of subsequent 8662
appointment to a permanent position. 8663

(B) Persons who receive external interim, temporary, or 8664
intermittent appointments are in the unclassified civil service 8665
and serve at the pleasure of their appointing authority. Interim 8666
appointments shall be made only to fill a vacancy that results 8667
from an employee's temporary absence, but shall not be made to 8668
fill a vacancy that results because an employee receives an 8669
interim appointment. 8670

Sec. 124.31. (A) Vacancies in positions in the classified 8671
service shall be filled insofar as practicable by promotions. ~~The~~ 8672
In the case of a vacancy in a position in the classified civil 8673
service of the state, the director of administrative services 8674
shall provide in the director's rules for keeping a record of 8675
efficiency for each employee in the classified civil service of 8676
the state, and for making promotions in the classified civil 8677
service of the state on the basis of merit, to be ascertained ~~as~~ 8678
~~far~~ insofar as practicable by promotional examinations, by conduct 8679
and capacity in office, and by seniority in service, ~~and~~. The 8680
director shall provide that vacancies in positions in the 8681
classified civil service of the state shall be filled by promotion 8682
in all cases where, in the judgment of the director, it is for the 8683
best interest of the service. 8684

(B) All examinations for promotions shall be competitive and 8685
may be conducted in the same manner as examinations described in 8686
section 124.23 of the Revised Code. In promotional examinations, 8687
seniority in service shall be added to the examination grade, but 8688
no credit for seniority or any other reason shall be added to an 8689
examination grade unless the applicant achieves at least the 8690
minimum passing score on the examination without counting ~~such~~ 8691

that extra credit. Credit for seniority shall equal, for the first 8692
four years of service, one per cent of the total grade attainable 8693
in the promotion examination, and, for each of the fifth through 8694
fourteenth years of service, six-tenths per cent of the total 8695
grade attainable. 8696

In all cases of vacancies in positions in the classified 8697
civil service of the state, where vacancies are to be filled by 8698
promotion, the director of administrative services shall certify 8699
to the appointing authority only the names of the three persons 8700
having the highest rating on the eligible list. The method of 8701
examination for promotions, the manner of giving notice ~~thereof~~ of 8702
an examination, and the rules governing the same shall be in 8703
general the same as those provided for original examinations, 8704
except as otherwise provided in sections 124.01 to 124.64 of the 8705
Revised Code. 8706

Sec. 124.311. (A) Following any classification change within 8707
a classification series, a certified employee in the classified 8708
civil service of the state retains certification. When an employee 8709
receives a classification change to a classification outside the 8710
series in which ~~he~~ the employee is certified, unless exception is 8711
made by rules adopted under division (B) of this section, the 8712
employee does not retain certified status. 8713

If an employee is in a provisional status following a 8714
classification change due to the operation of this section and is 8715
displaced within two years of receiving the change for any reason 8716
other than those listed in section 124.32, 124.321, 124.322, 8717
124.323, 124.324, 124.325, 124.326, 124.327, 124.34, or 124.62 of 8718
the Revised Code, the employee shall be returned as a certified 8719
employee to the classification held immediately prior to the 8720
classification change, provided ~~he~~ the employee was certified in 8721
that classification. If the former classification is not or cannot 8722

be used by the appointing authority in the agency in which the 8723
employee received the classification change, the director of 8724
administrative services shall designate a classification with 8725
comparable duties and the same pay range as the classification 8726
~~which~~ that was held immediately prior to the change and in which 8727
the employee was certified. If a similar classification cannot be 8728
designated, the employee retains certification in the 8729
classification in which ~~he~~ the employee was certified immediately 8730
prior to the classification change, and ~~he~~ the employee shall be 8731
treated as a laid-off employee under sections 124.321 to 124.327 8732
of the Revised Code. If an employee receives a classification 8733
change subsequent to being placed in a provisional status, the 8734
employee is not eligible to be returned to the classification in 8735
which ~~he~~ the employee was certified prior to any classification 8736
change. 8737

If an employee is in a provisional status due to the 8738
application of this section and is displaced under section 124.32, 8739
124.321, 124.322, 124.323, 124.324, 124.325, 124.326, 124.327, 8740
124.34, or 124.62 of the Revised Code, the employee has no right 8741
under this section to return to the classification held prior to 8742
the classification change, except that if an employee receives a 8743
probationary reduction or voluntary demotion to a classification 8744
in which ~~he~~ the employee was certified prior to the classification 8745
change within two years after the change, the employee shall be 8746
returned as a certified employee to the prior classification in 8747
which ~~he~~ the employee was certified. 8748

Whenever the director or the general assembly changes the 8749
state classification plan, an employee shall retain certification 8750
in the same or similar classification held immediately prior to 8751
the change in the classification plan, provided ~~he~~ the employee 8752
was certified under the former plan. 8753

Whenever the position held by a classified employee is 8754

reclassified as a result of a job audit outside the classification 8755
series in which ~~he~~ the employee is certified, the employee shall 8756
be treated as having received a classification change under this 8757
section and be given credit for the time ~~he~~ the employee performed 8758
the duties of the new classification for purposes of a 8759
probationary period under section 124.27 of the Revised Code. 8760

The employee may, however, choose not to accept the 8761
reclassified position, in which case ~~he~~ the employee shall retain 8762
~~his~~ the certification in the classification for which ~~he~~ the 8763
employee was certified, and the appointing authority shall assign 8764
the employee to a position with that classification or abolish the 8765
former position. 8766

(B) The director of administrative services shall make rules 8767
in accordance with Chapter 119. of the Revised Code implementing 8768
division (A) of this section with regard to the state 8769
classification plan and employees in the service of the state. The 8770
rules shall provide: 8771

(1) Specific criteria for retention of certification 8772
following a classification change from one classification to 8773
another outside the classification series-; 8774

(2) For the publication of a list of classifications with the 8775
same or similar duties in which the employee will retain 8776
certification following certain classification changes and in 8777
which displacement rights apply-; 8778

(3) For an employee who is displaced within a two-year period 8779
following a classification change to return to the former position 8780
in which ~~he~~ the employee was certified, as specified in division 8781
(A) of this section. 8782

Sec. 124.32. (A) With the consent of the director of 8783
administrative services, a person holding an office or position in 8784

the classified civil service of the state may be transferred to a 8785
similar office or position in another office, department, or 8786
institution having the same pay and similar duties; but no 8787
transfer shall be made ~~from~~ as follows: 8788

(1) From an office or position in one class to an office or 8789
position in another class, ~~nor shall a person be transferred to;~~ 8790

(2) To an office or position for original entrance to which 8791
there is required by sections 124.01 to 124.64 of the Revised 8792
Code, or the rules adopted pursuant to ~~such~~ those sections, an 8793
examination involving essential tests or qualifications or 8794
carrying a salary different from or higher than those required for 8795
original entrance to an office or position held by ~~such~~ the 8796
person. 8797

(B) Any person holding an office or position ~~under~~ in the 8798
classified civil service of the state who has been separated from 8799
the service without delinquency or misconduct on the person's part 8800
may, with the consent of the director, be reinstated within one 8801
year from the date of ~~such~~ that separation to a vacancy in the 8802
same or similar office or position in the same department; 8803
~~provided. But, if such that~~ separation is due to injury or 8804
physical disability, ~~such~~ the person shall be reinstated ~~to~~ in the 8805
same office held or in a similar position to that held at the time 8806
of separation, within thirty days after written application for 8807
reinstatement and after passing a physical examination made by a 8808
licensed physician, a physician assistant, a clinical nurse 8809
specialist, a certified nurse practitioner, or a certified 8810
nurse-midwife showing that the person has recovered from ~~such~~ the 8811
injury or physical disability, provided ~~further~~ that ~~such~~ the 8812
application for reinstatement ~~be~~ is filed within three years from 8813
the date of separation, ~~and further provided~~ that ~~such~~ the 8814
application ~~shall~~ is not ~~be~~ filed after the date of service 8815
eligibility retirement. The physician, physician assistant, 8816

clinical nurse specialist, certified nurse practitioner, or 8817
certified nurse-midwife shall be designated by the appointing 8818
authority and shall complete any written documentation of the 8819
physical examination. 8820

Sec. 124.321. (A) Whenever it becomes necessary for an 8821
appointing authority to reduce its work force, the appointing 8822
authority shall lay off employees or abolish their positions in 8823
accordance with sections 124.321 to 124.327 of the Revised Code 8824
and, in the case of employees in the service of the state, 8825
pursuant to the rules of the director of administrative services. 8826

(B) (1) Employees may be laid off as a result of a lack of 8827
funds within an appointing authority. For appointing authorities 8828
~~which~~ that employ persons whose salary or wage is paid by warrant 8829
of the auditor of state, the director of budget and management 8830
shall be responsible for determining whether a lack of funds 8831
exists. For ~~all other~~ appointing authorities ~~which~~ that employ 8832
persons whose salary or wage is paid other than by warrant of the 8833
auditor of state, the appointing authority ~~shall~~ itself shall 8834
determine whether a lack of funds exists ~~and shall file a~~ 8835
~~statement of rationale and supporting documentation with the~~ 8836
~~director of administrative services prior to sending the layoff~~ 8837
~~notice.~~ 8838

A (2) As used in this division, a "lack of funds" means an 8839
appointing authority has a current or projected deficiency of 8840
funding to maintain current, or to sustain projected, levels of 8841
staffing and operations. This section does not require any 8842
transfer of money between funds in order to offset a deficiency or 8843
projected deficiency of federal funding for a program. 8844

(3) The director of budget and management shall ~~promulgate~~ 8845
adopt rules, under Chapter 119. of the Revised Code, for agencies 8846
whose employees are paid by warrant of the auditor of state, for 8847

determining whether a lack of funds exists. 8848

(C)(1) Employees may be laid off as a result of lack of work 8849
within an appointing authority. For appointing authorities whose 8850
employees are paid by warrant of the auditor of state, the 8851
director of administrative services shall determine whether a lack 8852
of work exists. All other appointing authorities shall themselves 8853
determine whether a lack of work exists ~~and shall file a statement~~ 8854
~~of rationale and supporting documentation with the director of~~ 8855
~~administrative services prior to sending the notice of layoff.~~ 8856

A (2) As used in this division, a "lack of work, ~~for purposes~~ 8857
~~of layoff,~~" means an appointing authority has a current or 8858
projected temporary decrease in the workload, expected to last 8859
less than one year, ~~which~~ that requires a reduction of current or 8860
projected staffing levels. The determination of a lack of work 8861
shall indicate the current or projected temporary decrease in the 8862
workload of an appointing authority and whether the current or 8863
projected staffing levels of the appointing authority will be 8864
excessive. 8865

(D)(1) Employees may be laid off as a result of abolishment 8866
of positions. ~~Abolishment~~ As used in this division, "abolishment" 8867
means the ~~permanent~~ deletion of a position or positions from the 8868
organization or structure of an appointing authority ~~due to lack~~ 8869
~~of continued need for the position. An~~ 8870

For purposes of this division, an appointing authority may 8871
abolish positions for any one or any combination of the following 8872
reasons: as a result of a reorganization for the efficient 8873
operation of the appointing authority, for reasons of economy, or 8874
for lack of work. ~~The determination of the need to abolish~~ 8875
~~positions shall indicate the lack of continued need for positions~~ 8876
~~within an appointing authority~~ 8877

(2)(a) Reasons of economy permitting an appointing authority 8878

to abolish a position and to lay off the holder of that position 8879
under this division shall be determined at the time the appointing 8880
authority proposes to abolish the position. The reasons of economy 8881
shall be based on the appointing authority's estimated amount of 8882
savings with respect to salary, benefits, and other matters 8883
associated with the abolishment of the position, except that the 8884
reasons of economy associated with the position's abolishment 8885
instead may be based on the appointing authority's estimated 8886
amount of savings with respect to salary and benefits only, if: 8887

(i) Either the appointing authority's operating appropriation 8888
has been reduced by an executive or legislative action, or the 8889
appointing authority has a current or projected deficiency in 8890
funding to maintain current or projected levels of staffing and 8891
operations; and 8892

(ii) In the case of an appointing authority that is 8893
abolishing a position in the service of the state, it files a 8894
notice of the position's abolishment with the director of 8895
administrative services within one year of the occurrence of the 8896
applicable circumstance described in division (D)(2)(a)(i) of this 8897
section. 8898

(b) The following principles apply when a circumstance 8899
described in division (D)(2)(a)(i) of this section would serve to 8900
authorize an appointing authority to abolish a position and to lay 8901
off the holder of the position under this division based on the 8902
appointing authority's estimated amount of savings with respect to 8903
salary and benefits only: 8904

(i) The position's abolishment shall be done in good faith 8905
and not as a subterfuge for discipline. 8906

(ii) If a circumstance affects a specific program only, the 8907
appointing authority only may abolish a position within that 8908
program. 8909

(iii) If a circumstance does not affect a specific program 8910
only, the appointing authority may identify a position that it 8911
considers appropriate for abolishment based on the reasons of 8912
economy. Appointing authorities 8913

(3) Each appointing authority shall themselves determine 8914
itself whether any position should be abolished and, if the 8915
appointing authority is abolishing any position in the service of 8916
the state, shall file a statement of rationale and supporting 8917
documentation with the director of administrative services prior 8918
to sending the notice of abolishment. ~~If~~ 8919

If an abolishment results in a reduction of the work force, 8920
the appointing authority shall follow the procedures for laying 8921
off employees, subject to the following modifications: 8922

~~(1)~~(a) The employee whose position has been abolished shall 8923
have the right to fill an available vacancy within the employee's 8924
classification~~+~~. 8925

~~(2)~~(b) If the employee whose position has been abolished has 8926
more retention points than any other employee serving in the same 8927
classification, ~~then~~ the employee with the fewest retention points 8928
shall be displaced~~+~~. 8929

~~(3)~~(c) If the employee whose position has been abolished has 8930
the fewest retention points in the classification, the employee 8931
shall have the right to fill an available vacancy in a lower 8932
classification in the classification series~~+~~. 8933

~~(4)~~(d) If the employee whose position has been abolished has 8934
the fewest retention points in the classification, the employee 8935
shall displace the employee with the fewest retention points in 8936
the next or successively lower classification in the 8937
classification series. 8938

(E) ~~The~~ With regard to reductions in the work force in the 8939

service of the state, the director of administrative services 8940
shall ~~promulgate~~ adopt rules, under Chapter 119. of the Revised 8941
Code, for the determination of lack of work within an appointing 8942
authority, for the abolishment of positions by an appointing 8943
authority, and for the implementation of this section. 8944

Sec. 124.322. Whenever a reduction in the work force is 8945
necessary, the appointing authority of an agency shall decide in 8946
which classification or classifications the layoff or layoffs will 8947
occur and the number of employees to be laid off within each 8948
affected classification. The director of administrative services 8949
shall ~~promulgate~~ adopt rules, under Chapter 119. of the Revised 8950
Code, establishing a method for determining layoff procedures and 8951
an order of layoff and the displacement and recall of laid-off 8952
~~state and county~~ employees in the service of the state. The order 8953
shall be based in part on length of service and, may include 8954
efficiency in service, appointment type, or ~~such~~ other factors the 8955
director considers appropriate. If the director establishes 8956
relative efficiency as a criterion to be used in determining order 8957
of layoff for ~~state and county~~ employees in the service of the 8958
state, credit for efficiency may be other than ten per cent of 8959
total retention points. 8960

Sec. 124.323. (A) Employees shall be laid off in the order 8961
set forth in this section within the primary appointment 8962
categories of part-time, seasonal, and full-time, and other 8963
appointment categories ~~as,~~ which, in the case of employees in the 8964
service of the state, shall be established by the director of 8965
administrative services. 8966

(B) Whenever a reduction in force is necessary within each of 8967
the primary appointment categories, first seasonal, then part-time 8968
permanent, and then full-time permanent employees shall be laid 8969
off in the following order: 8970

(1) Employees serving provisionally who have not completed their probationary period after appointment;	8971 8972
(2) Employees serving provisionally who have satisfactorily completed their probationary period after appointment;	8973 8974
(3) Employees appointed from certified eligible lists or who are certified and who have not completed their probationary period after appointment;	8975 8976 8977
(4) Employees appointed from certified eligible lists or who are certified and who have successfully completed their probationary period after appointment.	8978 8979 8980
Sec. 124.324. (A) A laid-off employee has the right to displace the employee with the fewest retention points in the classification from which the employee was laid off or in a lower or equivalent classification, in the following order:	8981 8982 8983 8984
(1) Within the classification from which the employee was laid off;	8985 8986
(2) Within the classification series from which the employee was laid off;	8987 8988
(3) Within a classification which has the same or similar duties as the classification from which the employee was laid off 7 . <u>In the case of employees in the service of the state, this shall be</u> in accordance with the list published by the director of <u>administrative services</u> under division (B)(2) of section 124.311 of the Revised Code 7 .	8989 8990 8991 8992 8993 8994
(4) Within the classification the employee held immediately prior to holding the classification from which the employee was laid off.	8995 8996 8997
Divisions (A)(3) and (4) of this section shall not apply to employees of cities, city health districts, and counties, except	8998 8999

for employees of county departments of job and family services. 9000

A laid-off employee in the classified service has the right 9001
to displace an employee with the fewest retention points in the 9002
classification that the laid-off employee held immediately prior 9003
to holding the classification from which the employee was laid 9004
off, if the laid-off employee was certified in the former 9005
classification. If a position in that classification does not 9006
exist, then the employee may displace employees in the 9007
classification that the employee next previously held, and so on, 9008
subject to the same provisions. The employee may not displace 9009
employees in a classification if the employee does not meet the 9010
minimum qualifications of the classification, or if the employee 9011
held the classification more than five years prior to the date on 9012
which the employee was laid off, except that failure to meet 9013
minimum qualifications shall not prevent the employee from 9014
displacing employees in the classification that the employee next 9015
previously held within that five-year period. 9016

If, after exercising displacement rights, an employee is 9017
subject to further layoff action, the employee's displacement 9018
rights shall be in accordance with the classification from which 9019
the employee was first laid off. 9020

The director shall verify the calculation of the retention 9021
points of all employees in the service of the state in an affected 9022
classification in accordance with section 124.325 of the Revised 9023
Code. 9024

(B) Following the order of layoff, an employee laid off in 9025
the classified civil service shall displace another employee 9026
within the same appointing authority or independent institution 9027
and layoff jurisdiction in the following manner: 9028

(1) Each laid-off employee possessing more retention points 9029
shall displace the employee with the fewest retention points in 9030

the next lower classification or successively lower classification 9031
in the same classification series; except that a laid-off 9032
provisional employee shall not have the right to displace a 9033
certified employee; 9034

(2) Any employee displaced by an employee possessing more 9035
retention points shall displace the employee with the fewest 9036
retention points in the next lower classification or successively 9037
lower classification in the same classification series; except 9038
that a displaced provisional employee shall not displace a 9039
certified employee. This process shall continue, if necessary, 9040
until the employee with the fewest retention points in the lowest 9041
classification of the classification series of the same appointing 9042
authority or independent institution has been reached and, if 9043
necessary, laid off. 9044

(C) Employees shall notify the appointing authority of their 9045
intention to exercise their displacement rights, within five days 9046
after receiving notice of layoff. 9047

(D) No employee shall displace an employee for whose position 9048
or classification there exists special minimum qualifications, as 9049
established by a position description, by classification 9050
specifications, or by bona fide occupational qualification, unless 9051
the employee desiring to displace another employee possesses the 9052
requisite minimum qualifications for the position or 9053
classification. 9054

(E) If an employee exercising displacement rights must 9055
displace an employee in another county within the same layoff 9056
district, the displacement shall not be construed to be a 9057
transfer. 9058

(F) The director of administrative services shall ~~promulgate~~ 9059
adopt rules, under Chapter 119. of the Revised Code, for the 9060
implementation of this section with regard to employees in the 9061

service of the state. 9062

Sec. 124.325. (A) Retention points to reflect the length of 9063
continuous service and efficiency in service for all employees in 9064
the service of the state affected by a layoff shall be verified by 9065
the director of administrative services. 9066

(B) An employee's length of continuous service will be 9067
carried from one layoff jurisdiction to another so long as no 9068
break in service occurs between ~~such~~ transfers or appointments. 9069

(C) Retention points for efficiency in service shall be 9070
determined by averaging the employee's latest two annual 9071
performance evaluations. An employee with less than two years of 9072
service will have the latest performance evaluation used. Any 9073
employees with less than one year of service will have their final 9074
probationary evaluation used. 9075

(D) Should two or more employees have an identical number of 9076
retention points, employees having the shortest period of 9077
continuous service shall be laid off first. 9078

(E)(1) As used in this division, "affected employee" means a 9079
city employee who becomes a county employee, or a county employee 9080
who becomes a city employee, as the result of any of the 9081
following: 9082

(a) The merger of a city and a county office; 9083

(b) The merger of city and county functions or duties; 9084

(c) The transfer of functions or duties between a city and 9085
county. 9086

(2) For purposes of this section, the new employer of any 9087
affected employee shall treat the employee's prior service with 9088
~~such a~~ former employer as if it had been served with the new 9089
employer. 9090

(F) The director of administrative services shall ~~promulgate~~ 9091
adopt rules, in accordance with Chapter 119. of the Revised Code, 9092
to establish a system for the assignment of retention points for 9093
each employee in the service of the state in a classification 9094
affected by a layoff and for determining, in those instances where 9095
employees have identical retention points, which employee shall be 9096
laid off first. 9097

Sec. 124.33. An employee holding a position in the classified 9098
civil service of the state may be temporarily transferred from ~~his~~ 9099
the employee's original position to a similar position, for a 9100
period not to exceed thirty days, or for a longer period not to 9101
exceed ninety days if agreed to by the employee and employer. 9102

No employee shall be temporarily transferred more than once 9104
during any six-month period without the approval of the director 9105
of administrative services, who, by rule, shall set guidelines ~~in~~ 9106
~~his rules and regulations~~ concerning procedures to be followed by 9107
all appointing authorities when making a temporary transfer and 9108
list those classifications where the nature of the employment is 9109
such that systematic changes in the location of an employee's work 9110
assignments are necessary for the efficient operation of an 9111
office, department, or institution. 9112

If the director approves a second temporary transfer within 9113
any six-month period and the employee objects to the transfer 9114
because ~~he~~ the employee does not hold a position listed in the 9115
director's rules ~~and regulations~~ as one requiring systematic 9116
changes in the employee's work assignment or because it is not 9117
necessary for the efficient operation of the office, department, 9118
or institution, the employee may appeal such transfer to the state 9119
personnel board of review. If the board finds that the position 9120
held by the employee is not by its nature subject to systematic 9121

changes or that a temporary transfer is not necessary for the 9122
efficient operation of the office, department, or institution, it 9123
shall not approve the transfer. If the board finds that the 9124
temporary transfer is necessary for the efficient operation of the 9125
office, department, or institution or that the position is by its 9126
nature subject to systematic changes, it shall approve the 9127
transfer. 9128

Any employee who is temporarily transferred from ~~his~~ the 9129
employee's original position to a similar position in excess of 9130
twenty miles from ~~his~~ the employee's place of residence shall be 9131
reimbursed, by the appointing authority requesting the transfer, 9132
for all actual and necessary expenses incurred during ~~such~~ the 9133
temporary transfer. 9134

An appointing authority may, with the approval of the 9135
director of administrative services, permanently transfer an 9136
employee in the classified civil service of the state from ~~his~~ the 9137
employee's original position to a similar position in another 9138
office, department, or institution. For purposes of this section, 9139
a permanent transfer is any transfer in excess of thirty days 9140
unless the employee and the employer agree to a longer period not 9141
to exceed ninety days. The appointing authority requesting the 9142
permanent transfer shall notify the employee and the director in 9143
writing of the request to transfer. If the director determines 9144
that the transfer is not necessary for the efficient operation of 9145
the office, department, or institution, ~~he~~ the director shall not 9146
approve the transfer and shall notify the appointing authority and 9147
the employee in writing that transfer is not approved. If ~~he~~ the 9148
director finds that the transfer is necessary for the efficient 9149
operation of the office, department, or institution, ~~he~~ the 9150
director shall notify the appointing authority and the employee 9151
involved in the request for transfer, in writing, that the 9152
transfer is approved, including in such notification a statement 9153

whether the transfer will require a permanent change of residence 9154
for the employee. 9155

If the employee consents to the transfer and is in agreement 9156
with the director's statement concerning a permanent change of 9157
residence, the appointing authority of the office, department, or 9158
institution receiving the employee shall reimburse ~~such the~~ 9159
employee for ~~his~~ actual and necessary travel and living expenses 9160
or, if the move requires a permanent change of residence, ~~his~~ 9161
actual and necessary expenses of moving to ~~his~~ the new location 9162
and a per diem allowance not to exceed thirty days for living 9163
expenses until ~~his~~ the employee's residence can be moved to the 9164
new location. 9165

If the employee does not wish to be transferred or ~~he~~ feels 9166
that the director's decision regarding the need for a permanent 9167
change of residence has been unfair, ~~he~~ the employee may, within 9168
ten days after receipt of ~~such the~~ notice, appeal the transfer to 9169
the state personnel board of review, but pending determination of 9170
~~such the~~ appeal shall not refuse ~~such the~~ transfer. 9171

In such an appeal, the appointing authority of the office, 9172
department, or institution receiving the employee shall be 9173
required to show that the permanent transfer is necessary for the 9174
efficient operation of the office, department, or institution. If 9175
the state personnel board of review finds that the transfer is 9176
necessary for the efficient operation of the office, department, 9177
or institution, and the employee is transferred, the appointing 9178
authority of the office, department, or institution receiving the 9179
employee shall reimburse ~~such the~~ employee for the actual and 9180
necessary expenses of moving to ~~his~~ the new location and shall pay 9181
the employee a per diem allowance not to exceed thirty days for 9182
living expenses until ~~his~~ the employee's residence can be moved to 9183
the new location. 9184

If the state personnel board of review finds that the 9185

transfer is not necessary for the efficient operation of the 9186
office, department, or institution, and if the employee has moved 9187
to the new location pending ~~his~~ the appeal, the appointing 9188
authority of the receiving office, department, or institution 9189
shall pay the actual and necessary expenses of the employee of 9190
moving to the new location and actual and necessary expenses for 9191
returning the employee to ~~his~~ the employee's previous location. 9192

Sec. 124.34. (A) The tenure of every officer or employee in 9193
the classified service of the state and the counties, civil 9194
service townships, cities, city health districts, general health 9195
districts, and city school districts of the state, holding a 9196
position under this chapter, shall be during good behavior and 9197
efficient service. No ~~such~~ officer or employee shall be reduced in 9198
pay or position, fined, suspended, or removed, except as provided 9199
in section 124.32 of the Revised Code, and for incompetency, 9200
inefficiency, dishonesty, drunkenness, immoral conduct, 9201
insubordination, discourteous treatment of the public, neglect of 9202
duty, violation of this chapter or the rules of the director of 9203
administrative services or the commission, any other failure of 9204
good behavior, any other acts of misfeasance, malfeasance, or 9205
nonfeasance in office, or conviction of a felony. ~~An~~ 9206

An appointing authority may require an employee who is 9207
suspended to report to work to serve the suspension. An employee 9208
serving a suspension in this manner shall continue to be 9209
compensated at the employee's regular rate of pay for hours 9210
worked. ~~Such~~ The disciplinary action shall be recorded in the 9211
employee's personnel file in the same manner as other disciplinary 9212
actions and has the same effect as a suspension without pay for 9213
the purpose of recording disciplinary actions. 9214

A finding by the appropriate ethics commission, based upon a 9215
preponderance of the evidence, that the facts alleged in a 9216

complaint under section 102.06 of the Revised Code constitute a 9217
violation of Chapter 102., section 2921.42, or section 2921.43 of 9218
the Revised Code may constitute grounds for dismissal. Failure to 9219
file a statement or falsely filing a statement required by section 9220
102.02 of the Revised Code may also constitute grounds for 9221
dismissal. The tenure of an employee in the career professional 9222
service of the department of transportation is subject to section 9223
5501.20 of the Revised Code. 9224

Conviction of a felony is a separate basis for reducing in 9225
pay or position, suspending, or removing an officer or employee, 9226
even if the officer or employee has already been reduced in pay or 9227
position, suspended, or removed for the same conduct that is the 9228
basis of the felony. An officer or employee may not appeal to the 9229
state personnel board of review or the commission any disciplinary 9230
action taken by an appointing authority as a result of the 9231
officer's or employee's conviction of a felony. If an officer or 9232
employee removed under this section is reinstated as a result of 9233
an appeal of the removal, any conviction of a felony that occurs 9234
during the pendency of the appeal is a basis for further 9235
disciplinary action under this section upon the officer's or 9236
employee's reinstatement. 9237

A person convicted of a felony immediately forfeits the 9238
person's status as a classified employee in any public employment 9239
on and after the date of the conviction for the felony. If an 9240
officer or employee is removed under this section as a result of 9241
being convicted of a felony or is subsequently convicted of a 9242
felony that involves the same conduct that was the basis for the 9243
removal, the officer or employee is barred from receiving any 9244
compensation after the removal notwithstanding any modification or 9245
disaffirmance of the removal, unless the conviction for the felony 9246
is subsequently reversed or annulled. 9247

Any person removed for conviction of a felony is entitled to 9248

a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, ~~such~~ the person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

(1) A felony that is an offense of violence as defined in section 2901.01 of the Revised Code;

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 of the Revised Code;

(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;

(4) A felony involving dishonesty, fraud, or theft;

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In case of a reduction, suspension of more than three working days, fine in excess of three days' pay, or removal, except for the reduction or removal of a probationary employee, the appointing authority shall serve the employee with a copy of the order of reduction, fine, suspension, or removal, which order shall state the reasons for the action. The order shall be filed with the director of administrative services, in the case of an employee in the service of the state, and the state personnel board of review, or the commission, as may be appropriate.

Within ten days following the date on which the order is served or, in the case of an employee in the career professional service of the department of transportation, within ten days following the filing of a removal order, the employee, except as

otherwise provided in this section, may file an appeal of the
order in writing with the state personnel board of review or the
commission. For purposes of this section, the date on which an
order is served is the date of hand delivery of the order or the
date of delivery of the order by certified United States mail,
whichever occurs first. If ~~such~~ an appeal is filed, the board or
commission shall forthwith notify the appointing authority and
shall hear, or appoint a trial board to hear, the appeal within
thirty days from and after its filing with the board or
commission, and it may affirm, disaffirm, or modify the judgment
of the appointing authority.

In cases of removal or reduction in pay for disciplinary
reasons, either the appointing authority or the officer or
employee may appeal from the decision of the state personnel board
of review or the commission to the court of common pleas of the
county in which the employee resides in accordance with the
procedure provided by section 119.12 of the Revised Code.

(C) In the case of the suspension for any period of time, or
a fine, demotion, or removal, of a chief of police ~~or~~ a chief of
a fire department, or any member of the police or fire department
of a city or civil service township, the appointing authority
shall furnish ~~such~~ the chief or member ~~of a department~~ with a copy
of the order of suspension, fine, demotion, or removal, which
order shall state the reasons for the action. The order shall be
filed with the municipal or civil service township civil service
commission. Within ten days following the filing of the order,
~~such~~ the chief or member ~~of a department~~ may file an appeal, in
writing, with the ~~municipal or civil service township civil~~
~~service~~ commission. If ~~such~~ an appeal is filed, the commission
shall forthwith notify the appointing authority and shall hear, or
appoint a trial board to hear, the appeal within thirty days from
and after its filing with the commission, and it may affirm,

disaffirm, or modify the judgment of the appointing authority. An 9311
appeal on questions of law and fact may be had from the decision 9312
of the ~~municipal or civil service township civil service~~ 9313
commission to the court of common pleas in the county in which 9314
~~such~~ the city or civil service township is situated. ~~Such~~ The 9315
appeal shall be taken within thirty days from the finding of the 9316
commission. 9317

(D) A violation of division (A)(7) of section 2907.03 of the 9318
Revised Code is grounds for termination of employment of a 9319
nonteaching employee under this section. 9320

Sec. 124.328. A classified employee may appeal a layoff, or a 9321
displacement ~~which~~ that is the result of a layoff, to the state 9322
personnel board of review. The appeal shall be filed or 9323
~~post-marked~~ postmarked no later than ten days after receipt of the 9324
layoff notice ~~of layoff~~ or after the date the employee is 9325
displaced. In cases involving the laying off of classified 9326
employees, the affected employee or appointing authority may 9327
appeal the decision of the state personnel board of review to the 9328
court of common pleas court. ~~The appeal from the state personnel~~ 9329
~~board of review shall be made~~ in accordance with section 119.12 of 9330
the Revised Code. 9331

Sec. 125.041. Nothing in sections 125.02, 125.03 to 125.08, 9332
125.12 to 125.16, 125.18, 125.31 to 125.76, or 125.831 of the 9333
Revised Code shall be construed as limiting the attorney general, 9334
auditor of state, secretary of state, or treasurer of state in any 9335
of the following: 9336

(A) Purchases for less than the dollar amounts for the 9337
purchase of supplies or services determined pursuant to division 9338
(D) of section 125.05 of the Revised Code; 9339

(B) Purchases that equal or exceed the dollar amounts for the 9340

purchase of supplies or services determined pursuant to division	9341
(D) of section 125.05 of the Revised Code with the approval of the	9342
controlling board, if that approval is required by section 127.16	9343
of the Revised Code;	9344
(C) The final determination of the nature or quantity making	9345
any purchase of supplies or services to be purchased pursuant to	9346
section 125.06 of the Revised Code;	9347
(D) The final determination and disposal of excess and	9348
surplus supplies;	9349
(E) The inventory of state property;	9350
(F) The purchase of printing;	9351
(G) <u>The Activities related to information technology</u>	9352
<u>development and use;</u>	9353
<u>(H) The fleet management program.</u>	9354
Sec. 125.05. Except as provided in division (E) of this	9355
section, no state agency shall purchase any supplies or services	9356
except as provided in divisions (A) to (C) of this section.	9357
(A) Subject to division (D) of this section, a state agency	9358
may, without competitive selection, make any purchase of services	9359
that cost fifty thousand dollars or less or any purchase of	9360
supplies that cost twenty-five thousand dollars or less. The	9361
agency may make the purchase directly or may make the purchase	9362
from or through the department of administrative services,	9363
whichever the agency determines. The department shall establish	9364
written procedures to assist state agencies when they make direct	9365
purchases. If the agency makes the purchase directly, it shall	9366
make the purchase by a term contract whenever possible.	9367
(B) Subject to division (D) of this section, a state agency	9368
wanting to purchase services that cost more than fifty thousand	9369

dollars or supplies that cost more than twenty-five thousand 9370
dollars shall, unless otherwise authorized by law, make the 9371
purchase from or through the department. The department shall make 9372
the purchase by competitive selection under section 125.07 of the 9373
Revised Code. If the director of administrative services 9374
determines that it is not possible or not advantageous to the 9375
state for the department to make the purchase, the department 9376
shall grant the agency a release and permit under section 125.06 9377
of the Revised Code to make the purchase. Section 127.16 of the 9378
Revised Code does not apply to purchases the department makes 9379
under this section. 9380

(C) An agency that has been granted a release and permit to 9381
make a purchase may make the purchase without competitive 9382
selection if after making the purchase the cumulative purchase 9383
threshold as computed under division (F) of section 127.16 of the 9384
Revised Code would: 9385

(1) Be exceeded and the controlling board approves the 9386
purchase; 9387

(2) Not be exceeded and the department of administrative 9388
services approves the purchase. 9389

(D) Not later than January 31, 1997, the amounts specified in 9390
divisions (A) and (B) of this section and, not later than the 9391
thirty-first day of January of each second year thereafter, any 9392
amounts computed by adjustments made under this division, shall be 9393
increased or decreased by the average percentage increase or 9394
decrease in the consumer price index prepared by the United States 9395
bureau of labor statistics (U.S. City Average for Urban Wage 9396
Earners and Clerical Workers: "All Items 1982-1984=100") for the 9397
twenty-four calendar month period prior to the immediately 9398
preceding first day of January over the immediately preceding 9399
twenty-four calendar month period, as reported by the bureau. The 9400

director of administrative services shall make this determination 9401
and adjust the appropriate amounts accordingly. 9402

(E) If the eTech Ohio ~~SchoolNet~~ commission, the department of 9403
education, or the Ohio education computer network determines that 9404
it can purchase software services or supplies for specified school 9405
districts at a price less than the price for which the districts 9406
could purchase the same software services or supplies for 9407
themselves, the ~~office~~ commission, department, or network shall 9408
certify that fact to the department of administrative services 9409
and, acting as an agent for the specified school districts, shall 9410
make that purchase without following the provisions in divisions 9411
(A) to (D) of this section. 9412

Sec. 125.09. (A) Pursuant to section 125.07 of the Revised 9413
Code, the department of administrative services may prescribe ~~such~~ 9414
the conditions under which competitive sealed bids will be 9415
received and the terms of the proposed purchase as it considers 9416
necessary; provided, that all ~~such~~ of the conditions and terms 9417
shall be reasonable and shall not unreasonably restrict 9418
competition, and that bidders may bid upon all or any item of the 9419
supplies or services listed in ~~such~~ the notice. Those bidders 9420
claiming the preference for United States and Ohio products 9421
outlined in this chapter shall designate in their bids either that 9422
the product to be supplied is an Ohio product or that, under the 9423
rules established by the director of administrative services, they 9424
qualify as having a significant Ohio economic presence. 9425

(B) The department of administrative services may require 9426
that each bidder provide sufficient information about the energy 9427
efficiency or energy usage of the bidder's product or service. 9428

(C) The director of administrative services ~~shall~~, by rule 9429
adopted pursuant to Chapter 119. of the Revised Code, shall 9430
prescribe criteria and procedures for use by all state agencies in 9431

giving preference to United States and Ohio products as required 9432
by division (B) of section 125.11 of the Revised Code. The rules 9433
shall extend to the following: 9434

(1) Criteria for determining that a product is produced or 9435
mined in the United States rather than in another country or 9436
territory; 9437

(2) Criteria for determining that a product is produced or 9438
mined in ~~Ohio~~ this state; 9439

(3) Information to be submitted by bidders as to the nature 9440
of a product and the location where it is produced or mined; 9441

(4)(a) Criteria and procedures to be used by the director to 9442
qualify bidders located in states bordering ~~Ohio~~ this state who 9443
might otherwise be excluded from being awarded a contract by 9444
operation of this section and section 125.11 of the Revised Code. 9445
The criteria and procedures shall recognize the level and 9446
regularity of interstate commerce between ~~Ohio~~ this state and the 9447
border states and, except as provided in divisions (C)(4)(b) and 9448
(c) of this section, provide that the non-Ohio businesses may 9449
qualify for the award of a contract as long as they are located in 9450
a state that imposes no greater restrictions than are contained in 9451
this section and section 125.11 of the Revised Code upon persons 9452
located in ~~Ohio~~ this state who are selling products or services to 9453
agencies of that state. ~~The~~ 9454

(b) The criteria and procedures shall ~~also~~ provide that, in 9455
the case of a contract for state printing, a non-Ohio business 9456
shall not bid on a contract for state printing in this state if 9457
the business is located in a state that excludes Ohio businesses 9458
from bidding on state printing contracts in that state. 9459

(c) The criteria and procedures shall provide that, in the 9460
case of a contract for furniture, preference shall be given to 9461
bidders whose furniture is produced in this state, but that 9462

bidders whose furniture is produced in states bordering this state 9463
may qualify for the award of a contract if compliance with this 9464
requirement would result in the state agency involved paying an 9465
excessive price for the furniture or acquiring disproportionately 9466
inferior furniture. 9467

(5) Criteria and procedures to be used to qualify bidders 9468
whose manufactured products, except for mined products, are 9469
produced in other states or in North America, but the bidders have 9470
a significant Ohio economic presence in terms of the number of 9471
employees or capital investment a bidder has in this state. 9472
Bidders with a significant Ohio economic presence shall qualify 9473
for award of a contract on the same basis as if their products 9474
were produced in this state. 9475

(6) Criteria and procedures for the director to grant waivers 9476
of the requirements of division (B) of section 125.11 of the 9477
Revised Code on a contract-by-contract basis ~~where~~ if compliance 9478
with those requirements would result in the state agency involved 9479
paying an excessive price for the product or acquiring a 9480
disproportionately inferior product; 9481

(7) ~~Such other~~ Other requirements or procedures reasonably 9482
necessary to implement the system of preferences established 9483
pursuant to division (B) of section 125.11 of the Revised Code. 9484

(D) In adopting the rules required under ~~this~~ division (C) of 9485
this section, the director ~~shall~~ of administrative services, to 9486
the maximum extent possible, shall conform to the requirements of 9487
the federal "Buy America Act," 47 Stat. 1520, (1933), 41 U.S.C.A. 9488
10a-10d, as amended, and to the regulations adopted ~~thereunder~~ 9489
under that act. 9490

Sec. 125.11. (A) Subject to division (B) of this section, 9491
contracts awarded pursuant to a reverse auction under section 9492

125.072 of the Revised Code or pursuant to competitive sealed 9493
bidding, including contracts awarded under section 125.081 of the 9494
Revised Code, shall be awarded to the lowest responsive and 9495
responsible bidder on each item in accordance with section 9.312 9496
of the Revised Code. When the contract is for meat products as 9497
defined in section 918.01 of the Revised Code or poultry products 9498
as defined in section 918.21 of the Revised Code, only those bids 9499
received from vendors offering products from establishments on the 9500
current list of meat and poultry vendors established and 9501
maintained by the director of administrative services under 9502
section 125.17 of the Revised Code shall be eligible for 9503
acceptance. The department of administrative services may accept 9504
or reject any or all bids in whole or by items, except that when 9505
the contract is for services or products available from a 9506
qualified nonprofit agency pursuant to sections 125.60 to 125.6012 9507
or 4115.31 to 4115.35 of the Revised Code, the contract shall be 9508
awarded to that agency. 9509

(B) Prior to awarding a contract under division (A) of this 9510
section, the department of administrative services or the state 9511
agency responsible for evaluating a contract for the purchase of 9512
products shall evaluate the bids received according to the 9513
criteria and procedures established pursuant to divisions (C)(1) 9514
and (2) of section 125.09 of the Revised Code for determining if a 9515
product is produced or mined in the United States and if a product 9516
is produced or mined in this state. The department or other state 9517
agency shall first remove bids that offer products that have not 9518
been or that will not be produced or mined in the United States. 9519
From among the remaining bids, the department or other state 9520
agency shall select the lowest responsive and responsible bid, in 9521
accordance with section 9.312 of the Revised Code, from among the 9522
bids that offer products that have been produced or mined in this 9523
state where sufficient competition can be generated within this 9524

state to ensure that compliance with these requirements will not
result in an excessive price for the product or acquiring a
disproportionately inferior product. If there are two or more
qualified bids that offer products that have been produced or
mined in this state, it shall be deemed that there is sufficient
competition to prevent an excessive price for the product or the
acquiring of a disproportionately inferior product.

(C) Division (B) of this section applies to contracts for
which competitive bidding is waived by the controlling board.

(D) Division (B) of this section does not apply to the
purchase by the division of liquor control of spirituous liquor.

(E) The director of administrative services shall publish in
the form of a model act for use by counties, townships, municipal
corporations, or any other political subdivision described in
division (B) of section 125.04 of the Revised Code, a system of
preferences for products mined and produced in this state and in
the United States and for Ohio-based contractors. The model act
shall reflect substantial equivalence to the system of preferences
in purchasing and public improvement contracting procedures under
which the state operates pursuant to this chapter and section
153.012 of the Revised Code. To the maximum extent possible,
consistent with the Ohio system of preferences in purchasing and
public improvement contracting procedures, the model act shall
incorporate all of the requirements of the federal "Buy America
Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and
the rules adopted under that act.

Before and during the development and promulgation of the
model act, the director shall consult with appropriate statewide
organizations representing counties, townships, and municipal
corporations so as to identify the special requirements and
concerns these political subdivisions have in their purchasing and

public improvement contracting procedures. The director shall 9556
promulgate the model act by rule adopted pursuant to Chapter 119. 9557
of the Revised Code and shall revise the act as necessary to 9558
reflect changes in this chapter or section 153.012 of the Revised 9559
Code. 9560

The director shall make available copies of the model act, 9561
supporting information, and technical assistance to any township, 9562
county, or municipal corporation wishing to incorporate the 9563
provisions of the act into its purchasing or public improvement 9564
contracting procedure. 9565

Sec. 125.18. (A) There is hereby established the office of 9566
information technology in the department of administrative 9567
services. The office shall be under the supervision of a chief 9568
information officer to be appointed by the governor and subject to 9569
removal at the pleasure of the governor. The chief information 9570
officer shall serve as the director of the office. 9571

(B) The director of the office of information technology 9572
shall advise the governor regarding the superintendence and 9573
implementation of statewide information technology policy. 9574

(C) The director of the office of information technology 9575
shall lead, oversee, and direct state agency activities related to 9576
information technology development and use. In that regard, the 9577
director shall do all of the following: 9578

(1) Coordinate and superintend statewide efforts to promote 9579
common use and development of technology by multiple state 9580
agencies. The office of information technology relatedly shall 9581
establish policies and standards that govern and direct state 9582
agency participation in statewide programs and initiatives. 9583

(2) Establish policies and standards for the acquisition and 9584
use of information technology by state agencies, including, but 9585

not limited to, hardware, software, technology services, and 9586
security, with which state agencies shall comply; 9587

(3) Establish criteria and review processes to identify state 9588
agency information technology projects that require alignment or 9589
oversight. As appropriate, the office of information technology 9590
shall provide the governor and the director of budget and 9591
management with notice and advice regarding the appropriate 9592
allocation of resources for those projects. The director of the 9593
office of information technology may require state agencies to 9594
provide, and may prescribe the form and manner by which they must 9595
provide, information to fulfill the director's alignment and 9596
oversight role. 9597

(D) The office of information technology may make contracts 9598
for, operate, and superintend technology services for state 9599
agencies in accordance with this chapter. 9600

(E) The office of information technology may establish 9601
cooperative agreements with federal and local government agencies 9602
and state agencies that are not under the authority of the 9603
governor for the provision of technology services and the 9604
development of technology projects. 9605

(F) As used in this section, "state agency" means every 9606
organized body, office, or agency established by the laws of the 9607
state for the exercise of any function of state government, other 9608
than any state-supported institution of higher education, the 9609
office of the auditor of state, treasurer of state, secretary of 9610
state, or attorney general, the public employees retirement 9611
system, the Ohio police and fire pension fund, the state teachers 9612
retirement system, the school employees retirement system, the 9613
state highway patrol retirement system, the general assembly or 9614
any legislative agency, or the courts or any judicial agency. 9615

Sec. 125.25. (A) The director of administrative services may 9616
debar a vendor from consideration for contract awards upon a 9617
finding based upon a reasonable belief that the vendor has done 9618
any of the following: 9619

(1) Abused the selection process by repeatedly withdrawing 9620
bids or proposals before purchase orders or contracts are issued 9621
or failing to accept orders based upon firm bids; 9622

(2) Failed to substantially perform a contract according to 9623
its terms, conditions, and specifications within specified time 9624
limits; 9625

(3) Failed to cooperate in monitoring contract performance by 9626
refusing to provide information or documents required in a 9627
contract, failed to respond to complaints to the vendor, or 9628
accumulated repeated justified complaints regarding performance of 9629
a contract; 9630

(4) Attempted to influence a public employee to breach 9631
ethical conduct standards or to influence a contract award; 9632

(5) Colluded to restrain competition by any means; 9633

(6) Been convicted of a criminal offense related to the 9634
application for or performance of any public or private contract, 9635
including, but not limited to, embezzlement, theft, forgery, 9636
bribery, falsification or destruction of records, receiving stolen 9637
property, and any other offense that directly reflects on the 9638
vendor's business integrity; 9639

(7) Been convicted under state or federal antitrust laws; 9640

(8) Deliberately or willfully submitted false or misleading 9641
information in connection with the application for or performance 9642
of a public contract; 9643

(9) Violated any other responsible business practice or 9644

performed in an unsatisfactory manner as determined by the 9645
director; 9646

(10) Through the default of a contract or through other means 9647
had a determination of unresolved finding for recovery by the 9648
auditor of state under section 9.24 of the Revised Code; 9649

(11) Acted in such a manner as to be debarred from 9650
participating in a contract with any governmental agency. 9651

(B) When the director reasonably believes that grounds for 9652
debarment exist, the director shall send the vendor a notice of 9653
proposed debarment indicating the grounds for the proposed 9654
debarment and the procedure for requesting a hearing on the 9655
proposed debarment. The hearing shall be conducted in accordance 9656
with Chapter 119. of the Revised Code. If the vendor does not 9657
respond with a request for a hearing in the manner specified in 9658
Chapter 119. of the Revised Code, the director shall issue the 9659
debarment decision without a hearing and shall notify the vendor 9660
of the decision by certified mail, return receipt requested. 9661

(C) The director shall determine the length of the debarment 9662
period and may rescind the debarment at any time upon notification 9663
to the vendor. During the period of debarment, the vendor is not 9664
eligible to participate in any state contract. After the debarment 9665
period expires, the vendor shall be eligible to be awarded 9666
contracts by state agencies. (D) The director, through the office 9667
of information technology and the office of procurement services, 9668
shall maintain a list of all vendors currently debarred under this 9669
section. 9670

Sec. 125.60. As used in sections 125.60 to 125.6012 of the 9671
Revised Code: 9672

(A) "Community rehabilitation program" means an agency that: 9673

(1) Is organized under the laws of the United States or this 9674

<u>state such that no part of its net income inures to the benefit of</u>	9675
<u>any shareholder or other individual;</u>	9676
<u>(2) Is certified as a sheltered workshop, if applicable, by</u>	9677
<u>the wage and hour division of the United States department of</u>	9678
<u>labor;</u>	9679
<u>(3) Is registered and in good standing with the secretary of</u>	9680
<u>state as a domestic nonprofit or not-for-profit corporation;</u>	9681
<u>(4) Complies with applicable occupational health and safety</u>	9682
<u>standards required by the laws of the United States or of this</u>	9683
<u>state;</u>	9684
<u>(5) Operates in the interest of persons with work-limiting</u>	9685
<u>disabilities, provides vocational or other employment-related</u>	9686
<u>training to persons with work-limiting disabilities, and employs</u>	9687
<u>persons with work-limiting disabilities in the manufacture of</u>	9688
<u>products or the provision of services;</u>	9689
<u>(6) Is a nonprofit corporation for federal tax purposes.</u>	9690
<u>(B) "Government ordering office" means any of the following:</u>	9691
<u>(1) Any state agency, including the general assembly, the</u>	9692
<u>supreme court, and the office of a state elected official, or any</u>	9693
<u>state authority, board, bureau, commission, institution, or</u>	9694
<u>instrumentality that is funded in total or in part by state money;</u>	9695
<u>(2) A county, township, or village.</u>	9696
<u>(C) "Person with a work-limiting disability" means an</u>	9697
<u>individual who has a disability as defined in the "Americans with</u>	9698
<u>Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101, and</u>	9699
<u>who:</u>	9700
<u>(1) Because of that disability is substantially limited in</u>	9701
<u>the type or quantity of work the individual can perform or is</u>	9702
<u>prevented from working regularly;</u>	9703

(2) Meets criteria established by the office of procurement 9704
from community rehabilitation programs. 9705

Sec. 125.601. (A) Not later than July 1, 2007, the director 9706
of administrative services shall establish the office of 9707
procurement from community rehabilitation programs within the 9708
department of administrative services. The director shall 9709
designate an employee of the department to serve as administrator 9710
of the office. 9711

(B) Not later than July 1, 2007, the director shall abolish 9712
the state committee for the purchase of products and services 9713
provided by persons with severe disabilities in accordance with 9714
section 4115.36 of the Revised Code. 9715

Sec. 125.602. (A) The department of mental retardation and 9716
developmental disabilities, the department of mental health, the 9717
department of job and family services, the rehabilitation services 9718
commission, and any other state or governmental agency or 9719
community rehabilitation program responsible for the provision of 9720
rehabilitation and vocational educational services to persons with 9721
work-limiting disabilities may, through written agreement, 9722
cooperate in providing resources to the department of 9723
administrative services for the operation of the office of 9724
procurement from community rehabilitation programs. These 9725
resources may include, but are not limited to, leadership and 9726
assistance in dealing with the societal aspects of meeting the 9727
needs of persons with work-limiting disabilities. 9728

(B) The office and all governmental entities that administer 9729
socioeconomic programs may enter into contractual agreements, 9730
cooperative working relationships, or other arrangements that are 9731
necessary for effective coordination and realization of the 9732
objectives of these entities. 9733

Sec. 125.603. (A) The office of procurement from community rehabilitation programs shall do the following in addition to other duties specified in sections 125.60 to 125.6012 of the Revised Code: 9734
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(1) Establish, maintain, and periodically update a procurement list of approved supplies and services available from qualified nonprofit agencies; 9738
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(2) Monitor the procurement practices of government ordering offices to ensure compliance with sections 125.60 to 125.6012 of the Revised Code; 9741
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(3) In cooperation with qualified nonprofit agencies, government ordering offices, the department of mental retardation and developmental disabilities, the department of mental health, the department of job and family services, and the rehabilitation services commission, develop and recommend to the director of administrative services rules the director shall adopt in accordance with Chapter 119. of the Revised Code for the effective and efficient administration of sections 125.60 to 125.6012 of the Revised Code; 9744
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(4) Prepare a report of its activities by the last day of December of each year. The report shall be posted electronically on the office's web site. 9753
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(B) The office of procurement from community rehabilitation programs may enter into contractual agreements and establish pilot programs to further the objectives of sections 125.60 to 125.6012 of the Revised Code. 9756
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Sec. 125.604. A community rehabilitation program may apply to the office of procurement from community rehabilitation programs to be certified as qualified to provide its supplies and services for procurement by government ordering offices. The office shall 9760
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prescribe the form of the application. If the office is satisfied 9764
the program is qualified, it shall certify the program as a 9765
qualified nonprofit agency for the purposes of sections 125.60 to 9766
125.6012 of the Revised Code. 9767

Sec. 125.605. The office of procurement from community 9768
rehabilitation programs may certify any entity to serve as an 9769
approved agent of a qualified nonprofit agency for the purposes of 9770
sections 125.60 to 125.6012 of the Revised Code. The office shall 9771
prescribe procedures under which an entity can apply and be 9772
considered for such certification. An approved agent may do any of 9773
the following: 9774

(A) Contract with the office of procurement from community 9775
rehabilitation programs to provide centralized business 9776
facilitation or other assistance to qualified nonprofit agencies. 9777
The office shall consult with qualified nonprofit agencies before 9778
agreeing to such a contract. 9779

(B) Act as a distributor of supplies and services registered 9780
on the procurement list maintained by the office under section 9781
125.603 of the Revised Code; 9782

(C) Provide marketing, administrative, and other services 9783
related to sales. 9784

Sec. 125.606. Prior to purchases by government ordering 9785
offices, the office of procurement from community rehabilitation 9786
programs shall attempt to establish for each item on the 9787
procurement list a fair market price that is representative of the 9788
range of prices that a government ordering office would expect to 9789
pay to purchase the item in the marketplace. When establishing a 9790
fair market price for an item, the office of procurement from 9791
community rehabilitation programs shall consider the costs of 9792
doing business with respect to that item, including sales, 9793

marketing, and research and development costs and agent fees. If 9794
the office of procurement from community rehabilitation programs 9795
cannot establish a fair market price for a particular supply or 9796
service, the government ordering office shall attempt to establish 9797
the fair market price pursuant to division (B) of section 125.607 9798
of the Revised Code for each purchase of such supply or service. 9799

Sec. 125.607. (A) Before purchasing any supply or service, a 9800
governmental ordering office shall determine whether the supply or 9801
service is on the procurement list maintained by the office of 9802
procurement from community rehabilitation programs. If the supply 9803
or service is on the list at an established fair market price, the 9804
government ordering office shall purchase it from the qualified 9805
nonprofit agency or approved agent at that price. 9806

(B) If the supply or service is on the procurement list but a 9807
fair market price has not been established, the government 9808
ordering office shall attempt to negotiate an agreement with one 9809
or more of the listed qualified nonprofit agencies or approved 9810
agents. The office of procurement from community rehabilitation 9811
programs may accept as fair market price an agreement negotiated 9812
between the government ordering office and a qualified nonprofit 9813
agency or approved agent. 9814

(C) If an agreement is not successfully negotiated, the 9815
office may establish a fair market price, or it may release a 9816
government ordering office from the requirements of this section. 9817

(D) A purchase under divisions (A) to (C) of this section is 9818
not subject to any competitive selection or competitive bidding 9819
requirements, notwithstanding any other provision of law. 9820

(E) The department of administrative services has the 9821
authority to structure or regulate competition among qualified 9822
nonprofit agencies for the overall benefit of the program. 9823

Sec. 125.608. All government ordering offices purchasing 9824
supplies and services from qualified non-profit agencies or their 9825
approved agents shall reimburse the department of administrative 9826
services a reasonable sum to cover the department's costs of 9827
administering sections 125.60 to 125.6012 of the Revised Code. The 9828
department may bill administrative costs to government ordering 9829
offices directly, or allow qualified non-profit agencies or 9830
approved agents to collect and remit department administrative 9831
fees, at the department's discretion. Any department 9832
administrative fees collected and remitted by qualified nonprofit 9833
agencies or their approved agents shall be considered allowable 9834
expenses in addition to the fair market price approved under 9835
section 125.606 or 125.607 of the Revised Code. The money so paid 9836
shall be deposited in the state treasury to the credit of the 9837
general services fund created under section 125.15 of the Revised 9838
Code. 9839

Sec. 125.609. The office of procurement from community 9840
rehabilitation programs, on its own or pursuant to a request from 9841
a government ordering office, may release a government ordering 9842
office from compliance with sections 125.60 to 125.6012 of the 9843
Revised Code. If the office determines that compliance is not 9844
possible or not advantageous, or if conditions prescribed in rules 9845
as may be adopted under section 125.603 of the Revised Code for 9846
granting a release are met, the office may grant a release. The 9847
release shall be in writing, and shall specify the supplies or 9848
services to which it applies, the period of time during which it 9849
is effective, and the reason for which it is granted. 9850

Sec. 125.6010. Section 125.607 of the Revised Code does not 9851
apply to the purchase of a product or service available from a 9852
state agency, state instrumentality, or political subdivision 9853

under any law in effect on July 1, 2005.

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Sec. 125.6011. (A) Nothing in sections 125.60 to 125.6012 of the Revised Code shall be construed to prohibit the purchase of a supply or service from a qualified nonprofit agency by a political subdivision that is not a government ordering office.

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(B) Purchases made under this section by a political subdivision, as defined in section 125.04 of the Revised Code, are exempt from any competitive selection procedures otherwise required by law. Purchases under this section shall be made from qualified nonprofit agencies or their approved agents.

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(C) A political subdivision, as defined in section 125.04 of the Revised Code, may not purchase under division (C) of that section a supply or service on the procurement list established under section 125.603 of the Revised Code.

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Sec. 125.6012. A government ordering office and qualified nonprofit agency shall provide the necessary information and documentation requested by the office of procurement from community rehabilitation programs to enable the office to effectively administer sections 125.60 to 125.6012 of the Revised Code.

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

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

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(B)(1) "Motor vehicle" means any automobile, car minivan, 9883
cargo van, passenger van, sport utility vehicle, or pickup truck 9884
with a gross vehicle weight of under twelve thousand pounds. 9885

(2) "Motor vehicle" does not include, except for the purposes 9886
of division (C) of section 125.832 of the Revised Code, any 9887
vehicle described in division (B)(1) of this section that is used 9888
by a law enforcement officer and law enforcement agency or any 9889
vehicle that is so described and that is equipped with specialized 9890
equipment that is not normally found in such a vehicle and that is 9891
used to carry out a state agency's specific and specialized duties 9892
and responsibilities. 9893

(C) "Specialized equipment" does not include standard mobile 9894
radios with no capabilities other than voice communication, 9895
exterior and interior lights, or roof-mounted caution lights. 9896

(D) "State agency" means every organized body, office, board, 9897
authority, commission, or agency established by the laws of the 9898
state for the exercise of any governmental or quasi-governmental 9899
function of state government regardless of the funding source for 9900
that entity, other than any ~~state-supported~~ state institution of 9901
higher education, the office of the governor, lieutenant governor, 9902
auditor of state, treasurer of state, secretary of state, or 9903
attorney general, the general assembly or any legislative agency, 9904
~~or~~ the courts or any judicial agency, the state highway patrol, or 9905
any state retirement system or retirement program established by 9906
or referenced in the Revised Code. 9907

(E) "State institution of higher education" has the same 9908
meaning as in section 3345.011 of the Revised Code. 9909

Sec. 125.832. (A) The department of administrative services 9910
is granted exclusive authority over the acquisition and management 9911
of all motor vehicles used by state agencies. In carrying out this 9912

authority, the department shall do both of the following: 9913

(1) Approve the purchase or lease of each motor vehicle for 9914
use by a state agency. The department shall decide if a motor 9915
vehicle shall be leased or purchased for that use. 9916

Except as otherwise provided in division (A)(1) of this 9917
section, on and after July 1, 2005, each state agency shall 9918
acquire all passenger motor vehicles under the department's master 9919
leasing program. If the department determines that acquisition 9920
under that program is not the most economical method and if the 9921
department and the state agency acquiring the passenger motor 9922
vehicle can provide economic justification for doing so, the 9923
department may approve the purchase, rather than the lease, of a 9924
passenger motor vehicle for the acquiring state agency. 9925

(2) Direct and approve all funds that are expended for the 9926
purchase, lease, repair, maintenance, registration, insuring, and 9927
other costs related to the possession and operation of motor 9928
vehicles for the use of state agencies. 9929

(B) The director of administrative services shall establish 9930
and operate a fleet management program. The director shall operate 9931
the program for purposes including, but not limited to, 9932
cost-effective acquisition, maintenance, management, analysis, and 9933
disposal of all motor vehicles owned or leased by the state. All 9934
state agencies shall comply with statewide fleet management 9935
policies and procedures established by the director for the 9936
program, including, but not limited to, motor vehicle assignments, 9937
additions of motor vehicles to fleets or motor vehicle 9938
replacements, motor vehicle fueling, and motor vehicle repairs. 9939

(C) The director shall establish and maintain a fleet 9940
reporting system and shall require state agencies to submit to the 9941
department information relative to state motor vehicles, including 9942
motor vehicles described in division (B)(2) of section 125.831 of 9943

the Revised Code, to be used in operating the fleet management 9944
program. State agencies shall provide to the department fleet data 9945
and other information, including, but not limited to, mileage and 9946
costs. The data and other information shall be submitted in 9947
formats and in a manner determined by the department. 9948

(D) All state agency purchases or leases of motor vehicles 9949
are subject to the prior approval of the director under division 9950
(A)(1) of this section. 9951

(E) State agencies that utilize state motor vehicles or pay 9952
mileage reimbursements to employees shall provide a fleet plan to 9953
the department as directed by the department. 9954

(F)(1) The fleets of state agencies that consist of one 9955
hundred or less vehicles on July 1, 2004, shall be managed by the 9956
department's fleet management program on a time schedule 9957
determined by the department, unless the state agency has received 9958
delegated authority as described in division (G) of this section. 9959

(2) The fleets of state agencies that consist of greater than 9960
one hundred motor vehicles, but less than five hundred motor 9961
vehicles, on July 1, 2005, also shall be managed by the 9962
department's fleet management program on a time schedule 9963
determined by the department, unless the state agency has received 9964
delegated authority as described in division (G) of this section. 9965

(G)(1) The department may delegate any or all of its duties 9966
regarding fleet management to a state agency, if the state agency 9967
demonstrates to the satisfaction of the department both of the 9968
following: 9969

(a) Capabilities to institute and manage a fleet management 9970
program, including, but not limited to, the presence of a 9971
certified fleet manager; 9972

(b) Fleet management performance, as demonstrated by fleet 9973
data and other information submitted pursuant to annual reporting 9974

requirements and any other criteria the department considers 9975
necessary in evaluating the performance. 9976

(2) The department may determine that a state agency is not 9977
in compliance with this section and direct that the agency's fleet 9978
management duties be transferred to the department. 9979

(H) The proceeds derived from the disposition of any motor 9980
vehicles under this section shall be paid to whichever of the 9981
following applies: 9982

(1) The fund that originally provided moneys for the purchase 9983
or lease of the motor vehicles; 9984

(2) If the motor vehicles were originally purchased with 9985
moneys derived from the general revenue fund, the proceeds shall 9986
be deposited, in the director's discretion, into the state 9987
treasury ~~for~~ to the credit ~~to~~ of either the fleet management fund 9988
created by section 125.83 of the Revised Code or the investment 9989
recovery fund created by section 125.14 of the Revised Code. 9990

(I)(1) The department shall create and maintain a certified 9991
fleet manager program. 9992

(2) State agencies that have received delegated authority as 9993
described in division (G) of this section shall have a certified 9994
fleet manager. 9995

(J) The department annually shall prepare and submit a 9996
statewide fleet report to the governor, the speaker of the house 9997
of representatives, and the president of the senate. The report 9998
shall be submitted not later than the thirty-first day of January 9999
following the end of each fiscal year. It may include, but is not 10000
limited to, the numbers and types of motor vehicles, their 10001
mileage, miles per gallon, and cost per mile, mileage 10002
reimbursements, accident and insurance data, and information 10003
regarding compliance by state agencies having delegated authority 10004

under division (G) of this section with applicable fleet 10005
management requirements. 10006

(K) The director shall adopt rules for implementing the fleet 10007
management program that are consistent with recognized best 10008
practices. The program shall be supported by reasonable fee 10009
charges for the services provided. The director shall collect 10010
these fees and deposit them into the state treasury to the credit 10011
for the fleet management fund created by section 125.83 of the 10012
Revised Code. The setting and collection of fees under this 10013
division is not subject to any restriction imposed by law upon the 10014
director's or the department's authority to set or collect fees. 10015

(L) The director also shall adopt rules that prohibit, except 10016
in very limited circumstances, the exclusive assignment of 10017
state-owned, leased, or pooled motor vehicles to state employees 10018
and that prohibit the reimbursement under section 126.31 of the 10019
Revised Code of state employees who use their own motor vehicles 10020
for any mileage they incur above an amount that the department 10021
shall determine annually unless reimbursement for the excess 10022
mileage is approved by the department in accordance with standards 10023
for that approval the director shall establish in those rules. 10024
~~Beginning on the effective date of this section September 26,~~ 10025
2003, no such state-owned, leased, or pooled motor vehicle shall 10026
be personally assigned as any form of compensation or benefit of 10027
state employment, and no ~~such~~ state-owned, leased, or pooled motor 10028
vehicle shall be assigned to an employee solely for commuting to 10029
and from home and work. 10030

(M) The director shall do both of the following: 10031

(1) Implement to the greatest extent possible the 10032
recommendations from the 2002 report entitled "Administrative 10033
Analysis of the Ohio Fleet Management Program" in connection with 10034
the authority granted to the department by this section; 10035

(2) Attempt to reduce the number of passenger vehicles used	10036
by state agencies during the fiscal years ending on June 30, 2004,	10037
and June 30, 2005.	10038
(N) Each state agency shall reimburse the department for all	10039
costs incurred in the assignment of motor vehicles to the state	10040
agency.	10041
(O) The director shall do all of the following in managing	10042
the fleet management program:	10043
(1) Determine how motor vehicles will be maintained, insured,	10044
operated, financed, and licensed;	10045
(2) Pursuant to the formula in division (O)(3) of this	10046
section, annually establish the minimum number of business miles	10047
per year an employee of a state agency must drive in order to	10048
qualify for approval by the department to receive a motor vehicle	10049
for business use;	10050
(3) Establish the minimum number of business miles per year	10051
at an amount that results when the annual motor vehicle cost is	10052
divided by the amount that is the reimbursement rate per mile	10053
minus the amount that is the sum of the fuel cost, the operating	10054
cost, and the insurance cost. As used in this division:	10055
(a) "Annual motor vehicle cost" means the price of a motor	10056
vehicle divided by the number of years an average motor vehicle is	10057
used.	10058
(b) "Fuel cost" means the average price per gallon of motor	10059
fuel divided by the miles per gallon fuel efficiency of a motor	10060
vehicle.	10061
(c) "Insurance cost" means the cost of insuring a motor	10062
vehicle per year divided by the number of miles an average motor	10063
vehicle is driven per year.	10064
(d) "Operating cost" means the maintenance cost of a motor	10065

vehicle per year divided by the product resulting when the number
of miles an average motor vehicle is driven per year is multiplied
by the number of years an average motor vehicle is used.

(e) "Reimbursement rate per mile" means the reimbursement per
mile rate for travel expenses as provided by rule of the director
of budget and management adopted under division (B) of section
126.31 of the Revised Code.

(P)(1) Not later than the fifteenth day of September of each
year, each state institution of higher education shall report to
the Ohio board of regents on all of the following topics relating
to motor vehicles that the institution acquires and manages:

(a) The methods it uses to track the motor vehicles;

(b) Whether or not it uses a fuel card program to purchase
fuel for, or to pay for the maintenance of, the motor vehicles;

(c) Whether or not it makes bulk purchases of fuel for the
motor vehicles.

(2) Assuming it does not use the fleet management tracking,
fuel card program, and bulk fuel purchases tools and services that
the department of administrative services provides, the report of
a state institution of higher education required by division
(P)(1) of this section also shall include both of the following:

(a) An analysis of the amount the institution would save, if
any, if it were to use the fleet management tracking, fuel card
program, and bulk fuel purchases tools and services that the
department provides instead of the fleet management system the
institution regularly uses;

(b) A rationale for either continuing with the fleet
management system that the institution regularly uses or changing
to the use of those tools and services that the department
provides.

(3) The board shall certify to the department within ninety days after receipt of all reports under division (P)(1) of this section a list of those state institutions of higher education that the board determines would save amounts if they were to use the fleet management tracking, fuel card program, and bulk fuel purchases tools and services that the department provides. The institutions so certified then shall use those tools and services that the department provides until the board next certifies institutions under division (P)(3) of this section.

Sec. 126.25. The accounting and budgeting services provided by the director of budget and management shall be supported by user charges. The director shall determine a rate that is sufficient to defray the expense of those services and the manner by which those charges shall be collected. All money collected from user charges shall be deposited in the state treasury to the credit of the ~~state~~ accounting and budgeting fund, which is hereby created. Rebates or revenue shares received from any state payment card program established under division (B) of section 126.21 of the Revised Code and miscellaneous payments that reimburse expenses paid from the ~~state~~ accounting and budgeting fund may be deposited into the ~~state~~ accounting and budgeting fund and used to support accounting and budgeting services.

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

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

shall: 10126

(1) Make any purchase from a particular supplier, that would 10127
amount to fifty thousand dollars or more when combined with both 10128
the amount of all disbursements to the supplier during the fiscal 10129
year for purchases made by the agency and the amount of all 10130
outstanding encumbrances for purchases made by the agency from the 10131
supplier, unless the purchase is made by competitive selection or 10132
with the approval of the controlling board; 10133

(2) Lease real estate from a particular supplier, if the 10134
lease would amount to seventy-five thousand dollars or more when 10135
combined with both the amount of all disbursements to the supplier 10136
during the fiscal year for real estate leases made by the agency 10137
and the amount of all outstanding encumbrances for real estate 10138
leases made by the agency from the supplier, unless the lease is 10139
made by competitive selection or with the approval of the 10140
controlling board. 10141

(C) Any person who authorizes a purchase in violation of 10142
division (B) of this section shall be liable to the state for any 10143
state funds spent on the purchase, and the attorney general shall 10144
collect the amount from the person. 10145

(D) Nothing in division (B) of this section shall be 10146
construed as: 10147

(1) A limitation upon the authority of the director of 10148
transportation as granted in sections 5501.17, 5517.02, and 10149
5525.14 of the Revised Code; 10150

(2) Applying to medicaid provider agreements under Chapter 10151
5111. of the Revised Code ~~or payments or provider agreements under~~ 10152
~~the disability medical assistance program established under~~ 10153
~~Chapter 5115. of the Revised Code;~~ 10154

(3) Applying to the purchase of examinations from a sole 10155

supplier by a state licensing board under Title XLVII of the Revised Code; 10156
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(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair; 10158
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(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code; 10167
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(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as the board considers appropriate. 10171
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(7) Applying to purchases made with money for the per cent for arts program established by section 3379.10 of the Revised Code; 10179
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(8) Applying to purchases made by the rehabilitation services commission of services, or supplies, that are provided to persons with disabilities, or to purchases made by the commission in connection with the eligibility determinations it makes for applicants of programs administered by the social security 10182
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administration;	10187
(9) Applying to payments by the department of job and family services under section 5111.13 of the Revised Code for group health plan premiums, deductibles, coinsurance, and other cost-sharing expenses;	10188 10189 10190 10191
(10) Applying to any agency of the legislative branch of the state government;	10192 10193
(11) Applying to agreements or contracts entered into under section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the Revised Code;	10194 10195 10196
(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;	10197 10198 10199 10200
(13) Applying to dues or fees paid for membership in an organization or association;	10201 10202
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	10203 10204
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	10205 10206 10207 10208
(16) Applying to purchases of tickets for passenger air transportation;	10209 10210
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	10211 10212 10213
(18) Applying to the judicial branch of state government;	10214
(19) Applying to purchases of liquor for resale by the	10215

division of liquor control;	10216
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	10217 10218 10219
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	10220 10221 10222 10223
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	10224 10225 10226
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	10227 10228
(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	10229 10230 10231 10232
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections <u>125.60 to 125.6012 or</u> 4115.31 to 4115.35 of the Revised Code;	10233 10234 10235
(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;	10236 10237 10238 10239 10240
(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5123.199 of the Revised Code;	10241 10242 10243
(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section	10244 10245

5119.101 of the Revised Code;	10246
(29) Applying to contracts entered into with persons by the	10247
director of commerce for unclaimed funds collection and remittance	10248
efforts as provided in division (F) of section 169.03 of the	10249
Revised Code. The director shall keep an itemized accounting of	10250
unclaimed funds collected by those persons and amounts paid to	10251
them for their services.	10252
(30) Applying to purchases made by a state institution of	10253
higher education in accordance with the terms of a contract	10254
between the vendor and an inter-university purchasing group	10255
comprised of purchasing officers of state institutions of higher	10256
education;	10257
(31) Applying to the department of job and family services'	10258
purchases of health assistance services under the children's	10259
health insurance program part I provided for under section 5101.50	10260
of the Revised Code or the children's health insurance program	10261
part II provided for under section 5101.51 of the Revised Code;	10262
(32) Applying to payments by the attorney general from the	10263
reparations fund to hospitals and other emergency medical	10264
facilities for performing medical examinations to collect physical	10265
evidence pursuant to section 2907.28 of the Revised Code;	10266
(33) Applying to contracts with a contracting authority or	10267
administrative receiver under division (G)(2) (B) of section	10268
5126.055 <u>5126.056</u> of the Revised Code;	10269
(34) Applying to reimbursements paid to the United States	10270
department of veterans affairs for pharmaceutical and patient	10271
supply purchases made on behalf of the Ohio veterans' home agency;	10272
(35) Applying to agreements the department of job and family	10273
services enters into with terminal distributors of dangerous drugs	10274
under section 5110.12 of the Revised Code.	10275

(E) Notwithstanding division (B)(1) of this section, the cumulative purchase threshold shall be seventy-five thousand dollars for the departments of mental retardation and developmental disabilities, mental health, rehabilitation and correction, and youth services.

(F) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1), (B)(2), and (E) of this section, all of the following purchases by such agency shall not be considered:

(1) Purchases made through competitive selection or with controlling board approval;

(2) Purchases listed in division (D) of this section;

(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.

(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.

Sec. 131.02. (A) Whenever any amount is payable to the state, the officer, employee, or agent responsible for administering the law under which the amount is payable shall immediately proceed to collect the amount or cause the amount to be collected and shall pay the amount into the state treasury or into the appropriate custodial fund in the manner set forth pursuant to section 113.08 of the Revised Code. ~~If~~ Except as otherwise provided in this division, if the amount is not paid within forty-five days after payment is due, the officer, employee, or agent shall certify the amount due to the attorney general, in the form and manner prescribed by the attorney general, and notify the director of budget and management thereof. In the case of an amount payable by a student enrolled in a state institution of higher education, the

amount shall be certified within the later of forty-five days 10306
after the amount is due or the tenth day after the beginning of 10307
the next academic semester, quarter, or other session following 10308
the session for which the payment is payable. The attorney general 10309
may assess the collection cost to the amount certified in such 10310
manner and amount as prescribed by the attorney general. 10311

For the purposes of this section, a payment is due at the 10312
time provided in divisions (A)(1) to (9) of this section. If more 10313
than one division applies to a payment, the payment is due at the 10314
earliest of the applicable times. 10315

(1) If a law, including an administrative rule, of this state 10316
prescribes the time a payment is required to be made or reported, 10317
when the payment is required by that law to be paid or reported. 10318

(2) If the payment is for services rendered, when the 10319
rendering of the services is completed. 10320

(3) If the payment is reimbursement for a loss, when the loss 10321
is incurred. 10322

(4) In the case of a fine or penalty for which a law or 10323
administrative rule does not prescribe a time for payment, when 10324
the fine or penalty is first assessed. 10325

(5) If the payment arises from a legal finding, judgment, or 10326
adjudication order, when the finding, judgment, or order is 10327
rendered or issued. 10328

(6) If the payment arises from an overpayment of money by the 10329
state to another person, when the overpayment is discovered. 10330

(7) The date on which the amount for which an individual is 10331
personally liable under section 5735.35, section 5739.33, or 10332
division (G) of section 5747.07 of the Revised Code is determined. 10333

(8) Upon proof of claim being filed in a bankruptcy case. 10334

(9) Any other appropriate time determined by the officer, 10335

employee, or agent responsible for administering the law under 10336
which the amount is payable on the basis of statutory requirements 10337
or ordinary business processes of the state agency to which the 10338
payment is owed. 10339

(B)(1) The attorney general shall give immediate notice by 10340
mail or otherwise to the party indebted of the nature and amount 10341
of the indebtedness. 10342

(2) If the amount payable to this state arises from a tax 10343
levied under Chapter 5733., 5739., 5741., or 5747. of the Revised 10344
Code, the notice also shall specify all of the following: 10345

(a) The assessment or case number; 10346

(b) The tax pursuant to which the assessment is made; 10347

(c) The reason for the liability, including, if applicable, 10348
that a penalty or interest is due; 10349

(d) An explanation of how and when interest will be added to 10350
the amount assessed; 10351

(e) That the attorney general and tax commissioner, acting 10352
together, have the authority, but are not required, to compromise 10353
the claim and accept payment over a reasonable time, if such 10354
actions are in the best interest of the state. 10355

(C) The attorney general shall collect the claim or secure a 10356
judgment and issue an execution for its collection. 10357

(D) Each claim shall bear interest, from the day on which the 10358
claim became due, at the rate per annum required by section 10359
5703.47 of the Revised Code. 10360

(E) The attorney general and the chief officer of the agency 10361
reporting a claim, acting together, may do any of the following if 10362
such action is in the best interests of the state: 10363

(1) Compromise the claim; 10364

(2) Extend for a reasonable period the time for payment of the claim by agreeing to accept monthly or other periodic payments. The agreement may require security for payment of the claim. 10365
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(3) Add fees to recover the cost of processing checks or other draft instruments returned for insufficient funds and the cost of providing electronic payment options. 10369
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(F)(1) Except as provided in division (F)(2) of this section, if the attorney general finds, after investigation, that any claim due and owing to the state is uncollectible, the attorney general, with the consent of the chief officer of the agency reporting the claim, may do the following: 10372
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(a) Sell, convey, or otherwise transfer the claim to one or more private entities for collection; 10377
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(b) Cancel the claim or cause it to be cancelled. 10379

(2) The attorney general shall cancel or cause to be cancelled an unsatisfied claim on the date that is forty years after the date the claim is certified. 10380
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Sec. 131.23. The various political subdivisions of this state may issue bonds, and any indebtedness created by such issuance shall not be subject to the limitations or included in the calculation of indebtedness prescribed by sections 133.05, 133.06, 133.07, and 133.09 of the Revised Code, but such bonds may be issued only under the following conditions: 10383
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(A) The subdivision desiring to issue such bonds shall obtain from the county auditor a certificate showing the total amount of delinquent taxes due and unpayable to such subdivision at the last semiannual tax settlement. 10389
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(B) The fiscal officer of that subdivision shall prepare a statement, from the books of the subdivision, verified by the 10393
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fiscal officer under oath, which shall contain the following facts	10395
of such subdivision:	10396
(1) The total bonded indebtedness;	10397
(2) The aggregate amount of notes payable or outstanding	10398
accounts of the subdivision, incurred prior to the commencement of	10399
the current fiscal year, which shall include all evidences of	10400
indebtedness issued by the subdivision except notes issued in	10401
anticipation of bond issues and the indebtedness of any	10402
nontax-supported public utility;	10403
(3) Except in the case of school districts, the aggregate	10404
current year's requirement for disability financial assistance and	10405
disability medical assistance provided under Chapter 5115. of the	10406
Revised Code that the subdivision is unable to finance except by	10407
the issue of bonds;	10408
(4) The indebtedness outstanding through the issuance of any	10409
bonds or notes pledged or obligated to be paid by any delinquent	10410
taxes;	10411
(5) The total of any other indebtedness;	10412
(6) The net amount of delinquent taxes unpledged to pay any	10413
bonds, notes, or certificates, including delinquent assessments on	10414
improvements on which the bonds have been paid;	10415
(7) The budget requirements for the fiscal year for bond and	10416
note retirement;	10417
(8) The estimated revenue for the fiscal year.	10418
(C) The certificate and statement provided for in divisions	10419
(A) and (B) of this section shall be forwarded to the tax	10420
commissioner together with a request for authority to issue bonds	10421
of such subdivision in an amount not to exceed seventy per cent of	10422
the net unobligated delinquent taxes and assessments due and owing	10423
to such subdivision, as set forth in division (B)(6) of this	10424

section. 10425

(D) No subdivision may issue bonds under this section in 10426
excess of a sufficient amount to pay the indebtedness of the 10427
subdivision as shown by division (B)(2) of this section and, 10428
except in the case of school districts, to provide funds for 10429
disability financial assistance ~~and disability medical assistance~~, 10430
as shown by division (B)(3) of this section. 10431

(E) The tax commissioner shall grant to such subdivision 10432
authority requested by such subdivision as restricted by divisions 10433
(C) and (D) of this section and shall make a record of the 10434
certificate, statement, and grant in a record book devoted solely 10435
to such recording and which shall be open to inspection by the 10436
public. 10437

(F) The commissioner shall immediately upon issuing the 10438
authority provided in division (E) of this section notify the 10439
proper authority having charge of the retirement of bonds of such 10440
subdivision by forwarding a copy of such grant of authority and of 10441
the statement provided for in division (B) of this section. 10442

(G) Upon receipt of authority, the subdivision shall proceed 10443
according to law to issue the amount of bonds authorized by the 10444
commissioner, and authorized by the taxing authority, provided the 10445
taxing authority of that subdivision may by resolution submit to 10446
the electors of that subdivision the question of issuing such 10447
bonds. Such resolution shall make the declarations and statements 10448
required by section 133.18 of the Revised Code. The county auditor 10449
and taxing authority shall thereupon proceed as set forth in 10450
divisions (C) and (D) of such section. The election on the 10451
question of issuing such bonds shall be held under divisions (E), 10452
(F), and (G) of such section, except that publication of the 10453
notice of such election shall be made on four separate days prior 10454
to such election in one or more newspapers of general circulation 10455

in the subdivisions. Such bonds may be exchanged at their face value with creditors of the subdivision in liquidating the indebtedness described and enumerated in division (B)(2) of this section or may be sold as provided in Chapter 133. of the Revised Code, and in either event shall be uncontestable.

(H) The per cent of delinquent taxes and assessments collected for and to the credit of the subdivision after the exchange or sale of bonds as certified by the commissioner shall be paid to the authority having charge of the sinking fund of the subdivision, which money shall be placed in a separate fund for the purpose of retiring the bonds so issued. The proper authority of the subdivisions shall provide for the levying of a tax sufficient in amount to pay the debt charges on all such bonds issued under this section.

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

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

(K) The issue of bonds under this section shall be governed

by Chapter 133. of the Revised Code, respecting the terms used, 10487
forms, manner of sale, and redemption except as otherwise provided 10488
in this section. 10489

The board of county commissioners of any county may issue 10490
bonds authorized by this section and distribute the proceeds of 10491
such bond issues to any or all of the cities and townships of such 10492
counties, according to their relative needs for disability 10493
financial assistance ~~and disability medical assistance~~ as 10494
determined by such county. 10495

All sections of the Revised Code inconsistent with or 10496
prohibiting the exercise of the authority conferred by this 10497
section are inoperative respecting bonds issued under this 10498
section. 10499

Sec. 131.51. In any civil action that is brought before any 10500
court of competent jurisdiction and in which the state is a party, 10501
prior to entering into a consent agreement in which the state must 10502
perform any action that requires additional appropriations or an 10503
increase in appropriations, the state official who represents the 10504
state as a party in the action shall obtain the approval of the 10505
consent agreement by the controlling board. In no case shall a 10506
consent agreement bind the general assembly to appropriate funding 10507
unless the general assembly is a party to the action and the 10508
consent agreement. 10509

As used in this section, "state" has the same meaning as in 10510
section 2743.01 of the Revised Code. 10511

Sec. 133.09. (A) Unless it is a township that has adopted a 10512
limited home rule government under Chapter 504. of the Revised 10513
Code, a township shall not incur net indebtedness that exceeds an 10514
amount equal to five per cent of its tax valuation and, except as 10515
specifically authorized by section 505.262 of the Revised Code or 10516

other laws, shall not incur any net indebtedness unless authorized 10517
by vote of the electors. 10518

(B) A township that has adopted a limited home rule 10519
government under Chapter 504. of the Revised Code shall not incur 10520
net indebtedness that exceeds an amount equal to ten and one-half 10521
per cent of its tax valuation, or incur without a vote of the 10522
electors net indebtedness that exceeds an amount equal to five and 10523
one-half per cent of that tax valuation. In calculating the net 10524
indebtedness of a township that has adopted a limited home rule 10525
government, none of the following securities shall be considered: 10526

(1) Self-supporting securities issued for any purpose; 10527

(2) Securities issued for the purpose of purchasing, 10528
constructing, improving, or extending water or sanitary or surface 10529
and storm water sewerage systems or facilities, or a combination 10530
of those systems or facilities, to the extent that an agreement 10531
entered into with another subdivision requires the other 10532
subdivision to pay to the township amounts equivalent to debt 10533
charges on the securities; 10534

(3) Securities that are not general obligations of the 10535
township; 10536

(4) Voted securities issued for the purposes of redevelopment 10537
to the extent that their principal amount does not exceed an 10538
amount equal to two per cent of the tax valuation of the township; 10539

(5) Securities issued for the purpose of acquiring or 10540
constructing roads, highways, bridges, or viaducts, or for the 10541
purpose of acquiring or making other highway permanent 10542
improvements, to the extent that the resolution of the board of 10543
township trustees authorizing the issuance of the securities 10544
includes a covenant to appropriate from money distributed to the 10545
township under Chapter 4501., 4503., 4504., or 5735. of the 10546
Revised Code a sufficient amount to cover debt charges on and 10547

financing costs relating to the securities as they become due; 10548

(6) Securities issued for energy conservation measures under 10549
section 505.264 of the Revised Code. 10550

(C) In calculating the net indebtedness of any township, no 10551
obligation incurred under division (B) of section 513.17 or under 10552
section 505.261, 505.264, 505.265, 505.267, or 505.37 of the 10553
Revised Code, or in connection with a project undertaken pursuant 10554
to section 5540.032 of the Revised Code, shall be considered. 10555

Sec. 140.01. As used in this chapter: 10556

(A) "Hospital agency" means any public hospital agency or any 10557
nonprofit hospital agency. 10558

(B) "Public hospital agency" means any county, board of 10559
county hospital trustees established pursuant to section 339.02 of 10560
the Revised Code, county hospital commission established pursuant 10561
to section 339.14 of the Revised Code, municipal corporation, new 10562
community authority organized under Chapter 349. of the Revised 10563
Code, joint township hospital district, state or municipal 10564
university or college operating or authorized to operate a 10565
hospital facility, or the state. 10566

(C) "Nonprofit hospital agency" means a corporation or 10567
association not for profit, no part of the net earnings of which 10568
inures or may lawfully inure to the benefit of any private 10569
shareholder or individual, that has authority to own or operate a 10570
hospital facility or provides or is to provide services to one or 10571
more other hospital agencies. 10572

(D) "Governing body" means, in the case of a county, the 10573
board of county commissioners or other legislative body; in the 10574
case of a board of county hospital trustees, the board; in the 10575
case of a county hospital commission, the commission; in the case 10576
of a municipal corporation, the council or other legislative 10577

authority; in the case of a new community authority, its board of 10578
trustees; in the case of a joint township hospital district, the 10579
joint township district hospital board; in the case of a state or 10580
municipal university or college, its board of trustees or board of 10581
directors; in the case of a nonprofit hospital agency, the board 10582
of trustees or other body having general management of the agency; 10583
and, in the case of the state, the director of development or the 10584
Ohio higher educational facility commission. 10585

(E) "Hospital facilities" means buildings, structures and 10586
other improvements, additions thereto and extensions thereof, 10587
furnishings, equipment, and real estate and interests in real 10588
estate, used or to be used for or in connection with one or more 10589
hospitals, emergency, intensive, intermediate, extended, 10590
long-term, or self-care facilities, diagnostic and treatment and 10591
out-patient facilities, facilities related to programs for home 10592
health services, clinics, laboratories, public health centers, 10593
research facilities, and rehabilitation facilities, for or 10594
pertaining to diagnosis, treatment, care, or rehabilitation of 10595
sick, ill, injured, infirm, impaired, disabled, or handicapped 10596
persons, or the prevention, detection, and control of disease, and 10597
also includes education, training, and food service facilities for 10598
health professions personnel, housing facilities for such 10599
personnel and their families, and parking and service facilities 10600
in connection with any of the foregoing; and includes any one, 10601
part of, or any combination of the foregoing; and further includes 10602
site improvements, utilities, machinery, facilities, furnishings, 10603
and any separate or connected buildings, structures, improvements, 10604
sites, utilities, facilities, or equipment to be used in, or in 10605
connection with the operation or maintenance of, or supplementing 10606
or otherwise related to the services or facilities to be provided 10607
by, any one or more of such hospital facilities. 10608

(F) "Costs of hospital facilities" means the costs of 10609

acquiring hospital facilities or interests in hospital facilities, 10610
including membership interests in nonprofit hospital agencies, 10611
costs of constructing hospital facilities, costs of improving one 10612
or more hospital facilities, including reconstructing, 10613
rehabilitating, remodeling, renovating, and enlarging, costs of 10614
equipping and furnishing such facilities, and all financing costs 10615
pertaining thereto, including, without limitation thereto, costs 10616
of engineering, architectural, and other professional services, 10617
designs, plans, specifications and surveys, and estimates of cost, 10618
costs of tests and inspections, the costs of any indemnity or 10619
surety bonds and premiums on insurance, all related direct or 10620
allocable administrative expenses pertaining thereto, fees and 10621
expenses of trustees, depositories, and paying agents for the 10622
obligations, cost of issuance of the obligations and financing 10623
charges and fees and expenses of financial advisors, attorneys, 10624
accountants, consultants and rating services in connection 10625
therewith, capitalized interest on the obligations, amounts 10626
necessary to establish reserves as required by the bond 10627
proceedings, the reimbursement of all moneys advanced or applied 10628
by the hospital agency or others or borrowed from others for the 10629
payment of any item or items of costs of such facilities, and all 10630
other expenses necessary or incident to planning or determining 10631
feasibility or practicability with respect to such facilities, and 10632
such other expenses as may be necessary or incident to the 10633
acquisition, construction, reconstruction, rehabilitation, 10634
remodeling, renovation, enlargement, improvement, equipment, and 10635
furnishing of such facilities, the financing thereof, and the 10636
placing of the same in use and operation, including any one, part 10637
of, or combination of such classes of costs and expenses, and 10638
means the costs of refinancing obligations issued by, or 10639
reimbursement of money advanced by, nonprofit hospital agencies or 10640
others the proceeds of which were used for the payment of costs of 10641
hospital facilities, if the governing body of the public hospital 10642

agency determines that the refinancing or reimbursement advances 10643
the purposes of this chapter, whether or not the refinancing or 10644
reimbursement is in conjunction with the acquisition or 10645
construction of additional hospital facilities. 10646

(G) "Hospital receipts" means all moneys received by or on 10647
behalf of a hospital agency from or in connection with the 10648
ownership, operation, acquisition, construction, improvement, 10649
equipping, or financing of any hospital facilities, including, 10650
without limitation thereto, any rentals and other moneys received 10651
from the lease, sale, or other disposition of hospital facilities, 10652
and any gifts, grants, interest subsidies, or other moneys 10653
received under any federal program for assistance in financing the 10654
costs of hospital facilities, and any other gifts, grants, and 10655
donations, and receipts therefrom, available for financing the 10656
costs of hospital facilities. 10657

(H) "Obligations" means bonds, notes, or other evidences of 10658
indebtedness or obligation, including interest coupons pertaining 10659
thereto, issued or issuable by a public hospital agency to pay 10660
costs of hospital facilities. 10661

(I) "Bond service charges" means principal, interest, and 10662
call premium, if any, required to be paid on obligations. 10663

(J) "Bond proceedings" means one or more ordinances, 10664
resolutions, trust agreements, indentures, and other agreements or 10665
documents, and amendments and supplements to the foregoing, or any 10666
combination thereof, authorizing or providing for the terms, 10667
including any variable interest rates, and conditions applicable 10668
to, or providing for the security of, obligations and the 10669
provisions contained in such obligations. 10670

(K) "Nursing home" has the same meaning as in division (A)(1) 10671
of section 5701.13 of the Revised Code. 10672

(L) "Residential care facility" has the same meaning as in 10673

division (A)(2) of section 5701.13 of the Revised Code. 10674

(M) "Adult care facility" has the same meaning as in division 10675
(A)(3) of section 5701.13 of the Revised Code. 10676

(N) "Independent living facility" means any self-care 10677
facility or other housing facility designed or used as a residence 10678
for elderly persons. An "independent living facility" does not 10679
include a residential facility, or that part of a residential 10680
facility, that is any of the following: 10681

(1) A hospital required to be certified by section 3727.02 of 10682
the Revised Code; 10683

(2) A nursing home or residential care facility; 10684

(3) An adult care facility; 10685

(4) A hospice licensed under section 3712.04 of the Revised 10686
Code; 10687

(5) ~~A habilitation center as defined in section 5123.041 of~~ 10688
~~the Revised Code;~~ 10689

~~(6)~~ A residential facility for the mentally ill licensed by 10690
the department of mental health under section 5119.22 of the 10691
Revised Code; 10692

~~(7)~~(6) A facility licensed to provide methadone treatment 10693
under section 3793.11 of the Revised Code; 10694

~~(8)~~(7) A facility certified as an alcohol and drug addiction 10695
program under section 3793.06 of the Revised Code; 10696

~~(9)~~(8) A residential facility licensed under section 5123.19 10697
of the Revised Code or a facility providing services under a 10698
contract with the department of mental retardation and 10699
developmental disabilities under section 5123.18 of the Revised 10700
Code; 10701

~~(10)~~(9) A residential facility used as part of a hospital to 10702

provide housing for staff of the hospital or students pursuing a 10703
course of study at the hospital. 10704

Sec. 140.08. (A) Except as otherwise provided in ~~divisions~~ 10705
division (B)(1) ~~and (2)~~ of this section, all hospital facilities 10706
purchased, acquired, constructed, or owned by a public hospital 10707
agency, or financed in whole or in part by obligations issued by a 10708
public hospital agency, and used, or to be used when completed, as 10709
hospital facilities, and the income therefrom, are exempt from all 10710
taxation within this state, including ad valorem and excise taxes, 10711
notwithstanding any other provisions of law, and hospital agencies 10712
are exempt from taxes levied under Chapters 5739. and 5741. of the 10713
Revised Code. The obligations issued hereafter under section 10714
133.08, 140.06, or 339.15 of the Revised Code or Section 3 of 10715
Article XVIII, Ohio Constitution, to pay costs of hospital 10716
facilities or to refund such obligations, and the transfer 10717
thereof, and the interest and other income from such obligations, 10718
including any profit made on the sale thereof, is free from 10719
taxation within the state. 10720

(B)(1) Division (A) of this section does not exempt 10721
independent living facilities from taxes levied on property or 10722
taxes levied under Chapters 5739. and 5741. of the Revised Code. 10723
If an independent living facility or part of such facility becomes 10724
an adult care facility, nursing home, or residential care facility 10725
on or after January 10, 1991, that part of the independent living 10726
facility that is an adult care facility, nursing home, or 10727
residential care facility is exempt from taxation subject to 10728
division (B)(2) of this section on and after the date it becomes 10729
an adult care facility, nursing home, or residential care 10730
facility. 10731

(2) Division (A) of this section exempts nursing homes, 10732
residential care facilities, and adult care facilities from taxes 10733

levied on property and taxes levied under Chapters 5739. and 5741. 10734
of the Revised Code only until all obligations issued to finance 10735
such homes or facilities, or all refunding or series of refundings 10736
of those obligations, are redeemed or otherwise retired. 10737

(3) Nothing in division (A) of this section exempts any 10738
person subject to this section from the tax levied by Chapter 10739
5751. of the Revised Code, but the tax shall be based solely on 10740
those gross receipts that contribute to such person's unrelated 10741
business taxable income under the Internal Revenue Code of 1986, 10742
100 Stat. 2085, 26 U.S.C. 1, as amended. 10743

Sec. 141.011. Beginning in calendar year 2001, the annual 10744
salaries of the elective officers of the state shall be as follows 10745
rather than as prescribed by divisions (A) to (F) of section 10746
141.01 of the Revised Code: 10747

(A)(1) In calendar year 2001 the annual salary of the 10748
governor shall be one hundred twenty-six thousand four hundred 10749
ninety-seven dollars. 10750

(2) In calendar years 2002 through 2006 the annual salary of 10751
the governor shall be one hundred thirty thousand two hundred 10752
ninety-two dollars. 10753

(3) In calendar year 2007 the annual salary of the governor 10754
shall be the annual salary in 2006 increased by each of the 10755
following percentages in succession: 10756

(a) The lesser of three per cent or the percentage increase, 10757
if any, in the consumer price index from October 1, 2001, to 10758
September 30, 2002, rounded to the nearest one-tenth of one per 10759
cent; 10760

(b) The lesser of three per cent or the percentage increase, 10761
if any, in the consumer price index from October 1, 2002, to 10762
September 30, 2003, rounded to the nearest one-tenth of one per 10763

cent; 10764

(c) The lesser of three per cent or the percentage increase, 10765
if any, in the consumer price index from October 1, 2003, to 10766
September 30, 2004, rounded to the nearest one-tenth of one per 10767
cent; 10768

(d) The lesser of three per cent or the percentage increase, 10769
if any, in the consumer price index from October 1, 2004, to 10770
September 30, 2005, rounded to the nearest one-tenth of one per 10771
cent; 10772

(e) The lesser of three per cent or the percentage increase, 10773
if any, in the consumer price index from October 1, 2005, to 10774
September 30, 2006, rounded to the nearest one-tenth of one per 10775
cent. 10776

(4) In calendar year 2008 and thereafter, the annual salary 10777
of the governor shall be the annual salary in 2007 increased by 10778
the lesser of the following: 10779

(a) Three per cent; 10780

(b) The percentage increase, if any, in the consumer price 10781
index from October 1, 2006, to September 30, 2007, rounded to the 10782
nearest one-tenth of one per cent. 10783

(B)(1) In calendar year 2001 the annual salary of the 10784
lieutenant governor shall be sixty-six thousand three hundred six 10785
dollars. 10786

(2) In calendar years 2002 through 2006 the annual salary of 10787
the lieutenant governor shall be sixty-eight thousand two hundred 10788
ninety-five dollars. 10789

(3) In calendar year 2007 the annual salary of the lieutenant 10790
governor shall be the annual salary in 2006 increased by each of 10791
the following percentages in succession: 10792

(a) The lesser of three per cent or the percentage increase, 10793

if any, in the consumer price index from October 1, 2001, to 10794
September 30, 2002, rounded to the nearest one-tenth of one per 10795
cent; 10796

(b) The lesser of three per cent or the percentage increase, 10797
if any, in the consumer price index from October 1, 2002, to 10798
September 30, 2003, rounded to the nearest one-tenth of one per 10799
cent; 10800

(c) The lesser of three per cent or the percentage increase, 10801
if any, in the consumer price index from October 1, 2003, to 10802
September 30, 2004, rounded to the nearest one-tenth of one per 10803
cent; 10804

(d) The lesser of three per cent or the percentage increase, 10805
if any, in the consumer price index from October 1, 2004, to 10806
September 30, 2005, rounded to the nearest one-tenth of one per 10807
cent; 10808

(e) The lesser of three per cent or the percentage increase, 10809
if any, in the consumer price index from October 1, 2005, to 10810
September 30, 2006, rounded to the nearest one-tenth of one per 10811
cent. 10812

(4) In calendar year 2008 and thereafter, the annual salary 10813
of the lieutenant governor shall be the annual salary in 2007 10814
increased by the lesser of the following: 10815

(a) Three per cent; 10816

(b) The percentage increase, if any, in the consumer price 10817
index from October 1, 2006 to September 30, 2007, rounded to the 10818
nearest one-tenth of one per cent. 10819

If the governor appoints the lieutenant governor as an 10820
administrative department head ~~or as the director of the office of~~ 10821
~~criminal justice services under section 108.05 of the Revised~~ 10822
~~Code,~~ the lieutenant governor may accept the salary for that 10823

office while serving as its head in lieu of the salary for the 10824
office of lieutenant governor. 10825

(C)(1) In calendar year 2001 the annual salary of the 10826
secretary of state, auditor of state, treasurer of state, and 10827
attorney general shall be ninety-three thousand four hundred 10828
forty-seven dollars. 10829

(2) In calendar year 2002 the annual salary of the secretary 10830
of state, auditor of state, treasurer of state, and attorney 10831
general shall be ninety-six thousand two hundred fifty dollars. 10832

(3) In each calendar year from 2003 through 2008, the annual 10833
salary of the secretary of state, auditor of state, treasurer of 10834
state, and attorney general shall be increased by the lesser of 10835
the following: 10836

(a) Three per cent; 10837

(b) The percentage increase, if any, in the consumer price 10838
index over the twelve-month period that ends on the thirtieth day 10839
of September of the immediately preceding year, rounded to the 10840
nearest one-tenth of one per cent. 10841

(D) Upon the death of an elected executive officer of the 10842
state listed in divisions (A) to (F) of section 141.01 of the 10843
Revised Code during that person's term of office, an amount shall 10844
be paid in accordance with section 2113.04 of the Revised Code, or 10845
to that person's estate. The amount shall equal the amount of the 10846
salary that the officer would have received during the remainder 10847
of the officer's unexpired term or an amount equal to the salary 10848
of that person's office for two years, whichever is less. 10849

(E) As used in this section, "consumer price index" has the 10850
same meaning as in section 101.27 of the Revised Code. 10851

Sec. 141.04. (A) The annual salaries of the chief justice of 10852
the supreme court and of the justices and judges named in this 10853

section payable from the state treasury are as follows, rounded to 10854
the nearest fifty dollars: 10855

(1) For the chief justice of the supreme court, the following 10856
amounts effective in the following years: 10857

(a) Beginning January 1, 2000, one hundred twenty-four 10858
thousand nine hundred dollars; 10859

(b) Beginning January 1, 2001, one hundred twenty-eight 10860
thousand six hundred fifty dollars; 10861

(c) After 2001, the amount determined under division (E)(1) 10862
of this section. 10863

(2) For the justices of the supreme court, the following 10864
amounts effective in the following years: 10865

(a) Beginning January 1, 2000, one hundred seventeen thousand 10866
two hundred fifty dollars; 10867

(b) Beginning January 1, 2001, one hundred twenty thousand 10868
seven hundred fifty dollars; 10869

(c) After 2001, the amount determined under division (E)(1) 10870
of this section. 10871

(3) For the judges of the courts of appeals, the following 10872
amounts effective in the following years: 10873

(a) Beginning January 1, 2000, one hundred nine thousand two 10874
hundred fifty dollars; 10875

(b) Beginning January 1, 2001, one hundred twelve thousand 10876
five hundred fifty dollars; 10877

(c) After 2001, the amount determined under division (E)(1) 10878
of this section. 10879

(4) For the judges of the courts of common pleas, the 10880
following amounts effective in the following years: 10881

(a) Beginning January 1, 2000, one hundred thousand five 10882

hundred dollars, reduced by an amount equal to the annual 10883
compensation paid to that judge from the county treasury pursuant 10884
to section 141.05 of the Revised Code; 10885

(b) Beginning January 1, 2001, one hundred three thousand 10886
five hundred dollars, reduced by an amount equal to the annual 10887
compensation paid to that judge from the county treasury pursuant 10888
to section 141.05 of the Revised Code; 10889

(c) After 2001, the aggregate annual salary amount determined 10890
under division (E)(2) of this section reduced by an amount equal 10891
to the annual compensation paid to that judge from the county 10892
treasury pursuant to section 141.05 of the Revised Code. 10893

(5) For the full-time judges of a municipal court or the 10894
part-time judges of a municipal court of a territory having a 10895
population of more than fifty thousand, the following amounts 10896
effective in the following years, which amounts shall be in 10897
addition to all amounts received pursuant to divisions (B)(1)(a) 10898
and (2) of section 1901.11 of the Revised Code from municipal 10899
corporations and counties: 10900

(a) Beginning January 1, 2000, thirty-two thousand six 10901
hundred fifty dollars; 10902

(b) Beginning January 1, 2001, thirty-five thousand five 10903
hundred dollars; 10904

(c) After 2001, the amount determined under division (E)(3) 10905
of this section. 10906

(6) For judges of a municipal court designated as part-time 10907
judges by section 1901.08 of the Revised Code, other than 10908
part-time judges to whom division (A)(5) of this section applies, 10909
and for judges of a county court, the following amounts effective 10910
in the following years, which amounts shall be in addition to any 10911
amounts received pursuant to division (A) of section 1901.11 of 10912

the Revised Code from municipal corporations and counties or 10913
pursuant to division (A) of section 1907.16 of the Revised Code 10914
from counties: 10915

(a) Beginning January 1, 2000, eighteen thousand eight 10916
hundred dollars; 10917

(b) Beginning January 1, 2001, twenty thousand four hundred 10918
fifty dollars; 10919

(c) After 2001, the amount determined under division (E)(4) 10920
of this section. 10921

(B) Except as provided in section 1901.121 of the Revised 10922
Code, except as otherwise provided in this division, and except 10923
for the compensation to which the judges described in division 10924
(A)(5) of this section are entitled pursuant to divisions 10925
(B)(1)(a) and (2) of section 1901.11 of the Revised Code, the 10926
annual salary of the chief justice of the supreme court and of 10927
each justice or judge listed in division (A) of this section shall 10928
be paid in equal monthly installments from the state treasury. If 10929
the chief justice of the supreme court or any justice or judge 10930
listed in division (A)(2), (3), or (4) of this section delivers a 10931
written request to be paid biweekly to the administrative director 10932
of the supreme court prior to the first day of January of any 10933
year, the annual salary of the chief justice or the justice or 10934
judge that is listed in division (A)(2), (3), or (4) of this 10935
section shall be paid, during the year immediately following the 10936
year in which the request is delivered to the administrative 10937
director of the supreme court, biweekly from the state treasury. 10938

(C) Upon the death of the chief justice or a justice of the 10939
supreme court during that person's term of office, an amount shall 10940
be paid in accordance with section 2113.04 of the Revised Code, or 10941
to that person's estate. The amount shall equal the amount of the 10942
salary that the chief justice or justice would have received 10943

during the remainder of the unexpired term or an amount equal to 10944
the salary of office for two years, whichever is less. 10945

(D) Neither the chief justice of the supreme court nor any 10946
justice or judge of the supreme court, the court of appeals, the 10947
court of common pleas, or the probate court shall hold any other 10948
office of trust or profit under the authority of this state or the 10949
United States. 10950

(E)(1) Each calendar year from 2002 through 2008, the annual 10951
salaries of the chief justice of the supreme court and of the 10952
justices and judges named in divisions (A)(2) and (3) of this 10953
section shall be increased by an amount equal to the adjustment 10954
percentage for that year multiplied by the compensation paid the 10955
preceding year pursuant to division (A)(1), (2), or (3) of this 10956
section. 10957

(2) Each calendar year from 2002 through 2008, the aggregate 10958
annual salary payable under division (A)(4) of this section to the 10959
judges named in that division shall be increased by an amount 10960
equal to the adjustment percentage for that year multiplied by the 10961
aggregate compensation paid the preceding year pursuant to 10962
division (A)(4) of this section and section 141.05 of the Revised 10963
Code. 10964

(3) Each calendar year from 2002 through 2008, the salary 10965
payable from the state treasury under division (A)(5) of this 10966
section to the judges named in that division shall be increased by 10967
an amount equal to the adjustment percentage for that year 10968
multiplied by the aggregate compensation paid the preceding year 10969
pursuant to division (A)(5) of this section and division (B)(1)(a) 10970
of section 1901.11 of the Revised Code. 10971

(4) Each calendar year from 2002 through 2008, the salary 10972
payable from the state treasury under division (A)(6) of this 10973
section to the judges named in that division shall be increased by 10974

an amount equal to the adjustment percentage for that year 10975
multiplied by the aggregate compensation paid the preceding year 10976
pursuant to division (A)(6) of this section and division (A) of 10977
section 1901.11 of the Revised Code from municipal corporations 10978
and counties or division (A) of section 1907.16 of the Revised 10979
Code from counties. 10980

(F) In addition to the salaries payable pursuant to this 10981
section, the chief justice of the supreme court and the justices 10982
of the supreme court shall be entitled to a vehicle allowance of 10983
five hundred dollars per month, payable from the state treasury. 10984
The allowance shall be increased on the first day of January of 10985
each odd numbered year by an amount equal to the percentage 10986
increase, if any, in the consumer price index for the immediately 10987
preceding twenty-four month period for which information is 10988
available. 10989

(G) As used in this section: 10990

(1) The "adjustment percentage" for a year is the lesser of 10991
the following: 10992

(a) Three per cent; 10993

(b) The percentage increase, if any, in the consumer price 10994
index over the twelve-month period that ends on the thirtieth day 10995
of September of the immediately preceding year, rounded to the 10996
nearest one-tenth of one per cent. 10997

(2) "Consumer price index" has the same meaning as in section 10998
101.27 of the Revised Code. 10999

(3) "Salary" does not include any portion of the cost, 11000
premium, or charge for health, medical, hospital, dental, or 11001
surgical benefits, or any combination of those benefits, covering 11002
the chief justice of the supreme court or a justice or judge named 11003
in this section and paid on the chief justice's or the justice's 11004

or judge's behalf by a governmental entity.

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Sec. 147.05. (A) Before entering upon the duties of the office of notary public, a notary public shall leave the notary public's commission with the oath endorsed on the commission with the clerk of the court of common pleas of the county in which the notary public resides. The clerk shall record the commission in a book kept for that purpose. The clerk shall endorse on the margin of the record and on the back of the commission the time that the clerk received the commission for record and make a proper index to all commissions so recorded. For recording and indexing a commission, the fee of the clerk shall be as provided in division (R) of section 2303.20 of the Revised Code.

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(B) The secretary of state shall maintain a record of the commissions of each notary public appointed and commissioned by the secretary of state under this chapter and make a proper index to that record.

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The governor's office shall transfer to the secretary of state's office, on or after ~~the effective date of this amendment~~ June 6, 2001, the record of notaries public formerly kept by the governor's office under section 107.10 of the Revised Code. The secretary of state's office shall maintain that record together with the record and index of commissions of notaries public required by this division.

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(C) If a notary public legally changes the notary public's name or address after having been commissioned as a notary public, the notary public shall notify the secretary of state and the appropriate clerk of courts within thirty days after the name or address change. Notification to the secretary of state shall be on a form prescribed by the secretary of state.

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(D) A notary, other than an attorney, who resigns the

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person's commission shall deliver to the secretary of state, on a 11035
form prescribed by the secretary of state, a written notice 11036
indicating the effective date of resignation. 11037

Sec. 147.10. No notary public shall do or perform any act as 11038
a notary public knowing that ~~his~~ the notary public's term of 11039
office has expired or that the notary public has resigned the 11040
notary public's commission. 11041

Sec. 147.11. A person appointed notary public who performs 11042
any act as such after the expiration of ~~his~~ the person's term of 11043
office or after the person resigns the person's commission, 11044
knowing that ~~his~~ the person's term has expired or that the person 11045
has resigned, shall forfeit not more than five hundred dollars, to 11046
be recovered by an action in the name of the state. Such act shall 11047
render ~~such~~ the person ineligible for reappointment. 11048

Sec. 147.12. An official act done by a notary public after 11049
the expiration of ~~his~~ the notary public's term of office or after 11050
the notary public resigns the notary public's commission is as 11051
valid as if done during ~~his~~ the notary public's term of office. 11052

Sec. 147.371. (A) Upon receipt of a fee of two dollars and an 11053
affidavit that the original commission of a notary public has been 11054
lost or destroyed, a duplicate commission as notary public shall 11055
be issued by the secretary of state. 11056

(B) Upon receipt of a fee of two dollars and the properly 11057
completed, prescribed form for a name and address change under 11058
division (C) of section 147.05 of the Revised Code, the secretary 11059
of state shall issue a duplicate commission as a notary public. 11060

Sec. 149.30. The Ohio historical society, chartered by this 11061
state as a corporation not for profit to promote a knowledge of 11062

history and archaeology, especially of Ohio, and operated 11063
continuously in the public interest since 1885, may perform public 11064
functions as prescribed by law. 11065

The general assembly may appropriate money to the Ohio 11066
historical society each biennium to carry out the public functions 11067
of the society as enumerated in this section. An appropriation by 11068
the general assembly to the society constitutes an offer to 11069
contract with the society to carry out those public functions for 11070
which appropriations are made. An acceptance by the society of the 11071
appropriated funds constitutes an acceptance by the society of the 11072
offer and is considered an agreement by the society to perform 11073
those functions in accordance with the terms of the appropriation 11074
and the law and to expend the funds only for the purposes for 11075
which appropriated. The governor may request on behalf of the 11076
society, and the controlling board may release, additional funds 11077
to the society for survey, salvage, repair, or rehabilitation of 11078
an emergency nature for which funds have not been appropriated, 11079
and acceptance by the society of those funds constitutes an 11080
agreement on the part of the society to expend those funds only 11081
for the purpose for which released by the controlling board. 11082

The society shall faithfully expend and apply all moneys 11083
received from the state to the uses and purposes directed by law 11084
and for necessary administrative expenses. The If the general 11085
assembly appropriates money to the society for grants or subsidies 11086
to other entities for their site-related programs, the society, 11087
except for good cause, shall distribute the money within ninety 11088
days of accepting a grant or subsidy application for the money. 11089
The society shall not retain or charge an administrative, service, 11090
or processing fee of any kind for distributing money to those 11091
entities. 11092

The society shall perform the public function of sending 11093
notice by certified mail to the owner of any property at the time 11094

it is listed on the national register of historic places. The 11095
society shall accurately record all expenditures of such funds in 11096
conformity with generally accepted accounting principles. 11097

The auditor of state shall audit all funds and fiscal records 11098
of the society. 11099

The public functions to be performed by the Ohio historical 11100
society shall include all of the following: 11101

(A) Creating, supervising, operating, protecting, 11102
maintaining, and promoting for public use a system of state 11103
memorials, titles to which may reside wholly or in part with this 11104
state or wholly or in part with the society as provided in and in 11105
conformity to appropriate acts and resolves of the general 11106
assembly, and leasing for renewable periods of two years or less, 11107
with the advice and consent of the attorney general and the 11108
director of administrative services, lands and buildings owned by 11109
the state which are in the care, custody, and control of the 11110
society, all of which shall be maintained and kept for public use 11111
at reasonable hours; 11112

(B) Making alterations and improvements, marking, and 11113
constructing, reconstructing, protecting, or restoring structures, 11114
earthworks, and monuments in its care, and equipping such 11115
facilities with appropriate educational maintenance facilities; 11116

(C) Serving as the archives administration for the state and 11117
its political subdivisions as provided in sections 149.31 to 11118
149.42 of the Revised Code; 11119

(D) Administering a state historical museum, to be the 11120
headquarters of the society and its principal museum and library, 11121
which shall be maintained and kept for public use at reasonable 11122
hours; 11123

(E) Establishing a marking system to identify all designated 11124
historic and archaeological sites within the state and marking or 11125

causing to be marked historic sites and communities considered by 11126
the society to be historically or archaeologically significant; 11127

(F) Publishing books, pamphlets, periodicals, and other 11128
publications about history, archaeology, and natural science and 11129
offering one copy of each regular periodical issue to all public 11130
libraries in this state at a reasonable price, which shall not 11131
exceed one hundred ten per cent more than the total cost of 11132
publication; 11133

(G) Engaging in research in history, archaeology, and natural 11134
science and providing historical information upon request to all 11135
state agencies; 11136

(H) Collecting, preserving, and making available by all 11137
appropriate means and under approved safeguards all manuscript, 11138
print, or near-print library collections and all historical 11139
objects, specimens, and artifacts which pertain to the history of 11140
Ohio and its people, including the following original documents: 11141
Ohio Constitution of 1802; Ohio Constitution of 1851; proposed 11142
Ohio Constitution of 1875; design and the letters of patent and 11143
assignment of patent for the state flag; S.J.R. 13 (1873); S.J.R. 11144
53 (1875); S.J.R. 72 (1875); S.J.R. 50 (1883); H.J.R. 73 (1883); 11145
S.J.R. 28 (1885); H.J.R. 67 (1885); S.J.R. 17 (1902); S.J.R. 28 11146
(1902); H.J.R. 39 (1902); S.J.R. 23 (1903); H.J.R. 19 (1904); 11147
S.J.R. 16 (1905); H.J.R. 41 (1913); H.J.R. 34 (1917); petition 11148
form (2) (1918); S.J.R. 6 (1921); H.J.R. 5 (1923); H.J.R. 40 11149
(1923); H.J.R. 8 (1929); H.J.R. 20 (1929); S.J.R. 4 (1933); 11150
petition form (2) (1933); S.J.R. 57 (1936); petition form (1936); 11151
H.J.R. 14 (1942); H.J.R. 15 (1944); H.J.R. 8 (1944); S.J.R. 6 11152
(1947); petition form (1947); H.J.R. 24 (1947); and H.J.R. 48 11153
(1947); 11154

(I) Encouraging and promoting the organization and 11155
development of county and local historical societies; 11156

(J) Providing to Ohio schools such materials as the society 11157
may prepare to facilitate the instruction of Ohio history at a 11158
reasonable price, which shall not exceed one hundred ten per cent 11159
more than the total cost of preparation and delivery; 11160

(K) Providing advisory and technical assistance to local 11161
societies for the preservation and restoration of historic and 11162
archaeological sites; 11163

(L) Devising uniform criteria for the designation of historic 11164
and archaeological sites throughout the state and advising local 11165
historical societies of the criteria and their application; 11166

(M) Taking inventory, in cooperation with the Ohio arts 11167
council, the Ohio archaeological council, and the archaeological 11168
society of Ohio, of significant designated and undesignated state 11169
and local sites and keeping an active registry of all designated 11170
sites within the state; 11171

(N) Contracting with the owners or persons having an interest 11172
in designated historic or archaeological sites or property 11173
adjacent or contiguous to those sites, or acquiring, by purchase, 11174
gift, or devise, easements in those sites or in property adjacent 11175
or contiguous to those sites, in order to control or restrict the 11176
use of those historic or archaeological sites or adjacent or 11177
contiguous property for the purpose of restoring or preserving the 11178
historical or archaeological significance or educational value of 11179
those sites; 11180

(O) Constructing a monument honoring Governor James A. 11181
Rhodes, which shall stand on the northeast quadrant of the grounds 11182
surrounding the capitol building. The monument shall be 11183
constructed with private funds donated to the Ohio historical 11184
society and designated for this purpose. No public funds shall be 11185
expended to construct this monument. The department of 11186
administrative services shall cooperate with the Ohio historical 11187

society in carrying out this function and shall maintain the 11188
monument in a manner compatible with the grounds of the capitol 11189
building. 11190

(P) Commissioning a portrait of each departing governor, 11191
which shall be displayed in the capitol building. The Ohio 11192
historical society may accept private contributions designated for 11193
this purpose and, at the discretion of its board of trustees, also 11194
may apply for the same purpose funds appropriated by the general 11195
assembly to the society pursuant to this section. 11196

(Q) Planning and developing a center at the capitol building 11197
for the purpose of educating visitors about the history of Ohio, 11198
including its political, economic, and social development and the 11199
design and erection of the capitol building and its grounds. The 11200
Ohio historical society may accept contributions of private moneys 11201
and in-kind services designated for this purpose and may, at the 11202
discretion of its board of trustees, also apply, for the same 11203
purpose, personnel and other resources paid in whole or in part by 11204
its state subsidy. 11205

(R) Submitting an annual report of its activities, programs, 11206
and operations to the governor within two months after the close 11207
of each fiscal year of the state. 11208

The society shall not sell, mortgage, transfer, or dispose of 11209
historical or archaeological sites to which it has title and in 11210
which the state has monetary interest except by action of the 11211
general assembly. 11212

In consideration of the public functions performed by the 11213
Ohio historical society for the state, employees of the society 11214
shall be considered public employees within the meaning of section 11215
145.01 of the Revised Code. 11216

Sec. 150.07. (A) For the purpose stated in section 150.01 of 11217

the Revised Code, the authority may authorize a lender to claim 11218
one of the tax credits allowed under section 5707.031, 5725.19, 11219
5727.241, 5729.08, 5733.49, or 5747.80 of the Revised Code. The 11220
credits shall be authorized by a written contract with the lender. 11221
The contract shall specify the terms under which the lender may 11222
claim the credit, including the amount of loss, if any, the lender 11223
must incur before the lender may claim the credit; specify that 11224
the credit shall not exceed the amount of the loss; and specify 11225
that the lender may claim the credit only for a loss certified by 11226
a program administrator to the authority under the procedures 11227
prescribed under division (B)(6) of section 150.05 of the Revised 11228
Code. 11229

(B) Tax credits may be authorized at any time after the 11230
authority establishes the investment policy under section 150.03 11231
of the Revised Code, but a tax credit so authorized may not be 11232
claimed until the beginning of the fifth year after the authority 11233
establishes the investment policy. A tax credit may not be claimed 11234
after June 30, 2026. 11235

(C) Upon receiving certification of a lender's loss from a 11236
program administrator pursuant to the procedures in the investment 11237
policy, the authority shall issue a tax credit certificate to the 11238
lender, except as otherwise provided in division (D) of this 11239
section. The authority shall not issue a certificate until the 11240
lender, in the manner prescribed by the authority, elects to 11241
receive a refundable or nonrefundable tax credit. The election, 11242
once made, is irrevocable. The certificate shall state the amount 11243
of the credit, whether the credit is refundable or nonrefundable, 11244
and the calendar year, under section 5707.031, 5725.19, 5727.241, 11245
or 5729.08, the tax year, under section 5733.49, or the taxable 11246
year under section 5747.80 of the Revised Code, for which the 11247
credit may be claimed. The authority, in conjunction with the tax 11248
commissioner, shall develop a system for issuing tax credit 11249

certificates for the purpose of verifying that any credit claimed 11250
is a credit issued under this section and is properly taken in the 11251
year specified in the certificate and in compliance with division 11252
(B) of this section. 11253

(D) The authority shall not, in any fiscal year, issue tax 11254
credit certificates in a total amount exceeding twenty million 11255
dollars. 11256

Sec. 150.10. (A) On the first day of January of the second 11257
year after the date of entering into an agreement under section 11258
150.05 of the Revised Code and of each ensuing year, the authority 11259
shall file with the clerk of the house of representatives, the 11260
clerk of the senate, and the chairpersons of the house and senate 11261
standing committees predominantly concerned with economic 11262
development a written report on the Ohio venture capital program. 11263
The report shall include all the following: 11264

(1) A description of the details of the investment policy 11265
established or modified in accordance with sections 150.03 and 11266
150.04 of the Revised Code; 11267

(2) The authority's assessment of the program's achievement 11268
of its purpose stated in section 150.01 of the Revised Code; 11269

(3) The value of tax credit certificates issued by the 11270
authority under section 150.07 of the Revised Code in each fiscal 11271
year ending on or before the preceding thirtieth day of June; 11272

(4) The amount of tax credits claimed pursuant to section 11273
5707.031, 5725.19, 5727.241, 5729.08, 5733.49, or 5747.80 of the 11274
Revised Code, as to the respective taxes involved; 11275

(5) The financial status of the Ohio venture capital fund; 11276

(6) The names of venture capital funds in which money from 11277
the program fund has been invested and the locations of their 11278
principal offices, and the names of the enterprises in which each 11279

of those venture capital funds has invested such money and the 11280
locations of those enterprises' principal offices; 11281

(7) Any recommendations for modifying the program to better 11282
achieve the purpose stated in section 150.01 of the Revised Code. 11283

(B) During each year that a report is issued under division 11284
(A) of this section, the chairperson of the authority, or another 11285
member of the authority designated by the chairperson as the 11286
authority's representative, shall be required to appear in person 11287
before the standing committees of the house and senate 11288
predominantly concerned with economic development to give 11289
testimony concerning the status of the Ohio venture capital 11290
program. 11291

Sec. 153.02. (A) The director of administrative services may 11292
debar a contractor from contract awards for public improvements as 11293
referred to in section 153.01 of the Revised Code upon proof that 11294
the contractor has done any of the following: 11295

(1) Defaulted on a contract requiring the execution of a 11296
takeover agreement as set forth in division (B) of section 153.17 11297
of the Revised Code; 11298

(2) Knowingly failed during the course of a contract to 11299
maintain the coverage required by the bureau of workers' 11300
compensation; 11301

(3) Knowingly failed during the course of a contract to 11302
maintain the contractor's drug-free workplace program as required 11303
by the contract; 11304

(4) Knowingly failed during the course of a contract to 11305
maintain insurance required by the contract or otherwise by law, 11306
resulting in a substantial loss to the owner, as owner is referred 11307
to in section 153.01 of the Revised Code; 11308

(5) Misrepresented the firm's qualifications in the selection 11309

<u>process set forth in sections 153.65 to 153.71 of the Revised</u>	11310
<u>Code;</u>	11311
<u>(6) Been convicted of a criminal offense related to the</u>	11312
<u>application for or performance of any public or private contract,</u>	11313
<u>including, but not limited to, embezzlement, theft, forgery,</u>	11314
<u>bribery, falsification or destruction of records, receiving stolen</u>	11315
<u>property, and any other offense that directly reflects on the</u>	11316
<u>contractor's business integrity;</u>	11317
<u>(7) Been convicted of a criminal offense under state or</u>	11318
<u>federal antitrust laws;</u>	11319
<u>(8) Deliberately or willfully submitted false or misleading</u>	11320
<u>information in connection with the application for or performance</u>	11321
<u>of a public contract;</u>	11322
<u>(9) Been debarred from bidding on or participating in a</u>	11323
<u>contract with any state or federal agency.</u>	11324
<u>(B) When the director reasonably believes that grounds for</u>	11325
<u>debarment exist, the director shall send the contractor a notice</u>	11326
<u>of proposed debarment indicating the grounds for the proposed</u>	11327
<u>debarment and the procedure for requesting a hearing on the</u>	11328
<u>proposed debarment. The hearing shall be conducted in accordance</u>	11329
<u>with Chapter 119. of the Revised Code. If the contractor does not</u>	11330
<u>respond with a request for a hearing in the manner specified in</u>	11331
<u>Chapter 119. of the Revised Code, the director shall issue the</u>	11332
<u>debarment decision without a hearing and shall notify the</u>	11333
<u>contractor of the decision by certified mail, return receipt</u>	11334
<u>requested.</u>	11335
<u>(C) The director shall determine the length of the debarment</u>	11336
<u>period and may rescind the debarment at any time upon notification</u>	11337
<u>to the contractor. During the period of debarment, the contractor</u>	11338
<u>is not eligible to bid for or participate in any contract for a</u>	11339
<u>public improvement as referred to in section 153.01 of the Revised</u>	11340

Code. After the debarment period expires, the contractor shall be 11341
eligible to bid for and participate in contracts for a public 11342
improvement as referred to in section 153.01 of the Revised Code. 11343

(D) The director, through the office of the state architect, 11344
shall maintain a list of all contractors currently debarred under 11345
this section. Any governmental entity awarding a contract for 11346
construction of a public improvement may use a contractor's 11347
presence on the debarment list to determine whether a contractor 11348
is responsible or best under section 9.312 or any other section of 11349
the Revised Code in the award of a contract. 11350

Sec. 173.26. (A) Each of the following facilities shall 11351
annually pay to the department of aging six dollars for each bed 11352
maintained by the facility for use by a resident during any part 11353
of the previous year: 11354

(1) Nursing homes, residential care facilities, and homes for 11355
the aging as defined in section 3721.01 of the Revised Code; 11356

(2) Facilities authorized to provide extended care services 11357
under Title XVIII of the "Social Security Act," 49 Stat. 620 11358
(1935), 42 U.S.C. 301, as amended; 11359

(3) County homes and district homes operated pursuant to 11360
Chapter 5155. of the Revised Code; 11361

(4) Adult care facilities as defined in section 3722.01 of 11362
the Revised Code; 11363

(5) Facilities approved by the Veterans Administration under 11364
Section 104(a) of the "Veterans Health Care Amendments of 1983," 11365
97 Stat. 993, 38 U.S.C. 630, as amended, and used exclusively for 11366
the placement and care of veterans. 11367

The department shall, by rule adopted in accordance with 11368
Chapter 119. of the Revised Code, establish deadlines for payments 11369
required by this section. A facility that fails, within ninety 11370

days after the established deadline, to pay a payment required by 11371
this section shall be assessed at two times the original invoiced 11372
payment. 11373

(B) All money collected under this section shall be deposited 11374
in the state treasury to the credit of the office of the state 11375
long-term care ombudsperson program fund, which is hereby created. 11376
Money credited to the fund shall be used solely to pay the costs 11377
of operating the regional long-term care ombudsperson programs. 11378

(C) The state long-term care ombudsperson and the regional 11379
programs may solicit and receive contributions to support the 11380
operation of the office or a regional program, except that no 11381
contribution shall be solicited or accepted that would interfere 11382
with the independence or objectivity of the office or program. 11383

Sec. 173.39. As used in sections 173.39 to 173.393 of the 11384
Revised Code, "community-based long-term care services" has the 11385
same meaning as in section 173.14 of the Revised Code. 11386

Except as provided in section 173.392 of the Revised Code, 11387
the department of aging may not pay a person or government entity 11388
for providing community-based long-term care services under a 11389
program the department administers unless the person or government 11390
entity is certified under section 173.391 of the Revised Code and 11391
provides the services. 11392

Sec. 173.391. (A) The department of aging or its designee 11393
shall do all of the following in accordance with Chapter 119. of 11394
the Revised Code: 11395

(1) Certify a person or government entity to provide 11396
community-based long-term care services under a program the 11397
department administers if the person or government entity 11398
satisfies the requirements for certification established by rules 11399
adopted under division (B) of this section; 11400

<u>(2) When required to do so by rules adopted under division</u>	11401
<u>(B) of this section, take one or more of the following</u>	11402
<u>disciplinary actions against a person or government entity issued</u>	11403
<u>a certificate under division (A)(1) of this section:</u>	11404
<u>(a) Issue a written warning;</u>	11405
<u>(b) Require the submission of a plan of correction;</u>	11406
<u>(c) Suspend referrals;</u>	11407
<u>(d) Remove clients;</u>	11408
<u>(e) Impose a fiscal sanction such as a civil monetary penalty</u>	11409
<u>or an order that unearned funds be repaid;</u>	11410
<u>(f) Revoke the certificate;</u>	11411
<u>(g) Impose another sanction.</u>	11412
<u>(3) Hold hearings when there is a dispute between the</u>	11413
<u>department or its designee and a person or government entity</u>	11414
<u>concerning actions the department or its designee takes or does</u>	11415
<u>not take under division (A)(1) or (2) of this section.</u>	11416
<u>(B) The director of aging shall adopt rules in accordance</u>	11417
<u>with Chapter 119. of the Revised Code establishing certification</u>	11418
<u>requirements and standards for determining which type of</u>	11419
<u>disciplinary action to take under division (A)(2) of this section</u>	11420
<u>in individual situations. The rules shall establish procedures for</u>	11421
<u>all of the following:</u>	11422
<u>(1) Ensuring that PASSPORT agencies, as defined in section</u>	11423
<u>173.41 of the Revised Code, comply with that section;</u>	11424
<u>(2) Evaluating the services provided to ensure that they are</u>	11425
<u>provided in a quality manner advantageous to the individual</u>	11426
<u>receiving the services;</u>	11427
<u>(3) Determining when to take disciplinary action under</u>	11428
<u>division (A)(2) of this section and which disciplinary action to</u>	11429

take. 11430

(C) The procedures established in rules adopted under 11431
division (B)(2) of this section shall require that all of the 11432
following be considered as part of an evaluation: 11433

(1) The service provider's experience and financial 11434
responsibility; 11435

(2) The service provider's ability to comply with standards 11436
for the community-based long-term care services that the provider 11437
provides under a program the department administers; 11438

(3) The service provider's ability to meet the needs of the 11439
individuals served; 11440

(4) Any other factor the director considers relevant. 11441

(D) The rules adopted under division (B)(3) of this section 11442
shall specify that the reasons disciplinary action may be taken 11443
under division (A)(2) of this section include good cause, 11444
including misfeasance, malfeasance, nonfeasance, confirmed abuse 11445
or neglect, financial irresponsibility, or other conduct the 11446
director determines is injurious to the health or safety of 11447
individuals being served. 11448

Sec. 173.392. (A) The department of aging may pay a person or 11449
government entity for providing community-based long-term care 11450
services under a program the department administers, even though 11451
the person or government entity is not certified under section 11452
173.391 of the Revised Code if all of the following are the case: 11453

(1) The person or government entity has a contract with the 11454
department of aging or the department's designee to provide the 11455
services; 11456

(2) The contract includes detailed conditions of 11457
participation for providers of services under a program the 11458

department administers and service standards that the person or 11459
government entity is required to satisfy; 11460

(3) The person or government entity complies with the 11461
contract; 11462

(4) The contract is not for medicaid-funded services, other 11463
than services provided under the PACE program administered by the 11464
department of aging under section 173.50 of the Revised Code. 11465

(B) The director of aging shall adopt rules in accordance 11466
with Chapter 119. of the Revised Code governing both of the 11467
following: 11468

(1) Contracts between the department of aging and persons and 11469
government entities regarding community-based long-term care 11470
services provided under a program the department administers; 11471

(2) The department's payment for community-based long-term 11472
care services provided under such a contract. 11473

Sec. 173.393. (A) Except as provided in division (B) of this 11474
section, the records of an evaluation conducted in accordance with 11475
rules adopted under division (B)(2) of section 173.391 of the 11476
Revised Code are public records for purposes of section 149.43 of 11477
the Revised Code and shall be made available on request of any 11478
person, including individuals receiving or seeking community-based 11479
long-term care services under a program the department of aging 11480
administers. 11481

(B) A part of a record of an evaluation that is otherwise 11482
available as a public record under division (A) of this section is 11483
not available as a public record if its release would violate a 11484
federal or state statute, regulation, or rule, including 11485
regulations adopted by the United States department of health and 11486
human services to implement the health information privacy 11487
provisions of the "Health Insurance Portability and Accountability 11488

Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as
amended. 11489
11490

Sec. 173.40. There is hereby created a medicaid waiver 11491
component ~~of the medicaid program established under Chapter 5111.,~~ 11492
as defined in section 5111.85 of the Revised Code, to be known as 11493
the preadmission screening system providing options and resources 11494
today program, or PASSPORT. The PASSPORT program shall provide 11495
home and community-based services as an alternative to nursing 11496
facility placement for aged and disabled medicaid recipients. The 11497
program shall be operated pursuant to a home and community-based 11498
waiver granted by the United States secretary of health and human 11499
services under section 1915 of the "Social Security Act," 49 Stat. 11500
620 (1935), 42 U.S.C. 1396n, as amended. The department of aging 11501
shall administer the program through a contract entered into with 11502
the department of job and family services under section 5111.91 of 11503
the Revised Code. The ~~directors~~ director of aging and job and 11504
family services shall adopt rules under section 5111.85 of the 11505
Revised Code and the director of aging shall adopt rules in 11506
accordance with Chapter 119. of the Revised Code to implement the 11507
program. 11508

Sec. ~~5101.75~~ 173.42. (A) As used in ~~sections 5101.75,~~ 11509
~~5101.751, 5101.752, 5101.753, and 5101.754~~ of the Revised Code 11510
this section: 11511

(1) "~~Alternative source of long term care" includes a~~ 11512
~~residential care facility licensed under Chapter 3721. of the~~ 11513
~~Revised Code, an adult care facility licensed under Chapter 3722.~~ 11514
~~of the Revised Code, home and community based services, and a~~ 11515
~~nursing home licensed under Chapter 3721. of the Revised Code that~~ 11516
~~is not a nursing facility~~ Area agency on aging" means a public or 11517
private nonprofit entity designated under section 173.011 of the 11518

Revised Code to administer programs on behalf of the department of 11519
aging. 11520

(2) "Long-term care consultation" means the process used to 11521
provide services under the long-term care consultation program 11522
established pursuant to this section, including, but not limited 11523
to, such services as the provision of information about long-term 11524
care options and costs, the assessment of an individual's 11525
functional capabilities, and the conduct of all or part of the 11526
reviews, assessments, and determinations specified in sections 11527
5111.202, 5111.204, 5119.061, and 5123.021 of the Revised Code and 11528
the rules adopted under those sections. 11529

(3) "Medicaid" means the medical assistance program 11530
established under Chapter 5111. of the Revised Code. 11531

~~(3)~~(4) "Nursing facility" has the same meaning as in section 11532
5111.20 of the Revised Code. 11533

~~(4)~~(5) "Representative" means a person acting on behalf of an 11534
applicant individual seeking a long-term care consultation, 11535
applying for admission to a nursing facility, or residing in a 11536
nursing facility. A representative may be a family member, 11537
attorney, hospital social worker, or any other person chosen to 11538
act on behalf of an applicant the individual. 11539

~~(5) "Third party payment source" means a third party payer as~~ 11540
~~defined in section 3901.38 of the Revised Code or medicaid.~~ 11541

(B) ~~Effective July 1, 1994, the department of job and family~~ 11542
~~services may assess a person applying or intending to apply for~~ 11543
~~admission to a nursing facility who is not an applicant for or~~ 11544
~~recipient of medicaid to determine whether the person is in need~~ 11545
~~of nursing facility services and whether an alternative source of~~ 11546
~~long term care is more appropriate for the person in meeting the~~ 11547
~~person's physical, mental, and psychosocial needs than admission~~ 11548
~~to the facility to which the person has applied.~~ 11549

~~Each assessment shall be performed by the department or an agency designated by the department under section 5101.751 of the Revised Code and shall be based on information provided by the person or the person's representative. It shall consider the person's physical, mental, and psychosocial needs and the availability and effectiveness of informal support and care. The department or designated agency shall determine the person's physical, mental, and psychosocial needs by using, to the maximum extent appropriate, information from the resident assessment instrument specified in rules adopted by the department under division (A) of section 5111.231 of the Revised Code. The department or designated agency shall also use the criteria and procedures established in rules adopted by the department under division (I) of this section. Assessments may be performed only by persons~~ The department of aging shall develop a long-term care consultation program whereby individuals or their representatives are provided with long-term care consultations and receive through these professional consultations information about options available to meet long-term care needs and information about factors to consider in making long-term care decisions. The long-term care consultations provided under the program may be provided at any appropriate time, as permitted or required under this section and the rules adopted under it, including either prior to or after the individual who is the subject of a consultation has been admitted to a nursing facility.

(C) The long-term care consultation program shall be administered by the department of aging, except that the department may enter into a contract with an area agency on aging or other entity selected by the department under which the program for a particular area is administered by the area agency on aging or other entity pursuant to the contract.

(D) The long-term care consultations provided for purposes of

~~the program shall be provided by individuals certified by the 11582
department under section 5101.752 173.43 of the Revised Code. The 11583
department or designated agency shall make a recommendation on the 11584
basis of the assessment and, not later than the time the 11585
assessment is required to be performed under division (D) of this 11586
section, give the person assessed written notice of the 11587
recommendation, which shall explain the basis for the 11588
recommendation. If the department or designated agency determines 11589
pursuant to an assessment that an alternative source of long term 11590
care is more appropriate for the person than admission to the 11591
facility to which the person has applied, the department or 11592
designated agency shall include in the notice possible sources of 11593
financial assistance for the alternative source of long term care. 11594
If the department or designated agency has been informed that the 11595
person has a representative, it shall give the notice to the 11596
representative. 11597~~

~~(C) A person (E) The information provided through a long-term 11598
care consultation shall be appropriate to the individual's needs 11599
and situation and shall address all of the following: 11600~~

~~(1) The availability of any long-term care options open to 11601
the individual; 11602~~

~~(2) Sources and methods of both public and private payment 11603
for long-term care services; 11604~~

~~(3) Factors to consider when choosing among the available 11605
programs, services, and benefits; 11606~~

~~(4) Opportunities and methods for maximizing independence and 11607
self-reliance, including support services provided by the 11608
individual's family, friends, and community. 11609~~

~~(F) An individual's long-term care consultation may include 11610
an assessment of the individual's functional capabilities. The 11611
consultation may incorporate portions of the determinations 11612~~

required under sections 5111.202, 5119.061, and 5123.021 of the 11613
Revised Code and may be provided concurrently with the assessment 11614
required under section 5111.204 of the Revised Code. 11615

(G)(1) Unless an exemption specified in division (I) of this 11616
section is applicable, each individual in the following categories 11617
shall be provided with a long-term care consultation: 11618

(a) Individuals who apply or indicate an intention to apply 11619
for admission to a nursing facility, regardless of the source of 11620
payment to be used for their care in a nursing facility; 11621

(b) Nursing facility residents who apply or indicate an 11622
intention to apply for medicaid; 11623

(c) Nursing facility residents who are likely to spend down 11624
their resources within six months after admission to a nursing 11625
facility to a level at which they are financially eligible for 11626
medicaid; 11627

(d) Individuals who request a long-term care consultation. 11628

(2) In addition to the individuals included in the categories 11629
specified in division (G)(1) of this section, long-term care 11630
consultations may be provided to nursing facility residents who 11631
have not applied and have not indicated an intention to apply for 11632
medicaid. The purpose of the consultations provided to these 11633
individuals shall be to determine continued need for nursing 11634
facility services, to provide information on alternative services, 11635
and to make referrals to alternative services. 11636

(H)(1) When a long-term care consultation is required to be 11637
provided pursuant to division (G)(1) of this section, the 11638
consultation shall be provided as follows or pursuant to division 11639
(H)(2) or (3) of this section: 11640

(a) If the individual for whom the consultation is being 11641
provided has applied for medicaid and the consultation is being 11642

provided concurrently with the assessment required under section 5111.204 of the Revised Code, the consultation shall be completed in accordance with the applicable time frames specified in that section for providing a level of care determination based on the assessment. 11643
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(b) In all other cases, the consultation shall be provided not later than five calendar days after the department or the program administrator under contract with the department receives notice of the reason for which the consultation is required to be provided pursuant to division (G)(1) of this section. 11648
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(2) An individual or the individual's representative may request that a long-term care consultation be provided on a date that is later than the date required under division (H)(1)(a) or (b) of this section. 11653
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(3) If a long-term care consultation cannot be completed within the number of days required by division (H)(1) or (2) of this section, the department or the program administrator under contract with the department may do any of the following: 11657
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(a) Exempt the individual from the consultation pursuant to rules that may be adopted under division (L) of this section; 11661
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(b) In the case of an applicant for admission to a nursing facility, provide the consultation after the individual is admitted to the nursing facility; 11663
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(c) In the case of a resident of a nursing facility, provide the consultation as soon as practicable. 11666
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(I) An individual is not required to be assessed provided a long-term care consultation under ~~division (B)~~ of this section if any of the following apply: 11668
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(1) The ~~circumstances~~ individual or the individual's representative chooses to forego participation in the consultation 11671
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pursuant to criteria specified by in rules adopted under division 11673
~~(I)(L)~~ of this section exist.; 11674

(2) The ~~person~~ individual is to receive care in a nursing 11675
facility under a contract for continuing care as defined in 11676
section 173.13 of the Revised Code.; 11677

(3) The ~~person~~ individual has a contractual right to 11678
admission to a nursing facility operated as part of a system of 11679
continuing care in conjunction with one or more facilities that 11680
provide a less intensive level of services, including a 11681
residential care facility licensed under Chapter 3721. of the 11682
Revised Code, an ~~adult care~~ adult care facility licensed under 11683
Chapter 3722. of the Revised Code, or an independent living 11684
arrangement; 11685

(4) The ~~person~~ individual is to receive continual care in a 11686
home for the aged exempt from taxation under section 5701.13 of 11687
the Revised Code; 11688

~~(5) The person is to receive care in the nursing facility for~~ 11689
~~not more than fourteen days in order to provide temporary relief~~ 11690
~~to the person's primary caregiver and the nursing facility~~ 11691
~~notifies the department of the person's admittance not later than~~ 11692
~~twenty four hours after admitting the person individual is seeking~~ 11693
admission to a facility that is not a nursing facility with a 11694
provider agreement under section 5111.22 of the Revised Code; 11695

(6) The ~~person~~ individual is to be transferred from another 11696
nursing facility, ~~unless the nursing facility from which or to~~ 11697
~~which the person is to be transferred determines that the person's~~ 11698
~~medical condition has changed substantially since the person's~~ 11699
~~admission to the nursing facility from which the person is to be~~ 11700
~~transferred or a review is required by a third party payment~~ 11701
~~source;~~ 11702

(7) The ~~person~~ individual is to be readmitted to a nursing 11703

facility following a period of hospitalization, unless the 11704
hospital or nursing facility determines that the person's medical 11705
condition has changed substantially since the person's admission 11706
to the hospital, or a review is required by a third party payment 11707
source; 11708

(8) The department or designated agency fails to complete an 11709
assessment within the time required by division (D) or (E) of this 11710
section or determines after a partial assessment that the person 11711
should be exempt from the assessment individual is exempted from 11712
the long-term care consultation requirement by the department or 11713
the program administrator pursuant to rules that may be adopted 11714
under division (L) of this section. 11715

(D) The department or designated agency shall perform a 11716
complete assessment, or, if circumstances provided by rules 11717
adopted under division (I) of this section exist, a partial 11718
assessment, as follows: 11719

(1) In the case of a hospitalized person applying or 11720
intending to apply to a nursing facility, not later than two 11721
working days after the person or the person's representative is 11722
notified that a bed is available in a nursing facility; 11723

(2) In the case of an emergency as determined in accordance 11724
with rules adopted under division (I) of this section, not later 11725
than one working day after the person or the person's 11726
representative is notified that a bed is available in a nursing 11727
facility; 11728

(3) In all other cases, not later than five calendar days 11729
after the person or the person's representative who submits the 11730
application is notified that a bed is available in a nursing 11731
facility. 11732

(E) If the department or designated agency conducts a partial 11733
assessment under division (D) of this section, it shall complete 11734

~~the rest of the assessment not later than one hundred eighty days
after the date the person is admitted to the nursing facility
unless the assessment entity determines the person should be
exempt from the assessment.~~ 11735
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~~(F) A person assessed under this section or the person's
representative may file a complaint with the department about the
assessment process. The department shall work to resolve the
complaint in accordance with rules adopted under division (I) of
this section.~~ 11739
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~~(G) A person (J) At the conclusion of an individual's
long-term care consultation, the department or the program
administrator under contract with the department shall provide the
individual or individual's representative with a written summary
of options and resources available to meet the individual's needs.
Even though the summary may specify that a source of long-term
care other than care in a nursing facility is appropriate and
available, the individual is not required to seek an alternative
source of long-term care and may be admitted to or continue to
reside in a nursing facility even though an alternative source of
long term care is available or the person is determined pursuant
to an assessment under this section not to need nursing facility
services.~~ 11744
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~~(H)(K) No nursing facility for which an operator has a
provider agreement with the department under section 5111.22 of
the Revised Code shall admit or retain any person, other than a
person exempt from the assessment requirement as provided by
division (C) of this section, individual as a resident, unless the
nursing facility has received evidence that a ~~complete or partial
assessment~~ long-term care consultation has been completed for the
individual or division (I) of this section is applicable to the
individual.~~ 11757
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~~(I)(L)~~ The director of job and family services shall aging 11766
may adopt any rules in accordance with Chapter 119. of the Revised 11767
Code to implement and administer the director considers necessary 11768
for the implementation and administration of this section. The 11769
rules shall ~~include~~ be adopted in accordance with Chapter 119. of 11770
the Revised Code and may specify any or all of the following: 11771

(1) ~~The information a person being assessed or the person's~~ 11772
~~representative must provide to enable the department or designated~~ 11773
~~agency to do the assessment;~~ 11774

(2) ~~Criteria to be used to determine whether a person is in~~ 11775
~~need of nursing facility services;~~ 11776

(3) ~~Criteria to be used to determine whether an alternative~~ 11777
~~source of long term care is appropriate for the person being~~ 11778
~~assessed;~~ 11779

(4) ~~Criteria and procedures to be used to determine a~~ 11780
~~person's physical, mental, and psychosocial needs;~~ 11781

(5) ~~Criteria to be used to determine the effectiveness and~~ 11782
~~continued availability of a person's current source of informal~~ 11783
~~support and care;~~ 11784

(6) ~~Circumstances, in addition to those specified in division~~ 11785
~~(C) of this section, under which a person is not required to be~~ 11786
~~assessed;~~ 11787

(7) ~~Circumstances under which the department or designated~~ 11788
~~agency may perform a partial assessment under division (D) of this~~ 11789
~~section;~~ 11790

(8) ~~The method by which a situation will be determined to be~~ 11791
~~an emergency for the purpose of division (D)(2) of this section;~~ 11792

(9) ~~The method by which the department will attempt to~~ 11793
~~resolve complaints filed under division (F) of this section~~ 11794
Procedures for providing long-term care consultations pursuant to 11795

<u>this section;</u>	11796
<u>(2) Information to be provided through long-term care consultations regarding long-term care services that are available;</u>	11797
	11798
	11799
<u>(3) Criteria under which an individual or the individual's representative may choose to forego participation in a long-term care consultation;</u>	11800
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<u>(4) Criteria for exempting individuals from the long-term care consultation requirement;</u>	11803
	11804
<u>(5) Circumstances under which it may be appropriate to provide an individual's long-term care consultation after the individual's admission to a nursing facility rather than before admission;</u>	11805
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<u>(6) Criteria for identifying nursing facility residents who would benefit from the provision of a long-term care consultation.</u>	11809
	11810
(J)(M) The director of job and family services <u>aging</u> may fine a nursing facility an amount determined by rules the director shall adopt in accordance with Chapter 119. of the Revised Code in either of the following circumstances:	11811
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	11814
(1) The nursing facility fails to notify the department within the required time about an admission described in division (C)(5) of this section;	11815
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	11817
(2) The <u>if the</u> nursing facility admits <u>or retains an individual</u>, without evidence that a complete or partial assessment long-term care consultation has been conducted <u>provided</u>, a person other than a person exempt from the assessment requirement as provided <u>required</u> by division (C) of this section.	11818
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	11822
The director shall deposit <u>In accordance with section 5111.62 of the Revised Code</u>, all fines collected under this division <u>shall</u> be deposited into the <u>state treasury to the credit of the</u>	11823
	11824
	11825

residents protection fund established by section 5111.62 of the Revised Code. 11826
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Sec. ~~5101.752~~ 173.43. The department of ~~job and family services aging~~ shall certify ~~registered nurses licensed under Chapter 4723. of the Revised Code and social workers and independent social workers licensed under Chapter 4757. of the Revised Code~~ individuals who meet certification requirements established by rule to ~~perform assessments under~~ provide long-term care consultations for purposes of section ~~5101.75 or 5101.754~~ 173.42 of the Revised Code. The director of ~~job and family services aging~~ shall adopt rules in accordance with Chapter 119. of the Revised Code governing the certification process and requirements. The rules shall specify the education, experience, or training in ~~geriatric~~ long-term care a person must have to qualify for certification. 11828
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Sec. 173.44. (A) As used in this section, "nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 11841
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(B) The department of aging may conduct an annual survey of nursing homes and residential care facilities. The survey shall include questions about capacity, occupancy, and private pay charges. The department may contract with an outside entity to conduct the survey and analyze the results. The results of the survey and any analysis completed by the department or its designee shall be made available to the general assembly, other state agencies, nursing home and residential care facility providers, and the general public. 11844
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(C) No nursing home or residential care facility shall recklessly fail to complete the survey. 11853
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Sec. 173.45. As used in this section and in sections 173.46 11855

to 173.49 of the Revised Code: 11856

(A) "Long-term care facility" means a nursing home or residential care facility. 11857
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(B) "Nursing home" and "residential care facility" have the same meanings as in section 3721.01 of the Revised Code. 11859
11860

(C) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 11861
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Sec. 173.46. (A) The department of aging shall develop and publish a guide to long-term care facilities for use by individuals considering long-term care facility admission and their families, friends, and advisors. The guide, which shall be titled the Ohio long-term care consumer guide, may be published in printed form or in electronic form for distribution over the internet. The guide may be developed as a continuation or modification of the guide published by the department prior to the effective date of this section under rules adopted under section 173.02 of the Revised Code. 11863
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(B) The Ohio long-term care consumer guide shall include information on each long-term care facility in this state. For each facility, the guide shall include the following information, as applicable to the facility: 11873
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(1) Information regarding the facility's compliance with state statutes and rules and federal statutes and regulations; 11877
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(2) Information generated by the centers for medicare and medicaid services of the United States department of health and human services from the quality measures developed as part of its nursing home quality initiative; 11879
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(3) Results of the customer satisfaction surveys conducted under section 173.47 of the Revised Code; 11883
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(4) Any other information the department specifies in rules 11885
adopted under section 173.49 of the Revised Code. 11886

Sec. 173.47. (A) For purposes of publishing the Ohio 11887
long-term care consumer guide, the department of aging shall 11888
conduct or provide for the conduct of an annual customer 11889
satisfaction survey of each long-term care facility. The results 11890
of the surveys may include information obtained from long-term 11891
care facility residents, their families, or both. 11892

(B)(1) The department may charge fees for the conduct of 11893
annual customer satisfaction surveys. The department may contract 11894
with any person or government entity to collect the fees on its 11895
behalf. All fees collected under this section shall be deposited 11896
in accordance with section 173.48 of the Revised Code. 11897

(2) The fees charged under this section shall not exceed the 11898
following amounts: 11899

(a) Four hundred dollars for the customer satisfaction survey 11900
of a long-term care facility that is a nursing home; 11901

(b) Three hundred dollars for the customer satisfaction 11902
survey pertaining to a long-term care facility that is a 11903
residential care facility. 11904

(3) Fees paid by a long-term care facility that is a nursing 11905
facility shall be reimbursed through the medicaid program operated 11906
under Chapter 5111. of the Revised Code. 11907

(C) Each long-term care facility shall cooperate in the 11908
conduct of its annual customer satisfaction survey. 11909

Sec. 173.48. There is hereby created in the state treasury 11910
the long-term care consumer guide fund. Money collected from the 11911
fees charged for the conduct of customer satisfaction surveys 11912
under section 173.47 of the Revised Code shall be credited to the 11913

fund. The department of aging shall use money in the fund for 11914
costs associated with publishing the Ohio long-term care consumer 11915
guide, including, but not limited to, costs incurred in conducting 11916
or providing for the conduct of customer satisfaction surveys. 11917

Sec. 173.49. The department of aging shall adopt rules as the 11918
department considers necessary to implement and administer 11919
sections 173.45 to 173.48 of the Revised Code. The rules shall be 11920
adopted under Chapter 119. of the Revised Code. 11921

Sec. 173.50. (A) Pursuant to a contract entered into with the 11922
department of job and family services as an interagency agreement 11923
under section 5111.91 of the Revised Code, the department of aging 11924
shall carry out the day-to-day administration of the component of 11925
the medicaid program established under Chapter 5111. of the 11926
Revised Code known as the program of all-inclusive care for the 11927
elderly or PACE. The department of aging shall carry out its PACE 11928
administrative duties in accordance with the provisions of the 11929
interagency agreement and all applicable federal laws, including 11930
the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396u-4, 11931
as amended. 11932

(B) The department of aging may adopt rules in accordance 11933
with Chapter 119. of the Revised Code regarding the PACE program, 11934
subject to both of the following: 11935

(1) The rules shall be authorized by rules adopted by the 11936
department of job and family services. 11937

(2) The rules shall address only those issues that are not 11938
addressed in rules adopted by the department of job and family 11939
services for the PACE program. 11940

Sec. 173.99. (A) A long-term care provider, person employed 11941

by a long-term care provider, other entity, or employee of such 11942
other entity that violates division (C) of section 173.24 of the 11943
Revised Code is subject to a fine not to exceed one thousand 11944
dollars for each violation. 11945

(B) Whoever violates division (C) of section 173.23 of the 11946
Revised Code is guilty of registering a false complaint, a 11947
misdemeanor of the first degree. 11948

(C) A long-term care provider, other entity, or person 11949
employed by a long-term care provider or other entity that 11950
violates division (E) of section 173.19 of the Revised Code by 11951
denying a representative of the office of the state long-term care 11952
ombudsperson program the access required by that division is 11953
subject to a fine not to exceed five hundred dollars for each 11954
violation. 11955

(D) Whoever violates division (C) of section 173.44 of the 11956
Revised Code is subject to a fine of one hundred dollars. 11957

Sec. 183.28. The education technology trust fund is hereby 11958
created in the state treasury. Money credited to the fund shall be 11959
used to pay costs of the eTech Ohio ~~SchoolNet~~ commission under 11960
section ~~3301.80~~ 3353.02 of the Revised Code. All investment 11961
earnings of the fund shall be credited to the fund. 11962

Sec. 184.02. (A) The third frontier commission may perform 11963
any act to ensure the performance of any function necessary or 11964
appropriate to carry out the purposes of, and exercise the powers 11965
granted under, sections 184.01 and 184.02 of the Revised Code. In 11966
addition, the commission may do any of the following: 11967

(1) Adopt, amend, and rescind rules under section 111.15 of 11968
the Revised Code for the administration of any aspect of its 11969
operations; 11970

(2) Adopt bylaws governing its operations, including bylaws 11971

that establish procedures and set policies as may be necessary to	11972
assist with the furtherance of its purposes;	11973
(3) Appoint and set the compensation of employees needed to	11974
carry out its duties;	11975
(4) Contract with, retain the services of, or designate, and	11976
fix the compensation of, such financial consultants, accountants,	11977
other consultants and advisors, and other independent contractors	11978
as may be necessary or desirable to carry out its duties;	11979
(5) Solicit input and comments from the third frontier	11980
advisory board, and specialized industry, professional, and other	11981
relevant interest groups concerning its purposes;	11982
(6) Facilitate alignment of the state's science and	11983
technology programs and activities;	11984
(7) Make grants and loans to individuals, public agencies,	11985
private companies or organizations, or joint ventures for any of	11986
the broad range of activities related to its purposes.	11987
(B) The commission shall do all of the following:	11988
(1) Establish a competitive process for the award of grants	11989
and loans that is designed to fund the most meritorious proposals	11990
and, when appropriate, provide for peer review of proposals;	11991
(2) Within ninety days after the end of each fiscal year,	11992
submit to the governor and the general assembly a report of the	11993
activities of the commission during the preceding fiscal year;	11994
(3) With specific application to the biomedical research and	11995
technology transfer trust fund, periodically make strategic	11996
assessments of the types of state investments in biomedical	11997
research and biotechnology in the state that would likely create	11998
jobs and business opportunities in the state and produce the most	11999
beneficial long-term improvements to the public health of Ohioians	12000
<u>Ohioans</u> , including, but not limited to, biomedical research and	12001

biotechnology initiatives that address tobacco-related illnesses 12002
as may be outlined in any master agreement. The commission shall 12003
award grants and loans from the fund pursuant to a process 12004
established under division (B)(1) of this section. 12005

(C) Notwithstanding the authority granted to the commission 12006
under sections 184.01 to 184.04 of the Revised Code, the 12007
commission shall not make any grants or loans to individuals, 12008
public agencies, private companies or organizations, or joint 12009
ventures for any activities involving stem cell research with 12010
embryonic tissue unless the stem cell research involves embryonic 12011
stem cells listed on the "Human Embryonic Stem Cell Registry" 12012
created by the national institutes of health in the United States 12013
department of health and human services in accordance with 12014
presidential criteria established on August 9, 2001. 12015

Sec. 305.171. (A) The board of county commissioners of any 12016
county may contract for, purchase, or otherwise procure and pay 12017
all or any part of the cost of group insurance policies that may 12018
provide benefits including, but not limited to, hospitalization, 12019
surgical care, major medical care, disability, dental care, eye 12020
care, medical care, hearing aids, or prescription drugs, and that 12021
may provide sickness and accident insurance, group legal services, 12022
or group life insurance, or a combination of any of the foregoing 12023
types of insurance or coverage, for county officers and employees 12024
and their immediate dependents from the funds or budgets from 12025
which the county officers or employees are compensated for 12026
services, issued by an insurance company. 12027

(B) The board of county commissioners also may negotiate and 12028
contract for any plan or plans of health care services with health 12029
insuring corporations holding a certificate of authority under 12030
Chapter 1751. of the Revised Code, provided that each county 12031
officer or employee shall be permitted to do both of the 12032

following: 12033

(1) Exercise an option between a plan offered by an insurance 12034
company and ~~such a~~ plan or plans offered by health insuring 12035
corporations under this division, on the condition that the county 12036
officer or employee shall pay any amount by which the cost of the 12037
plan chosen by ~~such~~ the county officer or employee pursuant to 12038
this division exceeds the cost of the plan offered under division 12039
(A) of this section; 12040

(2) Change from one of the plans to another at a time each 12041
year as determined by the board. 12042

(C) Section 307.86 of the Revised Code does not apply to the 12043
purchase of benefits for county officers or employees under 12044
divisions (A) and (B) of this section when those benefits are 12045
provided through a jointly administered health and welfare trust 12046
fund in which the county or contracting authority and a collective 12047
bargaining representative of the county employees or contracting 12048
authority agree to participate. 12049

(D) The board of trustees of a jointly administered trust 12050
fund that receives contributions pursuant to collective bargaining 12051
agreements entered into between the board of county commissioners 12052
of any county and a collective bargaining representative of the 12053
employees of the county may provide for self-insurance of all risk 12054
in the provision of fringe benefits, and may provide through the 12055
self-insurance method specific fringe benefits as authorized by 12056
the rules of the board of trustees of the jointly administered 12057
trust fund. The fringe benefits may include, but are not limited 12058
to, hospitalization, surgical care, major medical care, 12059
disability, dental care, vision care, medical care, hearing aids, 12060
prescription drugs, group life insurance, sickness and accident 12061
insurance, group legal services, or a combination of any of the 12062
foregoing types of insurance or coverage, for county employees and 12063
their dependents. 12064

(E) The board of county commissioners may provide the 12065
benefits described in divisions (A) to (D) of this section through 12066
an individual self-insurance program or a joint self-insurance 12067
program as provided in section 9.833 of the Revised Code. 12068

(F) When a board of county commissioners offers health 12069
benefits authorized under this section to ~~an~~ a county officer or 12070
employee ~~of the county~~, the board may offer the benefits through a 12071
cafeteria plan meeting the requirements of section 125 of the 12072
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 125, 12073
as amended, and, as part of that plan, may offer the county 12074
officer or employee the option of receiving a cash payment in any 12075
form permissible under such cafeteria plans. A cash payment made 12076
to ~~an~~ a county officer or employee under this division shall not 12077
exceed twenty-five per cent of the cost of premiums or payments 12078
that otherwise would be paid by the board for benefits for the 12079
county officer or employee under a policy or plan. 12080

(G) The board of county commissioners may establish a policy 12081
authorizing any county appointing authority to make a cash payment 12082
to any county officer or employee in lieu of providing a benefit 12083
authorized under this section if the county officer or employee 12084
elects to take the cash payment instead of the offered benefit. A 12085
cash payment made to ~~an~~ a county officer or employee under this 12086
division shall not exceed twenty-five per cent of the cost of 12087
premiums or payments that otherwise would be paid by the board for 12088
benefits for the county officer or employee under an offered 12089
policy or plan. 12090

(H) No cash payment in lieu of a health benefit shall be made 12091
to a county officer or employee under division (F) or (G) of this 12092
section unless the county officer or employee signs a statement 12093
affirming that the county officer or employee is covered under 12094
another health insurance or health care policy, contract, or plan, 12095
and setting forth the name of the employer, if any, that sponsors 12096

the coverage, the name of the carrier that provides the coverage, 12097
and the identifying number of the policy, contract, or plan. 12098

~~(I)(1) As used in this division:~~ 12099

~~(a) "County operated municipal court" and "legislative 12100
authority" have the same meanings as in section 1901.03 of the 12101
Revised Code.~~ 12102

~~(b) "Health care coverage" has the same meaning as in section 12103
1901.111 of the Revised Code.~~ 12104

~~(2) The legislative authority of a county-operated municipal 12105
court, after consultation with the judges, or the clerk and deputy 12106
clerks, of the municipal court, shall negotiate and contract for, 12107
purchase, or otherwise procure, and pay the costs, premiums, or 12108
charges for, group health care coverage for the judges, and group 12109
health care coverage for the clerk and deputy clerks, in 12110
accordance with section 1901.111 or 1901.312 of the Revised Code. 12111~~

(J) As used in this section: 12112

(1) "County officer or employee" includes, but is not limited 12113
to, a member or employee of the county board of elections. 12114

(2) "County-operated municipal court" and "legislative 12115
authority" have the same meanings as in section 1901.03 of the 12116
Revised Code. 12117

(3) "Health care coverage" has the same meaning as in section 12118
1901.111 of the Revised Code. 12119

Sec. 306.331. Notwithstanding section 306.33 of the Revised 12120
Code, the board of trustees of any regional transit authority 12121
created by one county and two municipal corporations, with the 12122
county having a population of at least five hundred thousand 12123
according to the most recent federal census, shall be appointed 12124
and governed as provided in this section. 12125

The board of trustees of such a regional transit authority shall consist of nine members, six of whom shall be appointed by the board of county commissioners, two of whom shall be appointed by the most populous municipal corporation that is included in the regional transit authority, and one of whom shall be appointed by the second most populous municipal corporation in the county, regardless of whether the second most populous municipal corporation in the county is a member of the regional transit authority. A trustee appointed under this section shall serve at the pleasure of the appointing authority. 12126
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The trustees of any authority first appointed under this section shall serve staggered terms. Thereafter each successor shall serve a term of three years, except that any person appointed to fill a vacancy shall be appointed to only the unexpired term. The resolutions or ordinances creating the regional transit authority may determine whether an appointed trustee is eligible for reappointment. 12136
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A majority of the board of trustees constitutes a quorum, the affirmative vote of which is necessary for any action taken by the authority. No vacancy in the board shall impair the rights of a quorum to exercise all rights and perform all the duties of the authority. 12143
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Each member of the board of trustees, before entering upon the trustee's official duties, shall take and subscribe to an oath or affirmation that the trustee will honestly, faithfully, and impartially perform the duties of office and that the trustee will not be personally interested directly or indirectly in any contract let by the regional transit authority. 12148
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After each member of the board has taken the oath as prescribed by this section, the board shall meet and organize by electing one of its members as president and another as 12154
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vice-president, who shall hold their respective offices until the 12157
next annual meeting of the board as provided in its bylaws. At 12158
each annual meeting thereafter, the board shall elect from its 12159
membership a president and a vice-president who shall serve for a 12160
term of one year. The board shall hold regular and special 12161
meetings in a time, place, and manner established in its bylaws, 12162
provided that all meetings shall be open to the public except 12163
executive sessions as set forth in section 122.22 of the Revised 12164
Code. 12165

The board shall appoint and fix the compensation of a 12166
secretary-treasurer, who shall be the fiscal officer. The 12167
secretary-treasurer shall not be a member of the board and shall 12168
serve at the pleasure of the board. Each member of the board of 12169
trustees is entitled to receive from the regional transit 12170
authority reimbursement for reasonable expenses in the performance 12171
of the trustee's duties. 12172

Sec. 307.37. (A) As used in division (B)(3) of this section, 12173
"proposed new construction" means a proposal to erect, construct, 12174
repair, alter, redevelop, or maintain a single-family, two-family, 12175
or three-family dwelling or any structure that is regulated by the 12176
Ohio building code. 12177

(B)(1)(a) The board of county commissioners may adopt local 12178
residential building regulations governing residential buildings 12179
as defined in section 3781.06 of the Revised Code, to be enforced 12180
within the unincorporated area of the county or within districts 12181
the board establishes in any part of the unincorporated area. No 12182
local residential building regulation shall differ from the state 12183
residential building code the board of building standards 12184
establishes pursuant to Chapter 3781. of the Revised Code unless 12185
the regulation addresses subject matter not addressed by the state 12186
residential building code or is adopted pursuant to section 12187

3781.01 of the Revised Code. 12188

(b) The board of county commissioners may, by resolution, 12189
adopt, administer, and enforce within the unincorporated area of 12190
the county, or within districts the board establishes in the 12191
unincorporated area, an existing structures code pertaining to the 12192
repair and continued maintenance of structures and the premises of 12193
those structures provided that the existing structures code 12194
governs subject matter not addressed by, and is not in conflict 12195
with, the state residential building code adopted pursuant to 12196
Chapter 3781. of the Revised Code. The board may adopt by 12197
~~incorporation~~ incorporation by reference a model or standard code 12198
prepared and promulgated by the state, any agency of this state, 12199
or any private organization that publishes a recognized or 12200
standard existing structures code. 12201

(c) The board shall assign the duties of administering and 12202
enforcing any local residential building regulations or existing 12203
structures code to a county officer or employee who is trained and 12204
qualified for those duties and shall establish by resolution the 12205
minimum qualifications necessary to perform those duties. 12206

(2) The board may adopt regulations for participation in the 12207
national flood insurance program established in the "Flood 12208
Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, 12209
as amended, and regulations adopted for the purposes of section 12210
1506.04 or 1506.07 of the Revised Code governing the prohibition, 12211
location, erection, construction, redevelopment, or floodproofing 12212
of new buildings or structures, substantial improvements to 12213
existing buildings or structures, or other development in 12214
unincorporated territory within flood hazard areas identified 12215
under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 12216
42 U.S.C.A. 4002, as amended, or within Lake Erie coastal erosion 12217
areas identified under section 1506.06 of the Revised Code, 12218
including, but not limited to, residential, commercial, 12219

institutional, or industrial buildings or structures or other 12220
permanent structures, as defined in section 1506.01 of the Revised 12221
Code. Rules adopted under division (B)(2) of this section shall 12222
not conflict with the state residential and nonresidential 12223
building codes adopted pursuant to section 3781.10 of the Revised 12224
Code. 12225

(3)(a) A board may adopt regulations that provide for a 12226
review of the specific effects of a proposed new construction on 12227
existing surface or subsurface drainage. The regulations may 12228
require reasonable drainage mitigation and reasonable alteration 12229
of a proposed new construction before a building permit is issued 12230
in order to prevent or correct any adverse effects that the 12231
proposed new construction may have on existing surface or 12232
subsurface drainage. The regulations shall not be inconsistent 12233
with, more stringent than, or broader in scope than standards 12234
adopted by the natural resource conservation service in the United 12235
States department of agriculture concerning drainage or rules 12236
adopted by the environmental protection agency for reducing, 12237
controlling, or mitigating storm water runoff from construction 12238
sites, where applicable. The regulations shall allow a person who 12239
is registered under Chapter 4703. or 4733. of the Revised Code to 12240
prepare and submit relevant plans and other documents for review, 12241
provided that the person is authorized to prepare the plans and 12242
other documents pursuant to the person's registration. 12243

(b) If regulations are adopted under division (B)(3) of this 12244
section, the board shall specify in the regulations a procedure 12245
for the review of the specific effects of a proposed new 12246
construction on existing surface or subsurface drainage. The 12247
procedure shall include at a minimum all of the following: 12248

(i) A meeting at which the proposed new construction shall be 12249
examined for those specific effects. The meeting shall be held 12250
within thirty days after an application for a building permit is 12251

filed or a review is requested unless the applicant agrees in writing to extend that time period or to postpone the meeting to another date, time, or place. The meeting shall be scheduled within five days after an application for a building permit is filed or a review is requested.

(ii) Written notice of the date, time, and place of that meeting, sent by regular mail to the applicant. The written notice shall be mailed at least seven days before the scheduled meeting date.

(iii) Completion of the review by the board of county commissioners not later than thirty days after the application for a building permit is filed or a review is requested unless the applicant has agreed in writing to extend that time period or postpone the meeting to a later time, in which case the review shall be completed not later than two days after the date of the meeting. A complete review shall include the issuance of any order of the board of county commissioners regarding necessary reasonable drainage mitigation and necessary reasonable alterations to the proposed new construction to prevent or correct any adverse effects on existing surface or subsurface drainage so long as those alterations comply with the state residential and nonresidential building codes adopted pursuant to section 3781.10 of the Revised Code. If the review is not completed within the thirty-day period or an extended or postponed period that the applicant has agreed to, the proposed new construction shall be deemed to have no adverse effects on existing surface or subsurface drainage, and those effects shall not be a valid basis for the denial of a building permit.

(iv) A written statement, provided to the applicant at the meeting or in an order for alterations to a proposed new construction, informing the applicant of the right to seek appellate review of the denial of a building permit under division

(B)(3)(b)(iii) of this section by filing a petition in accordance 12284
with Chapter 2506. of the Revised Code. 12285

(c) The regulations may authorize the board, after obtaining 12286
the advice of the county engineer, to enter into an agreement with 12287
the county engineer or another qualified person or entity to carry 12288
out any necessary inspections and make evaluations about what, if 12289
any, alterations are necessary to prevent or correct any adverse 12290
effects that a proposed new construction may have on existing 12291
surface or subsurface drainage. 12292

(d) Regulations adopted pursuant to division (B)(3) of this 12293
section shall not apply to any property that a platting authority 12294
has approved under section 711.05, 711.09, or 711.10 of the 12295
Revised Code and shall not govern the same subject matter as the 12296
state residential or nonresidential building codes adopted 12297
pursuant to section 3781.10 of the Revised Code. 12298

(e) As used in division (B)(3) of this section, "subsurface 12299
drainage" does not include a household sewage treatment system as 12300
defined in section 3709.091 of the Revised Code. 12301

(C)(1) Any regulation, code, or amendment may be adopted 12302
under this section only after a public hearing at not fewer than 12303
two regular or special sessions of the board. The board shall 12304
cause notice of any public hearing to be published in a newspaper 12305
of general circulation in the county once a week for the two 12306
consecutive weeks immediately preceding the hearing, except that 12307
if the board posts the hearing notice on the board's internet site 12308
on the world wide web, the board need publish only one notice of 12309
the hearing in a newspaper of general circulation if that 12310
newspaper notice includes the board's internet site and a 12311
statement that the notice is also posted on the internet site. Any 12312
notice of a public hearing shall include the time, date, and place 12313
of the hearing. 12314

(2) Any proposed regulation, code, or amendment shall be made available to the public at the board office. The regulations or amendments shall take effect on the thirty-first day following the date of their adoption.

(D)(1) No person shall violate any regulation, code, or amendment the board adopts under sections 307.37 to 307.40 of the Revised Code.

(2) Each day during which an illegal location, erection, construction, floodproofing, repair, alteration, development, redevelopment, or maintenance continues may be considered a separate offense.

(E) Regulations or amendments the board adopts pursuant to this section, with the exception of an existing structures code, do not affect buildings or structures that exist or on which construction has begun on or before the date the board adopts the regulation or amendment.

(F)(1) The board may create a building department and employ the personnel it determines necessary to administer and enforce any local residential building regulations or existing structures code the board adopts pursuant to this section. The building department may enforce the state residential and nonresidential building codes adopted pursuant to Chapter 3781. of the Revised Code if the building department is certified pursuant to section 3781.10 of the Revised Code to enforce those codes.

(2) The board may direct the building department, upon certification, to exercise enforcement authority and to accept and approve plans pursuant to sections 3781.03 and 3791.04 of the Revised Code for the class of building for which the department and personnel are certified.

Sec. 307.695. (A) As used in this section, ~~"convention:~~ 12344

(1) "Convention center" means any structure expressly
designed and constructed for the purposes of presenting
conventions, public meetings, and exhibitions and includes parking
facilities that serve the center and any personal property used in
connection with any such structure or facilities.

(2) "Community improvement corporation" means a corporation
not for profit organized under Chapter 1724. of the Revised Code.

(B) A board of county commissioners may enter into an
agreement with a convention and visitors' bureau or a community
improvement corporation operating in the county under which:

(1) The bureau or corporation agrees to construct and equip a
convention center in the county and to pledge and contribute from
the tax revenues received by it under division (A) of section
5739.09 of the Revised Code, not more than ~~such~~ the portion
~~thereof of those revenues~~ that it is authorized to pledge and
contribute for the purpose described in division (C) of this
section; and

(2) The board agrees to levy a tax under division (C) of
section 5739.09 of the Revised Code and pledge and contribute the
revenues ~~therefrom~~ from the tax for the purpose described in
division (C) of this section.

(C) The purpose of the pledges and contributions described in
divisions (B)(1) and (2) of this section is payment of principal,
interest, and premium, if any, on bonds and notes issued by or for
the benefit of the convention and visitors' bureau or community
improvement corporation to finance the construction and equipping
of a convention center. The pledges and contributions provided for
in the agreement under division (B) of this section shall be for
the period stated in the agreement, but not to exceed thirty
years. Revenues determined from time to time by the board to be
needed to cover the real and actual costs of administering the tax

imposed by division (C) of section 5739.09 of the Revised Code may 12376
not be pledged or contributed. The agreement under division (B) of 12377
this section shall provide that any such bonds and notes shall be 12378
secured by a trust agreement between the bureau or corporation, or 12379
other issuer acting for the benefit of the bureau or corporation, 12380
and a corporate trustee that is a trust company or bank having the 12381
powers of a trust company within or without the state, and the 12382
trust agreement shall pledge or assign to the retirement of the 12383
bonds or notes, all moneys paid by the county under this section. 12384
A tax the revenues from which are pledged under an agreement 12385
entered into ~~by a board of county commissioners~~ under division (B) 12386
of this section shall not be subject to diminution by initiative 12387
or referendum, or diminution by statute, unless provision is made 12388
therein for an adequate substitute therefor reasonably 12389
satisfactory to the trustee under the trust agreement that secures 12390
the bonds and notes. 12391

(D) A pledge of money by a county under division (B) of this 12392
section shall not be indebtedness of the county for purposes of 12393
Chapter 133. of the Revised Code. 12394

(E) If the terms of the agreement under division (B) of this 12395
section so provide, the board of county commissioners may acquire 12396
and lease real property to the convention and visitors' bureau or 12397
community improvement corporation as the site of the convention 12398
center. The lease shall be for a term not to exceed thirty years 12399
and shall be on ~~such~~ the terms ~~as are~~ set forth in the agreement. 12400
The purchase and lease are not subject to the limitations of 12401
sections 307.02 and 307.09 of the Revised Code. 12402

(F) In addition to the authority granted to a board of county 12403
commissioners under divisions (B) to (E) of this section, a board 12404
of county commissioners in a county with a population of six 12405
hundred thousand or more may establish and provide local funding 12406
options for constructing and equipping a convention center. 12407

Sec. 307.76. (A) The board of county commissioners may 12408
maintain and operate a zoological park, or it may contract with or 12409
contribute to any nonprofit corporation that is organized to 12410
encourage the study of and promote the sciences of natural 12411
history, to maintain and operate a zoological park, to develop 12412
~~such~~ that park, and to provide for the acquisition, disposition, 12413
and care of the animals to be exhibited ~~therein~~ in that park. 12414

(B) A board of county commissioners may maintain and operate 12415
a facility to encourage the study of and promote the sciences, 12416
including, but not limited to, natural history, or it may contract 12417
with or contribute to any nonprofit corporation that is organized 12418
to encourage the study of and promote the sciences, to maintain 12419
and operate such a facility. 12420

Sec. 307.86. Anything to be purchased, leased, leased with an 12421
option or agreement to purchase, or constructed, including, but 12422
not limited to, any product, structure, construction, 12423
reconstruction, improvement, maintenance, repair, or service, 12424
except the services of an accountant, architect, attorney at law, 12425
physician, professional engineer, construction project manager, 12426
consultant, surveyor, or appraiser, by or on behalf of the county 12427
or contracting authority, as defined in section 307.92 of the 12428
Revised Code, at a cost in excess of twenty-five thousand dollars, 12429
except as otherwise provided in division (D) of section 713.23 and 12430
in sections 125.04, 125.60 to 125.6012, 307.022, 307.041, 307.861, 12431
339.05, 340.03, 340.033, 4115.31 to 4115.35, 5119.16, 5513.01, 12432
5543.19, 5713.01, and 6137.05 of the Revised Code, shall be 12433
obtained through competitive bidding. However, competitive bidding 12434
is not required when any of the following applies: 12435

(A) The board of county commissioners, by a unanimous vote of 12436
its members, makes a determination that a real and present 12437

emergency exists, and that determination and the reasons for it 12438
are entered in the minutes of the proceedings of the board, when 12439
either of the following applies: 12440

(1) The estimated cost is less than fifty thousand dollars. 12441

(2) There is actual physical disaster to structures, radio 12442
communications equipment, or computers. 12443

For purposes of this division, "unanimous vote" means all 12444
three members of a board of county commissioners when all three 12445
members are present, or two members of the board if only two 12446
members, constituting a quorum, are present. 12447

Whenever a contract of purchase, lease, or construction is 12448
exempted from competitive bidding under division (A)(1) of this 12449
section because the estimated cost is less than fifty thousand 12450
dollars, but the estimated cost is twenty-five thousand dollars or 12451
more, the county or contracting authority shall solicit informal 12452
estimates from no fewer than three persons who could perform the 12453
contract, before awarding the contract. With regard to each such 12454
contract, the county or contracting authority shall maintain a 12455
record of such estimates, including the name of each person from 12456
whom an estimate is solicited. The county or contracting authority 12457
shall maintain the record for the longer of at least one year 12458
after the contract is awarded or the amount of time the federal 12459
government requires. 12460

(B)(1) The purchase consists of supplies or a replacement or 12461
supplemental part or parts for a product or equipment owned or 12462
leased by the county, and the only source of supply for the 12463
supplies, part, or parts is limited to a single supplier. 12464

(2) The purchase consists of services related to information 12465
technology, such as programming services, that are proprietary or 12466
limited to a single source. 12467

(C) The purchase is from the federal government, the state, 12468
another county or contracting authority of another county, or a 12469
board of education, township, or municipal corporation. 12470

(D) The purchase is made by a county department of job and 12471
family services under section 329.04 of the Revised Code and 12472
consists of family services duties or workforce development 12473
activities or is made by a county board of mental retardation and 12474
developmental disabilities under section 5126.05 of the Revised 12475
Code and consists of program services, such as direct and 12476
ancillary client services, child care, case management services, 12477
residential services, and family resource services. 12478

(E) The purchase consists of criminal justice services, 12479
social services programs, family services, or workforce 12480
development activities by the board of county commissioners from 12481
nonprofit corporations or associations under programs funded by 12482
the federal government or by state grants. 12483

(F) The purchase consists of any form of an insurance policy 12484
or contract authorized to be issued under Title XXXIX of the 12485
Revised Code or any form of health care plan authorized to be 12486
issued under Chapter 1751. of the Revised Code, or any combination 12487
of such policies, contracts, or plans that the contracting 12488
authority is authorized to purchase, and the contracting authority 12489
does all of the following: 12490

(1) Determines that compliance with the requirements of this 12491
section would increase, rather than decrease, the cost of the 12492
purchase; 12493

(2) Employs a competent consultant to assist the contracting 12494
authority in procuring appropriate coverages at the best and 12495
lowest prices; 12496

(3) Requests issuers of the policies, contracts, or plans to 12497
submit proposals to the contracting authority, in a form 12498

prescribed by the contracting authority, setting forth the	12499
coverage and cost of the policies, contracts, or plans as the	12500
contracting authority desires to purchase;	12501
(4) Negotiates with the issuers for the purpose of purchasing	12502
the policies, contracts, or plans at the best and lowest price	12503
reasonably possible.	12504
(G) The purchase consists of computer hardware, software, or	12505
consulting services that are necessary to implement a computerized	12506
case management automation project administered by the Ohio	12507
prosecuting attorneys association and funded by a grant from the	12508
federal government.	12509
(H) Child care services are purchased for provision to county	12510
employees.	12511
(I)(1) Property, including land, buildings, and other real	12512
property, is leased for offices, storage, parking, or other	12513
purposes, and all of the following apply:	12514
(a) The contracting authority is authorized by the Revised	12515
Code to lease the property.	12516
(b) The contracting authority develops requests for proposals	12517
for leasing the property, specifying the criteria that will be	12518
considered prior to leasing the property, including the desired	12519
size and geographic location of the property.	12520
(c) The contracting authority receives responses from	12521
prospective lessors with property meeting the criteria specified	12522
in the requests for proposals by giving notice in a manner	12523
substantially similar to the procedures established for giving	12524
notice under section 307.87 of the Revised Code.	12525
(d) The contracting authority negotiates with the prospective	12526
lessors to obtain a lease at the best and lowest price reasonably	12527
possible considering the fair market value of the property and any	12528

relocation and operational costs that may be incurred during the 12529
period the lease is in effect. 12530

(2) The contracting authority may use the services of a real 12531
estate appraiser to obtain advice, consultations, or other 12532
recommendations regarding the lease of property under this 12533
division. 12534

(J) The purchase is made pursuant to section 5139.34 or 12535
sections 5139.41 to 5139.46 of the Revised Code and is of programs 12536
or services that provide case management, treatment, or prevention 12537
services to any felony or misdemeanor delinquent, unruly youth, 12538
or status offender under the supervision of the juvenile court, 12539
including, but not limited to, community residential care, day 12540
treatment, services to children in their home, or electronic 12541
monitoring. 12542

(K) The purchase is made by a public children services agency 12543
pursuant to section 307.92 or 5153.16 of the Revised Code and 12544
consists of family services, programs, or ancillary services that 12545
provide case management, prevention, or treatment services for 12546
children at risk of being or alleged to be abused, neglected, or 12547
dependent children. 12548

(L) The purchase is to obtain the services of emergency 12549
medical service organizations under a contract made by the board 12550
of county commissioners pursuant to section 307.05 of the Revised 12551
Code with a joint emergency medical services district. 12552

Any issuer of policies, contracts, or plans listed in 12553
division (F) of this section and any prospective lessor under 12554
division (I) of this section may have the issuer's or prospective 12555
lessor's name and address, or the name and address of an agent, 12556
placed on a special notification list to be kept by the 12557
contracting authority, by sending the contracting authority that 12558
name and address. The contracting authority shall send notice to 12559

all persons listed on the special notification list. Notices shall
state the deadline and place for submitting proposals. The
contracting authority shall mail the notices at least six weeks
prior to the deadline set by the contracting authority for
submitting proposals. Every five years the contracting authority
may review this list and remove any person from the list after
mailing the person notification of that action.

Any contracting authority that negotiates a contract under
division (F) of this section shall request proposals and
renegotiate with issuers in accordance with that division at least
every three years from the date of the signing of such a contract.

Any consultant employed pursuant to division (F) of this
section and any real estate appraiser employed pursuant to
division (I) of this section shall disclose any fees or
compensation received from any source in connection with that
employment.

Sec. 307.88. (A) Bids submitted pursuant to sections 307.86
to 307.92 of the Revised Code shall be in a form prescribed by the
contracting authority and filed in a sealed envelope at the time
and place mentioned in the ~~advertisement~~ notice. The bids received
shall be opened and tabulated at the time stated in the notice.
Each bid shall contain the full name of each person submitting the
bid. ~~Except as otherwise provided in division (B) of this section,~~
~~if~~ If the bid is in excess of ~~ten~~ twenty-five thousand dollars and
for a contract for the construction, demolition, alteration,
repair, or reconstruction of an improvement, it shall meet the
requirements of section 153.54 of the Revised Code. If the bid is
in excess of ~~ten~~ twenty-five thousand dollars and for any other
contract authorized by sections 307.86 to 307.92 of the Revised
Code, it shall be accompanied by a bond or certified check,
cashier's check, or money order on a solvent bank or savings and

loan association in a reasonable amount stated in the 12591
~~advertisement notice~~ but not to exceed five per cent of the bid, 12592
conditioned that ~~he shall~~ the bidder, if ~~his~~ the bidder's bid is 12593
accepted, shall execute a contract in conformity to the invitation 12594
and ~~his~~ the bid. 12595

(B) The board of county commissioners ~~may~~, by a unanimous 12596
vote of the entire board, may permit a contracting authority to 12597
exempt a bid from any or all of the requirements of section 153.54 12598
of the Revised Code if the estimated cost is ~~less than~~ twenty-five 12599
thousand dollars or less. If the board exempts a bid from any but 12600
not all of ~~these~~ those requirements, the bid notice published in 12601
the newspaper pursuant to section 307.87 of the Revised Code shall 12602
state the specific bid guaranty requirements that apply. If the 12603
board exempts a bid from all requirements of section 153.54 of the 12604
Revised Code, the notice shall state that none of the requirements 12605
of that section apply. 12606

Sec. 317.08. (A) Except as provided in divisions (C) and (D) 12607
of this section, the county recorder shall keep six separate sets 12608
of records as follows: 12609

(1) A record of deeds, in which shall be recorded all deeds 12610
and other instruments of writing for the absolute and 12611
unconditional sale or conveyance of lands, tenements, and 12612
hereditaments; all notices as provided in sections 5301.47 to 12613
5301.56 of the Revised Code; all judgments or decrees in actions 12614
brought under section 5303.01 of the Revised Code; all 12615
declarations and bylaws, and all amendments to declarations and 12616
bylaws, as provided in Chapter 5311. of the Revised Code; 12617
affidavits as provided in section 5301.252 of the Revised Code; 12618
all certificates as provided in section 5311.17 of the Revised 12619
Code; all articles dedicating archaeological preserves accepted by 12620
the director of the Ohio historical society under section 149.52 12621

of the Revised Code; all articles dedicating nature preserves 12622
accepted by the director of natural resources under section 12623
1517.05 of the Revised Code; all agreements for the registration 12624
of lands as archaeological or historic landmarks under section 12625
149.51 or 149.55 of the Revised Code; all conveyances of 12626
conservation easements and agricultural easements under section 12627
5301.68 of the Revised Code; all instruments extinguishing 12628
agricultural easements under section 901.21 or 5301.691 of the 12629
Revised Code or pursuant to terms of such an easement granted to a 12630
charitable organization under section 5301.68 of the Revised Code; 12631
all instruments or orders described in division (B)(1)(c)(ii) of 12632
section 5301.56 of the Revised Code; all no further action letters 12633
issued under section 122.654 or 3746.11 of the Revised Code; all 12634
covenants not to sue issued under section 3746.12 of the Revised 12635
Code, including all covenants not to sue issued pursuant to 12636
section 122.654 of the Revised Code; any restrictions on the use 12637
of property contained in a no further action letter issued under 12638
section 122.654 of the Revised Code, any restrictions on the use 12639
of property identified pursuant to division (C)(3)(a) of section 12640
3746.10 of the Revised Code, and any restrictions on the use of 12641
property contained in a deed or other instrument as provided in 12642
division (E) or (F) of section 3737.882 of the Revised Code; any 12643
easement executed or granted under section 3734.22, 3734.24, 12644
3734.25, or 3734.26 of the Revised Code; any environmental 12645
covenant entered into in accordance with sections 5301.80 to 12646
5301.92 of the Revised Code; all memoranda of trust, as described 12647
in division (A) of section 5301.255 of the Revised Code, that 12648
describe specific real property; and all agreements entered into 12649
under division (A) of section 1521.26 of the Revised Code; 12650

(2) A record of mortgages, in which shall be recorded all of 12651
the following: 12652

(a) All mortgages, including amendments, supplements, 12653

modifications, and extensions of mortgages, or other instruments 12654
of writing by which lands, tenements, or hereditaments are or may 12655
be mortgaged or otherwise conditionally sold, conveyed, affected, 12656
or encumbered; 12657

(b) All executory installment contracts for the sale of land 12658
executed after September 29, 1961, that by their terms are not 12659
required to be fully performed by one or more of the parties to 12660
them within one year of the date of the contracts; 12661

(c) All options to purchase real estate, including 12662
supplements, modifications, and amendments of the options, but no 12663
option of that nature shall be recorded if it does not state a 12664
specific day and year of expiration of its validity; 12665

(d) Any tax certificate sold under section 5721.33 of the 12666
Revised Code, or memorandum of it, that is presented for filing of 12667
record. 12668

(3) A record of powers of attorney, including all memoranda 12669
of trust, as described in division (A) of section 5301.255 of the 12670
Revised Code, that do not describe specific real property; 12671

(4) A record of plats, in which shall be recorded all plats 12672
and maps of town lots, of the subdivision of town lots, and of 12673
other divisions or surveys of lands, any center line survey of a 12674
highway located within the county, the plat of which shall be 12675
furnished by the director of transportation or county engineer, 12676
and all drawings and amendments to drawings, as provided in 12677
Chapter 5311. of the Revised Code; 12678

(5) A record of leases, in which shall be recorded all 12679
leases, memoranda of leases, and supplements, modifications, and 12680
amendments of leases and memoranda of leases; 12681

(6) A record of declarations executed pursuant to section 12682
2133.02 of the Revised Code and durable powers of attorney for 12683

health care executed pursuant to section 1337.12 of the Revised Code. 12684
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(B) All instruments or memoranda of instruments entitled to record shall be recorded in the proper record in the order in which they are presented for record. The recorder may index, keep, and record in one volume unemployment compensation liens, internal revenue tax liens and other liens in favor of the United States as described in division (A) of section 317.09 of the Revised Code, personal tax liens, mechanic's liens, agricultural product liens, notices of liens, certificates of satisfaction or partial release of estate tax liens, discharges of recognizances, excise and franchise tax liens on corporations, broker's liens, and liens provided for in sections 1513.33, 1513.37, 3752.13, ~~5111.021~~ 5111.022, and 5311.18 of the Revised Code. 12686
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The recording of an option to purchase real estate, including any supplement, modification, and amendment of the option, under this section shall serve as notice to any purchaser of an interest in the real estate covered by the option only during the period of the validity of the option as stated in the option. 12698
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(C) In lieu of keeping the six separate sets of records required in divisions (A)(1) to (6) of this section and the records required in division (D) of this section, a county recorder may record all the instruments required to be recorded by this section in two separate sets of record books. One set shall be called the "official records" and shall contain the instruments listed in divisions (A)(1), (2), (3), (5), and (6) and (D) of this section. The second set of records shall contain the instruments listed in division (A)(4) of this section. 12703
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(D) Except as provided in division (C) of this section, the county recorder shall keep a separate set of records containing all corrupt activity lien notices filed with the recorder pursuant 12712
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to section 2923.36 of the Revised Code and a separate set of 12715
records containing all medicaid fraud lien notices filed with the 12716
recorder pursuant to section 2933.75 of the Revised Code. 12717

Sec. 317.36. (A) The county recorder shall collect the low- 12718
and moderate-income housing trust fund fee as specified in 12719
sections 317.32, 1563.42, 1702.59, 2505.13, 4141.23, 4509.60, 12720
~~5111.021~~ 5111.022, 5310.15, 5719.07, 5727.56, 5733.18, 5733.22, 12721
6101.09, and 6115.09 of the Revised Code. The amount of any 12722
housing trust fund fee the recorder is authorized to collect is 12723
equal to the amount of any base fee the recorder is authorized to 12724
collect for services. The housing trust fund fees shall be 12725
collected in addition to the base fee. 12726

(B) The recorder shall certify the amounts collected as 12727
housing trust fund fees pursuant to division (A) of this section 12728
into the county treasury as housing trust fund fees to be paid to 12729
the treasurer of state pursuant to section 319.63 of the Revised 12730
Code. 12731

Sec. 319.20. After complying with sections 319.202, 315.251, 12732
and 319.203 of the Revised Code, and on application and 12733
presentation of title, with the affidavits required by law, or the 12734
proper order of a court, bearing the last known address of the 12735
grantee, or of any one of the grantees named in the title, and a 12736
reference to the volume and page of the recording of the next 12737
preceding recorded instrument by or through which the grantor 12738
claims title, the county auditor shall transfer any land or town 12739
lot or part thereof, minerals therein, or mineral rights thereto, 12740
charged with taxes on the tax list, from the name in which it 12741
stands into the name of the owner, when rendered necessary by a 12742
conveyance, partition, devise, descent, or otherwise. If by reason 12743
of the conveyance or otherwise, a part only of a tract or lot, 12744

minerals therein, or mineral rights thereto, as charged in the tax list, is to be transferred, the auditor shall determine the value of the part of a tract or lot of real estate, minerals therein, or mineral rights thereto, so transferred, and the value of the remaining part compared with the value of the whole.

Whenever a part only of a tract or lot of real estate has been transferred by the auditor and ~~such~~ the tract or lot bears unpaid taxes, penalties, interest, or special assessments, the unpaid taxes, penalties, interest, or special assessments shall immediately be apportioned, upon demand or request by the transferee or remaining owner, in the following manner:

(A) The auditor shall allocate to the part so transferred, and to the remaining part, amounts of any current or delinquent taxes, interest, or penalties that have accrued against the parcel as a whole, proportionate to their respective values.

(B) The lien of taxes, penalties, interest, and special assessments, as levied against the original tract, shall extend to the part so transferred and the part remaining only to the extent of the amounts so allocated to the respective parts.

This section does not change the total amount of taxes, special assessments, or other charges as originally levied, or the total amount of the balance due. The auditor shall certify such apportionments to the county treasurer.

Whenever the state acquires an entire parcel or a part only of a parcel of real property in fee simple, the county auditor, upon application of the grantor or property owner or the state, which application shall contain a description of the property as it appears on the tax list and the date of transfer of ownership, shall prepare an estimate of the taxes that are a lien on ~~said~~ the property, but have not been determined, assessed, and levied for the year in which the property was acquired. The county auditor

shall thereupon apportion ~~such~~ the estimated taxes proportionately 12776
between the grantor and the state for the period of the lien year 12777
that each had or shall have had ownership or possession of the 12778
property, whichever is earlier. The county treasurer shall accept 12779
payment from the state for estimated taxes at the time that the 12780
real property is acquired. If the state has paid in full in the 12781
year in which the property is acquired that proportion of the 12782
estimated taxes that the tax commissioner determines are not 12783
subject to remission by the county auditor for such year under 12784
division (C) of section 5713.08 of the Revised Code, the estimated 12785
taxes paid shall be considered the tax liability on the exempted 12786
property for that year. 12787

Section 319.42 of the Revised Code applies to the 12788
apportionment of special assessments. 12789

Complaint against such values as determined by the auditor or 12790
the allocation of assessments by the certifying authority may be 12791
filed by the transferee or the remaining owner, and if filed, 12792
proceedings including appeals shall be had in the manner and 12793
within the time provided by sections 5717.01 to 5717.06 and 12794
5715.19 to 5715.22 of the Revised Code, for complaints against 12795
valuation or assessment of real property. 12796

The auditor shall endorse on the deed or other evidences of 12797
title presented to the auditor that the proper transfer of the 12798
real estate described in ~~such~~ the deed has been made in the 12799
auditor's office or that it is not entered for taxation, and sign 12800
the auditor's name to ~~such~~ the deed. The address of the grantee, 12801
or any one of the grantees, set forth in the deed or other 12802
evidences of title shall be entered by the auditor on the transfer 12803
sheets and on the general tax list of real property prepared 12804
pursuant to section 319.28 of the Revised Code. 12805

Sec. 319.302. (A)(1) Real property that is not intended 12806

primarily for use in a business activity shall qualify for a 12807
partial exemption from real property taxation. For purposes of 12808
this partial exemption, "business activity" does not include 12809
farming, leasing property for farming, leasing property improved 12810
with single-family, two-family, or three-family dwellings, or 12811
holding vacant land that the county auditor determines will be 12812
used for farming or to develop single-family, two-family, or 12813
three-family dwellings. 12814

(2) Each year, the county auditor shall review each parcel of 12815
real property to determine whether it qualifies for the partial 12816
exemption provided for by this section as of the first day of 12817
January of the current tax year. 12818

(B) After complying with section 319.301 of the Revised Code, 12819
the county auditor shall reduce the remaining sums to be levied 12820
against each parcel of real property that is listed on the general 12821
tax list and duplicate of real and public utility property for the 12822
current tax year and that qualifies for partial exemption under 12823
division (A) of this section, and against each manufactured and 12824
mobile home that is taxed pursuant to division (D)(2) of section 12825
4503.06 of the Revised Code and that is on the manufactured home 12826
tax list for the current tax year, by ten per cent, to provide a 12827
partial exemption for that parcel or home. Except as otherwise 12828
provided in sections 323.152, 323.158, 505.06, and 715.263 of the 12829
Revised Code, the amount of the taxes remaining after any such 12830
reduction shall be the real and public utility property taxes 12831
charged and payable on each parcel of real property, including 12832
property that does not qualify for partial exemption under 12833
division (A) of this section, and the manufactured home tax 12834
charged and payable on each property manufactured or mobile home, 12835
and shall be the amounts certified to the county treasurer for 12836
collection. Upon receipt of the tax duplicate, the treasurer shall 12837
certify to the tax commissioner the total amount by which taxes 12838

were reduced under this section, as shown on the duplicate. Such 12839
reduction shall not directly or indirectly affect the 12840
determination of the principal amount of notes that may be issued 12841
in anticipation of any tax levies or the amount of bonds or notes 12842
for any planned improvements. If after application of sections 12843
5705.31 and 5705.32 of the Revised Code and other applicable 12844
provisions of law, including divisions (F) and (I) of section 12845
321.24 of the Revised Code, there would be insufficient funds for 12846
payment of debt charges on bonds or notes payable from taxes 12847
reduced by this section, the reduction of taxes provided for in 12848
this section shall be adjusted to the extent necessary to provide 12849
funds from such taxes. 12850

(C) The tax commissioner may adopt rules governing the 12851
administration of the partial exemption provided for by this 12852
section. 12853

(D) The determination of whether property qualifies for 12854
partial exemption under division (A) of this section is solely for 12855
the purpose of allowing the partial exemption under division (B) 12856
of this section. 12857

Sec. 321.24. (A) On or before the fifteenth day of February, 12858
in each year, the county treasurer shall settle with the county 12859
auditor for all taxes and assessments that the treasurer has 12860
collected on the general duplicate of real and public utility 12861
property at the time of making the settlement. 12862

(B) On or before the thirtieth day of June, in each year, the 12863
treasurer shall settle with the auditor for all advance payments 12864
of general personal and classified property taxes that the 12865
treasurer has received at the time of making the settlement. 12866

(C) On or before the tenth day of August, in each year, the 12867
treasurer shall settle with the auditor for all taxes and 12868
assessments that the treasurer has collected on the general 12869

duplicates of real and public utility property at the time of 12870
making such settlement, not included in the preceding February 12871
settlement. 12872

(D) On or before the thirty-first day of October, in each 12873
year, the treasurer shall settle with the auditor for all taxes 12874
that the treasurer has collected on the general personal and 12875
classified property duplicates, and for all advance payments of 12876
general personal and classified property taxes, not included in 12877
the preceding June settlement, that the treasurer has received at 12878
the time of making such settlement. 12879

(E) In the event the time for the payment of taxes is 12880
extended, pursuant to section 323.17 of the Revised Code, the date 12881
on or before which settlement for the taxes so extended must be 12882
made, as herein prescribed, shall be deemed to be extended for a 12883
like period of time. At each such settlement, the auditor shall 12884
allow to the treasurer, on the moneys received or collected and 12885
accounted for by the treasurer, the treasurer's fees, at the rate 12886
or percentage allowed by law, at a full settlement of the 12887
treasurer. 12888

(F) Within thirty days after the day of each settlement of 12889
taxes required under divisions (A) and (C) of this section, the 12890
treasurer shall certify to the tax commissioner any adjustments 12891
~~which~~ that have been made to the amount certified previously 12892
pursuant to section 319.302 of the Revised Code and that the 12893
settlement has been completed. Upon receipt of such certification, 12894
the commissioner shall provide for payment to the county treasurer 12895
from the general revenue fund of an amount equal to one-half of 12896
the amount certified by the treasurer in the preceding tax year 12897
under section 319.302 of the Revised Code, less one-half of the 12898
amount computed for all taxing districts in that county for the 12899
current fiscal year under section 5703.80 of the Revised Code for 12900
crediting to the property tax administration fund. Such payment 12901

shall be credited upon receipt to the county's undivided income 12902
tax fund, and the county auditor shall transfer to the county 12903
general fund from the amount thereof the total amount of all fees 12904
and charges which the auditor and treasurer would have been 12905
authorized to receive had such section not been in effect and that 12906
amount had been levied and collected as taxes. The county auditor 12907
shall distribute the amount remaining among the various taxing 12908
districts in the county as if it had been levied, collected, and 12909
settled as real property taxes. The amount distributed to each 12910
taxing district shall be reduced by the total of the amounts 12911
computed for the district under ~~divisions (A), (B), and (C)~~ of 12912
section 5703.80 of the Revised Code, but the reduction shall not 12913
exceed the amount that otherwise would be distributed to the 12914
taxing district under this division. The tax commissioner shall 12915
make available to taxing districts such information as is 12916
sufficient for a taxing district to be able to determine the 12917
amount of the reduction in its distribution under this section. 12918

(G)(1) Within thirty days after the day of the settlement 12919
required in division (D) of this section, the county treasurer 12920
shall notify the tax commissioner that the settlement has been 12921
completed. Upon receipt of that notification, the commissioner 12922
shall provide for payment to the county treasurer from the general 12923
revenue fund of an amount equal to the amount certified under 12924
former section 319.311 of the Revised Code and paid in the state's 12925
fiscal year 2003 multiplied by the percentage specified in 12926
division (G)(2) of this section. The payment shall be credited 12927
upon receipt to the county's undivided income tax fund, and the 12928
county auditor shall distribute the amount thereof among the 12929
various taxing districts of the county as if it had been levied, 12930
collected, and settled as personal property taxes. The amount 12931
received by a taxing district under this division shall be 12932
apportioned among its funds in the same proportion as the current 12933
year's personal property taxes are apportioned. 12934

(2) Payments required under division (G)(1) of this section shall be made at the following percentages of the amount certified under former section 319.311 of the Revised Code and paid under division (G)(1) of this section in the state's fiscal year 2003:	12935
(a) In fiscal year 2004, ninety per cent;	12936
(b) In fiscal year 2005, eighty per cent;	12937
(c) In fiscal year 2006, seventy <u>sixty-four</u> per cent;	12938
(d) In fiscal year 2007, sixty <u>forty</u> per cent;	12939
(e) In fiscal year 2008, fifty <u>thirty-two</u> per cent;	12940
(f) In fiscal year 2009, forty <u>sixteen</u> per cent;	12941
(g) In fiscal year 2010, thirty per cent;	12942
(h) In fiscal year 2011, twenty per cent;	12943
(i) In fiscal year 2012, ten per cent.	12944
After fiscal year 2012 <u>2009</u> , no payments shall be made under division (G)(1) of this section.	12945
(H)(1) On or before the fifteenth day of April each year, the county treasurer shall settle with the county auditor for all manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.	12948
(2) On or before the fifteenth day of September each year, the county treasurer shall settle with the county auditor for all remaining manufactured home taxes that the county treasurer has collected on the manufactured home tax duplicate at the time of making the settlement.	12949
(3) If the time for payment of such taxes is extended under section 4503.06 of the Revised Code, the time for making the settlement as prescribed by divisions (H)(1) and (2) of this section is extended for a like period of time.	12950
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(I) Within thirty days after the day of each settlement of taxes required under division (H) of this section, the county treasurer shall certify to the tax commissioner any adjustments that have been made to the amount certified previously pursuant to section 319.302 of the Revised Code and that the settlement has been completed. Upon receipt of such certification, the commissioner shall provide for payment to the county treasurer from the general revenue fund of an amount equal to one-half of the amount certified by the treasurer in the current tax year under section 319.302 of the Revised Code. Such payment shall be credited upon receipt to the county's undivided income tax fund, and the county auditor shall transfer to the county general fund from the amount thereof the total amount of all fees and charges that the auditor and treasurer would have been authorized to receive had such section not been in effect and that amount had been levied and collected as taxes. The county auditor shall distribute the amount remaining among the various taxing districts in the county as if it had been levied, collected, and settled as manufactured home taxes.

Sec. 323.01. Except as otherwise provided, as used in Chapter 323. of the Revised Code:

(A) "Subdivision" means any county, township, school district, or municipal corporation.

(B) "Municipal corporation" includes charter municipalities.

(C) "Taxes" means the total amount of all charges against an entry appearing on a tax list and the duplicate thereof that was prepared and certified in accordance with section 319.28 of the Revised Code, including taxes levied against real estate; taxes on property whose value is certified pursuant to section 5727.23 of the Revised Code; recoupment charges applied pursuant to section 5713.35 of the Revised Code; all assessments; penalties and

interest charged pursuant to section 323.121 of the Revised Code; 12995
charges added pursuant to section 319.35 of the Revised Code; and 12996
all of such charges which remain unpaid from any previous tax 12997
year. 12998

(D) "Current taxes" means all taxes charged against an entry 12999
on the general tax list and duplicate of real and public utility 13000
property that have not appeared on such list and duplicate for any 13001
prior tax year and any penalty thereon charged by division (A) of 13002
section 323.121 of the Revised Code. Current taxes, whether or not 13003
they have been certified delinquent, become delinquent taxes if 13004
they remain unpaid after the last day prescribed for payment of 13005
the second installment of current taxes without penalty. 13006

(E) "Delinquent taxes" means: 13007

(1) Any taxes charged against an entry on the general tax 13008
list and duplicate of real and public utility property that were 13009
charged against an entry on such list and duplicate for a prior 13010
tax year and any penalties and interest charged against such 13011
taxes. 13012

(2) Any current taxes charged on the general tax list and 13013
duplicate of real and public utility property that remain unpaid 13014
after the last day prescribed for payment of the second 13015
installment of such taxes without penalty, whether or not they 13016
have been certified delinquent, and any penalties and interest 13017
charged against such taxes. 13018

(F) "Current tax year" means, with respect to particular 13019
taxes, the calendar year in which the first installment of taxes 13020
is due prior to any extension granted under section 323.17 of the 13021
Revised Code. 13022

(G) "Liquidated claim" means: 13023

(1) Any sum of money due and payable, upon a written 13024

contractual obligation executed between the subdivision and the taxpayer, but excluding any amount due on general and special assessment bonds and notes;

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(2) Any sum of money due and payable, for disability financial assistance ~~or disability medical assistance~~ provided under Chapter 5115. of the Revised Code that is furnished to or in behalf of a subdivision, provided that such claim is recognized by a resolution or ordinance of the legislative body of such subdivision;

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(3) Any sum of money advanced and paid to or received and used by a subdivision, pursuant to a resolution or ordinance of such subdivision or its predecessor in interest, and the moral obligation to repay which sum, when in funds, shall be recognized by resolution or ordinance by the subdivision.

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Sec. 323.152. In addition to the reduction in taxes required under section 319.302 of the Revised Code, taxes shall be reduced as provided in divisions (A) and (B) of this section.

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(A)(1) Division (A) of this section applies to any of the following:

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(a) A person who is permanently and totally disabled;

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(b) A person who is sixty-five years of age or older;

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(c) A person who is the surviving spouse of a deceased person who was permanently and totally disabled or sixty-five years of age or older and who applied and qualified for a reduction in taxes under this division in the year of death, provided the surviving spouse is at least fifty-nine but not sixty-five or more years of age on the date the deceased spouse dies.

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(2) Real property taxes on a homestead owned and occupied, or a homestead in a housing cooperative occupied, by a person to whom division (A) of this section applies shall be reduced for each

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year for which the owner obtains a certificate of reduction from 13055
the county auditor under section 323.154 of the Revised Code or 13056
for which the occupant obtains a certificate of reduction in 13057
accordance with section 323.159 of the Revised Code. The reduction 13058
shall equal the amount obtained by multiplying the tax rate for 13059
the tax year for which the certificate is issued by the reduction 13060
in taxable value shown in the following schedule: 13061

	Reduce Taxable Value	
Total Income	by the Lesser of:	13062
\$11,900 or less	\$5,000 or seventy-five per cent	13063
More than \$11,900 but not more than \$17,500	\$3,000 or sixty per cent	13064
More than \$17,500 but not more than \$23,000	\$1,000 or twenty-five per cent	13065
More than \$23,000	-0-	13066

(3) Each calendar year, the tax commissioner shall adjust the 13068
foregoing schedule by completing the following calculations in 13069
September of each year: 13070

(a) Determine the percentage increase in the gross domestic 13071
product deflator determined by the bureau of economic analysis of 13072
the United States department of commerce from the first day of 13073
January of the preceding calendar year to the last day of December 13074
of the preceding calendar year; 13075

(b) Multiply that percentage increase by each of the total 13076
income amounts, and by each dollar amount by which taxable value 13077
is reduced, for the current tax year; 13078

(c) Add the resulting product to each of the total income 13079
amounts, and to each of the dollar amounts by which taxable value 13080
is reduced, for the current tax year; 13081

(d)(i) Except as provided in division (A)(3)(d)(ii) of this 13082
section, round the resulting sum to the nearest multiple of one 13083

hundred dollars; 13084

(ii) If rounding the resulting sum to the nearest multiple of 13085
one hundred dollars under division (A)(3)(d)(i) of this section 13086
does not increase the dollar amounts by which taxable value is 13087
reduced, the resulting sum instead shall be rounded to the nearest 13088
multiple of ten dollars. 13089

The commissioner shall certify the amounts resulting from the 13090
adjustment to each county auditor not later than the first day of 13091
December each year. The certified amounts apply to the following 13092
tax year. The commissioner shall not make the adjustment in any 13093
calendar year in which the amounts resulting from the adjustment 13094
would be less than the total income amounts, or less than the 13095
dollar amounts by which taxable value is reduced, for the current 13096
tax year. 13097

(B) ~~Real~~ To provide a partial exemption, real property taxes 13098
on any homestead, and manufactured home taxes on any manufactured 13099
or mobile home on which a manufactured home tax is assessed 13100
pursuant to division (D)(2) of section 4503.06 of the Revised 13101
Code, shall be reduced for each year for which the owner obtains a 13102
certificate of reduction from the county auditor under section 13103
323.154 of the Revised Code. The amount of the reduction shall 13104
equal ~~one-fourth~~ two and one-half per cent of the amount ~~by which~~ 13105
~~the of taxes charged and payable to be levied~~ on the homestead or 13106
the manufactured or mobile home ~~are reduced for such year under~~ 13107
after applying section ~~319.302~~ 319.301 of the Revised Code. 13108

(C) The reductions granted by this section do not apply to 13109
special assessments or respread of assessments levied against the 13110
homestead, and if there is a transfer of ownership subsequent to 13111
the filing of an application for a reduction in taxes, such 13112
reductions are not forfeited for such year by virtue of such 13113
transfer. 13114

(D) The reductions in taxable value referred to in this section shall be applied solely as a factor for the purpose of computing the reduction of taxes under this section and shall not affect the total value of property in any subdivision or taxing district as listed and assessed for taxation on the tax lists and duplicates, or any direct or indirect limitations on indebtedness of a subdivision or taxing district. If after application of sections 5705.31 and 5705.32 of the Revised Code, including the allocation of all levies within the ten-mill limitation to debt charges to the extent therein provided, there would be insufficient funds for payment of debt charges not provided for by levies in excess of the ten-mill limitation, the reduction of taxes provided for in sections 323.151 to 323.159 of the Revised Code shall be proportionately adjusted to the extent necessary to provide such funds from levies within the ten-mill limitation.

(E) No reduction shall be made on the taxes due on the homestead of any person convicted of violating division (C) or (D) of section 323.153 of the Revised Code for a period of three years following the conviction.

Sec. 325.31. (A) On the first business day of each month, and at the end of the officer's term of office, each officer named in section 325.27 of the Revised Code shall pay into the county treasury, to the credit of the general county fund, on the warrant of the county auditor, all fees, costs, penalties, percentages, allowances, and perquisites collected by the officer's office during the preceding month or part thereof for official services, except the fees allowed the county auditor by division (B) of section 319.54 of the Revised Code, which shall be paid into the county treasury to the credit of the real estate assessment fund hereby created.

(B) Moneys to the credit of the real estate assessment fund

may be expended, upon appropriation by the board of county	13146
commissioners, for the purpose of defraying one or more of the	13147
following:	13148
(1) The cost incurred by the county auditor in assessing real	13149
estate pursuant to Chapter 5713. of the Revised Code and	13150
manufactured and mobile homes pursuant to Chapter 4503. of the	13151
Revised Code;	13152
(2) At the county auditor's discretion, costs and expenses	13153
incurred by the county auditor in preparing the list of real and	13154
public utility property, in administering laws related to the	13155
taxation of real property and the levying of special assessments	13156
on real property, including administering reductions under	13157
Chapters 319. and 323. and section 4503.065 of the Revised Code,	13158
and to support assessments of real property in any administrative	13159
or judicial proceeding;	13160
(3) At the county auditor's discretion, the expenses incurred	13161
by the county board of revision under Chapter 5715. of the Revised	13162
Code;	13163
(4) At the county auditor's discretion, the expenses incurred	13164
by the county auditor for geographic information systems, mapping	13165
programs, and technological advances in those or similar systems	13166
or programs;	13167
(5) At the county auditor's discretion, expenses incurred by	13168
the county auditor in compiling the general tax list of tangible	13169
personal property and administering tangible personal property	13170
taxes under Chapters 5711. and 5719. of the Revised Code;	13171
(6) At the county auditor's discretion, costs, expenses, and	13172
fees incurred by the county auditor in the administration of	13173
estate taxes under Chapter 5731. of the Revised Code <u>and the</u>	13174
<u>amounts incurred under section 5731.41 of the Revised Code.</u>	13175

Any expenditures made from the real estate assessment fund 13176
shall comply with rules that the tax commissioner adopts under 13177
division (O) of section 5703.05 of the Revised Code. Those rules 13178
shall include a requirement that a copy of any appraisal plans, 13179
progress of work reports, contracts, or other documents required 13180
to be filed with the tax commissioner shall be filed also with the 13181
board of county commissioners. 13182

The board of county commissioners shall not transfer moneys 13183
required to be deposited in the real estate assessment fund to any 13184
other fund. Following an assessment of real property pursuant to 13185
Chapter 5713. of the Revised Code, or an assessment of a 13186
manufactured or mobile home pursuant to Chapter 4503. of the 13187
Revised Code, any moneys not expended for the purpose of defraying 13188
the cost incurred in assessing real estate or manufactured or 13189
mobile homes or for the purpose of defraying the expenses 13190
described in divisions (B)(2), (3), (4), (5), and (6) of this 13191
section, and thereby remaining to the credit of the real estate 13192
assessment fund, shall be apportioned ratably and distributed to 13193
those taxing authorities that contributed to the fund. However, no 13194
such distribution shall be made if the amount of such unexpended 13195
moneys remaining to the credit of the real estate assessment fund 13196
does not exceed five thousand dollars. 13197

(C) None of the officers named in section 325.27 of the 13198
Revised Code shall collect any fees from the county. Each of such 13199
officers shall, at the end of each calendar year, make and file a 13200
sworn statement with the board of county commissioners of all such 13201
fees, costs, penalties, percentages, allowances, and perquisites 13202
which have been due in the officer's office and unpaid for more 13203
than one year prior to the date such statement is required to be 13204
made. 13205

Sec. 329.04. (A) The county department of job and family 13206

services shall have, exercise, and perform the following powers and duties: 13207
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(1) Perform any duties assigned by the state department of job and family services regarding the provision of public family services, including the provision of the following services to prevent or reduce economic or personal dependency and to strengthen family life: 13209
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(a) Services authorized by a Title IV-A program, as defined in section 5101.80 of the Revised Code; 13214
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(b) Social services authorized by Title XX of the "Social Security Act" and provided for by section 5101.46 or 5101.461 of the Revised Code; 13216
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(c) If the county department is designated as the child support enforcement agency, services authorized by Title IV-D of the "Social Security Act" and provided for by Chapter 3125. of the Revised Code. The county department may perform the services itself or contract with other government entities, and, pursuant to division (C) of section 2301.35 and section 2301.42 of the Revised Code, private entities, to perform the Title IV-D services. 13219
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(d) Duties assigned under section 5111.98 of the Revised Code. 13227
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(2) Administer disability financial assistance, as required by the state department of job and family services under section 5115.03 of the Revised Code; 13229
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~~(3) Administer disability medical assistance, as required by the state department of job and family services under section 5115.13 of the Revised Code;~~ 13232
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~~(4) Administer burials insofar as the administration of burials was, prior to September 12, 1947, imposed upon the board~~ 13235
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of county commissioners and if otherwise required by state law;	13237
(5) <u>(4)</u> Cooperate with state and federal authorities in any	13238
matter relating to family services and to act as the agent of such	13239
authorities;	13240
(6) <u>(5)</u> Submit an annual account of its work and expenses to	13241
the board of county commissioners and to the state department of	13242
job and family services at the close of each fiscal year;	13243
(7) <u>(6)</u> Exercise any powers and duties relating to family	13244
services duties or workforce development activities imposed upon	13245
the county department of job and family services by law, by	13246
resolution of the board of county commissioners, or by order of	13247
the governor, when authorized by law, to meet emergencies during	13248
war or peace;	13249
(8) <u>(7)</u> Determine the eligibility for medical assistance of	13250
recipients of aid under Title XVI of the "Social Security Act";	13251
(9) <u>(8)</u> If assigned by the state director of job and family	13252
services under section 5101.515 of the Revised Code, determine	13253
applicants' eligibility for health assistance under the children's	13254
health insurance program part II;	13255
(10) <u>(9)</u> Enter into a plan of cooperation with the board of	13256
county commissioners under section 307.983, consult with the board	13257
in the development of the transportation work plan developed under	13258
section 307.985, establish with the board procedures under section	13259
307.986 for providing services to children whose families relocate	13260
frequently, and comply with the contracts the board enters into	13261
under sections 307.981 and 307.982 of the Revised Code that affect	13262
the county department;	13263
(11) <u>(10)</u> For the purpose of complying with a fiscal agreement	13264
the board of county commissioners enters into under section 307.98	13265
of the Revised Code, exercise the powers and perform the duties	13266
the fiscal agreement assigns to the county department;	13267

~~(12)~~(11) If the county department is designated as the workforce development agency, provide the workforce development activities specified in the contract required by section 330.05 of the Revised Code.

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(B) The powers and duties of a county department of job and family services are, and shall be exercised and performed, under the control and direction of the board of county commissioners. The board may assign to the county department any power or duty of the board regarding family services duties and workforce development activities. If the new power or duty necessitates the state department of job and family services changing its federal cost allocation plan, the county department may not implement the power or duty unless the United States department of health and human services approves the changes.

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Sec. 329.051. The county department of job and family services shall make voter registration applications as prescribed by the secretary of state under section 3503.10 of the Revised Code available to persons who are applying for, receiving assistance from, or participating in any of the following:

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(A) The disability financial assistance program established under Chapter 5115. of the Revised Code;

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~~(B) The disability medical assistance program established under Chapter 5115. of the Revised Code;~~

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

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

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~~(E)~~(D) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code.

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Sec. 339.72. (A) Each board of county commissioners shall 13297
provide for the county to be served by a tuberculosis control unit 13298
by designating a county tuberculosis control unit or by entering 13299
into an agreement with one or more boards of county commissioners 13300
of other counties under which the boards jointly designate a 13301
district tuberculosis control unit. The entity designated as the 13302
county or district tuberculosis control unit may be any of the 13303
following: 13304

(1) A communicable disease control program operated by a 13305
board of health of a city or general health district pursuant to 13306
section 3709.22 of the Revised Code; 13307

~~(2) A tuberculosis program operated by a county that receives 13308
funds pursuant to section 339.77 of the Revised Code; 13309~~

~~(3) A tuberculosis clinic established by a board of county 13310
commissioners pursuant to section 339.76 of the Revised Code; 13311~~

~~(4)~~(3) A hospital that provides tuberculosis clinic services 13312
under a contract with a board of county commissioners pursuant to 13313
section 339.75 of the Revised Code. 13314

(B) The entity designated under division (A) of this section 13315
as the tuberculosis control unit shall accept that designation and 13316
fulfill its duties as the tuberculosis control unit specified 13317
under sections 339.71 to 339.89 of the Revised Code. 13318

Sec. 339.88. The expenses incurred for detention under 13319
section 339.86 or 339.87 of the Revised Code shall be paid by the 13320
individual detained or if the individual is indigent, by the board 13321
of county commissioners of the county from which the individual 13322
was removed. ~~The board of county commissioners may apply to the 13323
director of health for reimbursement under section 339.77 of the 13324
Revised Code for expenses of detaining indigent individuals with 13325
tuberculosis. 13326~~

Sec. 340.03. (A) Subject to rules issued by the director of 13327
mental health after consultation with relevant constituencies as 13328
required by division (A)(11) of section 5119.06 of the Revised 13329
Code, with regard to mental health services, the board of alcohol, 13330
drug addiction, and mental health services shall: 13331

(1) Serve as the community mental health planning agency for 13332
the county or counties under its jurisdiction, and in so doing it 13333
shall: 13334

(a) Evaluate the need for facilities and community mental 13335
health services; 13336

(b) In cooperation with other local and regional planning and 13337
funding bodies and with relevant ethnic organizations, assess the 13338
community mental health needs, set priorities, and develop plans 13339
for the operation of facilities and community mental health 13340
services; 13341

(c) In accordance with guidelines issued by the director of 13342
mental health after consultation with board representatives, 13343
develop and submit to the department of mental health, no later 13344
than six months prior to the conclusion of the fiscal year in 13345
which the board's current plan is scheduled to expire, a community 13346
mental health plan listing community mental health needs, 13347
including the needs of all residents of the district now residing 13348
in state mental institutions and severely mentally disabled 13349
adults, children, and adolescents; all children subject to a 13350
determination made pursuant to section 121.38 of the Revised Code; 13351
and all the facilities and community mental health services that 13352
are or will be in operation or provided during the period for 13353
which the plan will be in operation in the service district to 13354
meet such needs. 13355

The plan shall include, but not be limited to, a statement of 13356

which of the services listed in section 340.09 of the Revised Code 13357
the board intends to provide or purchase, an explanation of how 13358
the board intends to make any payments that it may be required to 13359
pay under section 5119.62 of the Revised Code, a statement of the 13360
inpatient and community-based services the board proposes that the 13361
department operate, an assessment of the number and types of 13362
residential facilities needed, and such other information as the 13363
department requests, and a budget for moneys the board expects to 13364
receive. The board shall also submit an allocation request for 13365
state and federal funds. Within sixty days after the department's 13366
determination that the plan and allocation request are complete, 13367
the department shall approve or disapprove the plan and request, 13368
in whole or in part, according to the criteria developed pursuant 13369
to section 5119.61 of the Revised Code. The department's statement 13370
of approval or disapproval shall specify the inpatient and the 13371
community-based services that the department will operate for the 13372
board. Eligibility for financial support shall be contingent upon 13373
an approved plan or relevant part of a plan. 13374

If the director disapproves all or part of any plan, the 13375
director shall inform the board of the reasons for the disapproval 13376
and of the criteria that must be met before the plan may be 13377
approved. The director shall provide the board an opportunity to 13378
present its case on behalf of the plan. The director shall give 13379
the board a reasonable time in which to meet the criteria, and 13380
shall offer the board technical assistance to help it meet the 13381
criteria. 13382

If the approval of a plan remains in dispute thirty days 13383
prior to the conclusion of the fiscal year in which the board's 13384
current plan is scheduled to expire, the board or the director may 13385
request that the dispute be submitted to a mutually agreed upon 13386
third-party mediator with the cost to be shared by the board and 13387
the department. The mediator shall issue to the board and the 13388

department recommendations for resolution of the dispute. Prior to 13389
the conclusion of the fiscal year in which the current plan is 13390
scheduled to expire, the director, taking into consideration the 13391
recommendations of the mediator, shall make a final determination 13392
and approve or disapprove the plan, in whole or in part. 13393

If a board determines that it is necessary to amend a plan or 13394
an allocation request that has been approved under division 13395
(A)(1)(c) of this section, the board shall submit a proposed 13396
amendment to the director. The director may approve or disapprove 13397
all or part of the amendment. If the director does not approve all 13398
or part of the amendment within thirty days after it is submitted, 13399
the amendment or part of it shall be considered to have been 13400
approved. The director shall inform the board of the reasons for 13401
disapproval of all or part of an amendment and of the criteria 13402
that must be met before the amendment may be approved. The 13403
director shall provide the board an opportunity to present its 13404
case on behalf of the amendment. The director shall give the board 13405
a reasonable time in which to meet the criteria, and shall offer 13406
the board technical assistance to help it meet the criteria. 13407

The board shall implement the plan approved by the 13408
department. 13409

(d) Receive, compile, and transmit to the department of 13410
mental health applications for state reimbursement; 13411

(e) Promote, arrange, and implement working agreements with 13412
social agencies, both public and private, and with judicial 13413
agencies. 13414

(2) Investigate, or request another agency to investigate, 13415
any complaint alleging abuse or neglect of any person receiving 13416
services from a community mental health agency as defined in 13417
section 5122.01 of the Revised Code, or from a residential 13418
facility licensed under section 5119.22 of the Revised Code. If 13419

the investigation substantiates the charge of abuse or neglect, 13420
the board shall take whatever action it determines is necessary to 13421
correct the situation, including notification of the appropriate 13422
authorities. Upon request, the board shall provide information 13423
about such investigations to the department. 13424

(3) For the purpose of section 5119.611 of the Revised Code, 13425
cooperate with the director of mental health in visiting and 13426
evaluating whether the services of a community mental health 13427
agency satisfy the certification standards established by rules 13428
adopted under that section; 13429

(4) In accordance with criteria established under division 13430
(G) of section 5119.61 of the Revised Code, review and evaluate 13431
the quality, effectiveness, and efficiency of services provided 13432
through its community mental health plan and submit its findings 13433
and recommendations to the department of mental health; 13434

(5) In accordance with section 5119.22 of the Revised Code, 13435
review applications for residential facility licenses and 13436
recommend to the department of mental health approval or 13437
disapproval of applications; 13438

(6) Audit, in accordance with rules adopted by the auditor of 13439
state pursuant to section 117.20 of the Revised Code, at least 13440
annually all programs and services provided under contract with 13441
the board. In so doing, the board may contract for or employ the 13442
services of private auditors. A copy of the fiscal audit report 13443
shall be provided to the director of mental health, the auditor of 13444
state, and the county auditor of each county in the board's 13445
district. 13446

(7) Recruit and promote local financial support for mental 13447
health programs from private and public sources; 13448

(8)(a) Enter into contracts with public and private 13449
facilities for the operation of facility services included in the 13450

board's community mental health plan and enter into contracts with 13451
public and private community mental health agencies for the 13452
provision of community mental health services listed in section 13453
340.09 of the Revised Code and included in the board's community 13454
mental health plan. Contracts with community mental health 13455
agencies are subject to section 5119.611 of the Revised Code. 13456
Section 307.86 of the Revised Code does not apply to contracts 13457
entered into under this division. In contracting with a community 13458
mental health agency, a board shall consider the cost 13459
effectiveness of services provided by that agency and the quality 13460
and continuity of care, and may review cost elements, including 13461
salary costs, of the services to be provided. A utilization review 13462
process shall be established as part of the contract for services 13463
entered into between a board and a community mental health agency. 13464
The board may establish this process in a way that is most 13465
effective and efficient in meeting local needs. In the case of a 13466
contract with a community mental health facility, as defined in 13467
section ~~5111.022~~ 5111.023 of the Revised Code, to provide services 13468
listed in division (B) of that section, the contract shall provide 13469
for the facility to be paid in accordance with the contract 13470
entered into between the departments of job and family services 13471
and mental health under section 5111.91 of the Revised Code and 13472
any rules adopted under division (A) of section 5119.61 of the 13473
Revised Code. 13474

If either the board or a facility or community mental health 13475
agency with which the board contracts under division (A)(8)(a) of 13476
this section proposes not to renew the contract or proposes 13477
substantial changes in contract terms, the other party shall be 13478
given written notice at least one hundred twenty days before the 13479
expiration date of the contract. During the first sixty days of 13480
this one hundred twenty-day period, both parties shall attempt to 13481
resolve any dispute through good faith collaboration and 13482

negotiation in order to continue to provide services to persons in need. If the dispute has not been resolved sixty days before the expiration date of the contract, either party may notify the department of mental health of the unresolved dispute. The director may require both parties to submit the dispute to a third party with the cost to be shared by the board and the facility or community mental health agency. The third party shall issue to the board, the facility or agency, and the department recommendations on how the dispute may be resolved twenty days prior to the expiration date of the contract, unless both parties agree to a time extension. The director shall adopt rules establishing the procedures of this dispute resolution process.

(b) With the prior approval of the director of mental health, a board may operate a facility or provide a community mental health service as follows, if there is no other qualified private or public facility or community mental health agency that is immediately available and willing to operate such a facility or provide the service:

(i) In an emergency situation, any board may operate a facility or provide a community mental health service in order to provide essential services for the duration of the emergency;

(ii) In a service district with a population of at least one hundred thousand but less than five hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year;

(iii) In a service district with a population of less than one hundred thousand, a board may operate a facility or provide a community mental health service for no longer than one year, except that such a board may operate a facility or provide a community mental health service for more than one year with the prior approval of the director and the prior approval of the board

of county commissioners, or of a majority of the boards of county
commissioners if the district is a joint-county district. 13514
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The director shall not give a board approval to operate a
facility or provide a community mental health service under 13516
division (A)(8)(b)(ii) or (iii) of this section unless the 13517
director determines that it is not feasible to have the department 13518
operate the facility or provide the service. 13519
13520

The director shall not give a board approval to operate a 13521
facility or provide a community mental health service under 13522
division (A)(8)(b)(iii) of this section unless the director 13523
determines that the board will provide greater administrative 13524
efficiency and more or better services than would be available if 13525
the board contracted with a private or public facility or 13526
community mental health agency. 13527

The director shall not give a board approval to operate a 13528
facility previously operated by a person or other government 13529
entity unless the board has established to the director's 13530
satisfaction that the person or other government entity cannot 13531
effectively operate the facility or that the person or other 13532
government entity has requested the board to take over operation 13533
of the facility. The director shall not give a board approval to 13534
provide a community mental health service previously provided by a 13535
community mental health agency unless the board has established to 13536
the director's satisfaction that the agency cannot effectively 13537
provide the service or that the agency has requested the board 13538
take over providing the service. 13539

The director shall review and evaluate a board's operation of 13540
a facility and provision of community mental health service under 13541
division (A)(8)(b) of this section. 13542

Nothing in division (A)(8)(b) of this section authorizes a 13543
board to administer or direct the daily operation of any facility 13544

or community mental health agency, but a facility or agency may 13545
contract with a board to receive administrative services or staff 13546
direction from the board under the direction of the governing body 13547
of the facility or agency. 13548

(9) Approve fee schedules and related charges or adopt a unit 13549
cost schedule or other methods of payment for contract services 13550
provided by community mental health agencies in accordance with 13551
guidelines issued by the department as necessary to comply with 13552
state and federal laws pertaining to financial assistance; 13553

(10) Submit to the director and the county commissioners of 13554
the county or counties served by the board, and make available to 13555
the public, an annual report of the programs under the 13556
jurisdiction of the board, including a fiscal accounting; 13557

(11) Establish, to the extent resources are available, a 13558
community support system, which provides for treatment, support, 13559
and rehabilitation services and opportunities. The essential 13560
elements of the system include, but are not limited to, the 13561
following components in accordance with section 5119.06 of the 13562
Revised Code: 13563

(a) To locate persons in need of mental health services to 13564
inform them of available services and benefits mechanisms; 13565

(b) Assistance for clients to obtain services necessary to 13566
meet basic human needs for food, clothing, shelter, medical care, 13567
personal safety, and income; 13568

(c) Mental health care, including, but not limited to, 13569
outpatient, partial hospitalization, and, where appropriate, 13570
inpatient care; 13571

(d) Emergency services and crisis intervention; 13572

(e) Assistance for clients to obtain vocational services and 13573
opportunities for jobs; 13574

(f) The provision of services designed to develop social, community, and personal living skills;	13575 13576
(g) Access to a wide range of housing and the provision of residential treatment and support;	13577 13578
(h) Support, assistance, consultation, and education for families, friends, consumers of mental health services, and others;	13579 13580 13581
(i) Recognition and encouragement of families, friends, neighborhood networks, especially networks that include racial and ethnic minorities, churches, community organizations, and meaningful employment as natural supports for consumers of mental health services;	13582 13583 13584 13585 13586
(j) Grievance procedures and protection of the rights of consumers of mental health services;	13587 13588
(k) Case management, which includes continual individualized assistance and advocacy to ensure that needed services are offered and procured.	13589 13590 13591
(12) Designate the treatment program, agency, or facility for each person involuntarily committed to the board pursuant to Chapter 5122. of the Revised Code and authorize payment for such treatment. The board shall provide the least restrictive and most appropriate alternative that is available for any person involuntarily committed to it and shall assure that the services listed in section 340.09 of the Revised Code are available to severely mentally disabled persons residing within its service district. The board shall establish the procedure for authorizing payment for services, which may include prior authorization in appropriate circumstances. The board may provide for services directly to a severely mentally disabled person when life or safety is endangered and when no community mental health agency is available to provide the service.	13592 13593 13594 13595 13596 13597 13598 13599 13600 13601 13602 13603 13604 13605

(13) Establish a method for evaluating referrals for involuntary commitment and affidavits filed pursuant to section 5122.11 of the Revised Code in order to assist the probate division of the court of common pleas in determining whether there is probable cause that a respondent is subject to involuntary hospitalization and what alternative treatment is available and appropriate, if any;

(14) Ensure that apartments or rooms built, subsidized, renovated, rented, owned, or leased by the board or a community mental health agency have been approved as meeting minimum fire safety standards and that persons residing in the rooms or apartments are receiving appropriate and necessary services, including culturally relevant services, from a community mental health agency. This division does not apply to residential facilities licensed pursuant to section 5119.22 of the Revised Code.

(15) Establish a mechanism for involvement of consumer recommendation and advice on matters pertaining to mental health services in the alcohol, drug addiction, and mental health service district;

(16) Perform the duties under section 3722.18 of the Revised Code required by rules adopted under section 5119.61 of the Revised Code regarding referrals by the board or mental health agencies under contract with the board of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The board is accountable in the manner specified in the rules for ensuring that the ongoing mental health services are effectively arranged for the individuals.

(B) The board shall establish such rules, operating procedures, standards, and bylaws, and perform such other duties

as may be necessary or proper to carry out the purposes of this 13637
chapter. 13638

(C) A board of alcohol, drug addiction, and mental health 13639
services may receive by gift, grant, devise, or bequest any 13640
moneys, lands, or property for the benefit of the purposes for 13641
which the board is established, and may hold and apply it 13642
according to the terms of the gift, grant, or bequest. All money 13643
received, including accrued interest, by gift, grant, or bequest 13644
shall be deposited in the treasury of the county, the treasurer of 13645
which is custodian of the alcohol, drug addiction, and mental 13646
health services funds to the credit of the board and shall be 13647
available for use by the board for purposes stated by the donor or 13648
grantor. 13649

(D) No board member or employee of a board of alcohol, drug 13650
addiction, and mental health services shall be liable for injury 13651
or damages caused by any action or inaction taken within the scope 13652
of the board member's official duties or the employee's 13653
employment, whether or not such action or inaction is expressly 13654
authorized by this section, section 340.033, or any other section 13655
of the Revised Code, unless such action or inaction constitutes 13656
willful or wanton misconduct. Chapter 2744. of the Revised Code 13657
applies to any action or inaction by a board member or employee of 13658
a board taken within the scope of the board member's official 13659
duties or employee's employment. For the purposes of this 13660
division, the conduct of a board member or employee shall not be 13661
considered willful or wanton misconduct if the board member or 13662
employee acted in good faith and in a manner that the board member 13663
or employee reasonably believed was in or was not opposed to the 13664
best interests of the board and, with respect to any criminal 13665
action or proceeding, had no reasonable cause to believe the 13666
conduct was unlawful. 13667

(E) The meetings held by any committee established by a board 13668

of alcohol, drug addiction, and mental health services shall be 13669
considered to be meetings of a public body subject to section 13670
121.22 of the Revised Code. 13671

Sec. 340.16. Not later than ninety days after ~~the effective~~ 13672
~~date of this section~~ September 5, 2001, the department of mental 13673
health and the department of job and family services shall adopt 13674
rules that establish requirements and procedures for prior 13675
notification and service coordination between public children 13676
services agencies and boards of alcohol, drug addiction, and 13677
mental health services when a public children services agency 13678
refers a child in its custody to a board for services funded by 13679
the board. The rules shall be adopted in accordance with Chapter 13680
119. of the Revised Code. 13681

The department of mental health and department of job and 13682
family services shall collaborate in formulating a plan that 13683
delineates the funding responsibilities of public children 13684
services agencies and boards of alcohol, drug addiction, and 13685
mental health services for services provided under section 13686
~~5111.022~~ 5111.023 of the Revised Code to children in the custody 13687
of public children services agencies. The departments shall 13688
complete the plan not later than ninety days after ~~the effective~~ 13689
~~date of this section~~ September 5, 2001. 13690

Sec. 341.192. (A) As used in this section: 13691

(1) "Medical assistance program" has the same meaning as in 13692
section 2913.40 of the Revised Code. 13693

(2) "Medical provider" means a physician, hospital, 13694
laboratory, pharmacy, or other health care provider that is not 13695
employed by or under contract to a county or the department of 13696
rehabilitation and correction to provide medical services to 13697
persons confined in the county jail or a state correctional 13698

institution.

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(3) "Necessary care" means medical care of a nonelective nature that cannot be postponed until after the period of confinement of a person who is confined in a county jail or a state correctional institution or is in the custody of a law enforcement officer without endangering the life or health of the person.

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(B) If a physician employed by or under contract to a county or the department of rehabilitation and correction to provide medical services to persons confined in the county jail or state correctional institution determines that a person who is confined in the county jail or a state correctional institution or who is in the custody of a law enforcement officer prior to the person's confinement in the county jail or a state correctional institution requires necessary care that the physician cannot provide, the necessary care shall be provided by a medical provider. The county or the department of rehabilitation and correction shall pay a medical provider for necessary care an amount not exceeding the authorized reimbursement rate for the same service established by the department of job and family services under the medical assistance program.

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Sec. 731.14. All contracts made by the legislative authority of a village shall be executed in the name of the village and signed on its behalf by the mayor and clerk. Except where the contract is for equipment, services, materials, or supplies to be purchased under division (D) of section 713.23 or section 125.04 or 5513.01 of the Revised Code ~~or~~ available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code, or required to be purchased from a qualified nonprofit agency under sections 125.60 to 125.6012 of the Revised Code, when any expenditure, other than the compensation of persons

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employed in the village, exceeds twenty-five thousand dollars, 13730
such contracts shall be in writing and made with the lowest and 13731
best bidder after advertising for not less than two nor more than 13732
four consecutive weeks in a newspaper of general circulation 13733
within the village. The bids shall be opened and shall be publicly 13734
read by the clerk of the village or a person designated by the 13735
clerk at the time, date, and place specified in the advertisement 13736
to bidders or specifications. The time, date, and place of bid 13737
openings may be extended to a later date by the legislative 13738
authority of the village, provided that written or oral notice of 13739
the change shall be given to all persons who have received or 13740
requested specifications no later than ninety-six hours prior to 13741
the original time and date fixed for the opening. This section 13742
does not apply to those villages that have provided for the 13743
appointment of a village administrator under section 735.271 of 13744
the Revised Code. 13745

Sec. 731.141. In those villages that have established the 13746
position of village administrator, as provided by section 735.271 13747
of the Revised Code, the village administrator shall make 13748
contracts, purchase supplies and materials, and provide labor for 13749
any work under the administrator's supervision involving not more 13750
than twenty-five thousand dollars. When an expenditure, other than 13751
the compensation of persons employed by the village, exceeds 13752
twenty-five thousand dollars, the expenditure shall first be 13753
authorized and directed by ordinance of the legislative authority 13754
of the village. When so authorized and directed, except where the 13755
contract is for equipment, services, materials, or supplies to be 13756
purchased under division (D) of section 713.23 or section 125.04 13757
or 5513.01 of the Revised Code ~~or~~, available from a qualified 13758
nonprofit agency pursuant to sections 4115.31 to 4115.35 of the 13759
Revised Code, or required to be purchased from a qualified 13760
nonprofit agency under sections 125.60 to 125.6012 of the Revised 13761

Code, the village administrator shall make a written contract with 13762
the lowest and best bidder after advertisement for not less than 13763
two nor more than four consecutive weeks in a newspaper of general 13764
circulation within the village. The bids shall be opened and shall 13765
be publicly read by the village administrator or a person 13766
designated by the village administrator at the time, date, and 13767
place as specified in the advertisement to bidders or 13768
specifications. The time, date, and place of bid openings may be 13769
extended to a later date by the village administrator, provided 13770
that written or oral notice of the change shall be given to all 13771
persons who have received or requested specifications no later 13772
than ninety-six hours prior to the original time and date fixed 13773
for the opening. All contracts shall be executed in the name of 13774
the village and signed on its behalf by the village administrator 13775
and the clerk. 13776

The legislative authority of a village may provide, by 13777
ordinance, for central purchasing for all offices, departments, 13778
divisions, boards, and commissions of the village, under the 13779
direction of the village administrator, who shall make contracts, 13780
purchase supplies or materials, and provide labor for any work of 13781
the village in the manner provided by this section. 13782

Sec. 742.59. The board of trustees of the Ohio police and 13783
fire pension fund shall be the trustee of the funds created as 13784
follows: 13785

(A) The "police officers' contribution fund" is the fund in 13786
which shall be credited the contributions deducted from the 13787
salaries of members of police departments and paid into the Ohio 13788
police and fire pension fund, as provided by section 742.31 of the 13789
Revised Code, and that percentage of the employers' accrued 13790
liability that is attributable to deductions previously made from 13791
the salaries of members of the police department who are still in 13792

the active service at the time that portion of the employers' 13793
accrued liability is paid. The accumulated contributions of a 13794
member of a police department shall be transferred at the member's 13795
retirement from the police officers' contribution fund to the 13796
police officers' pension reserve fund. 13797

(B) The "firefighters' contribution fund" is the fund in 13798
which shall be credited contributions deducted from the salaries 13799
of members of fire departments and paid into the Ohio police and 13800
fire pension fund, as provided by section 742.31 of the Revised 13801
Code, and that percentage of the employers' accrued liability that 13802
is attributable to deductions previously made from the salaries of 13803
members of the fire department who are still in the active service 13804
at the time that portion of the employers' accrued liability is 13805
paid. The accumulated contributions of a member of a fire 13806
department shall be transferred at the member's retirement from 13807
the firefighters' contribution fund to the firefighters' pension 13808
reserve fund. 13809

(C) The "police officer employers' contribution fund" is the 13810
fund to which the following shall be credited: 13811

(1) The police officer employers' contribution, as provided 13812
by section 742.33 of the Revised Code, and that; 13813

(2) The percentage of the employers' accrued liability that 13814
is attributable to the employers' liability for prior service of 13815
members of the police department who are still in the active 13816
service at the time that portion of the employers' accrued 13817
liability is paid, and that portion of the state contribution 13818
allocated to such fund, as provided by section 742.36 of the 13819
Revised Code, shall be credited, and in which shall be 13820
accumulated. 13821

In the police officer employers' contribution fund shall 13822
accumulate the reserves held in trust for the payment of all 13823

pensions or other benefits provided by sections 742.01 to 742.61 13824
of the Revised Code to members of a police department retiring in 13825
the future or their qualified beneficiaries and from which the 13826
reserves for such pensions and other benefits shall be transferred 13827
to the police officers' pension reserve fund. 13828

(D) The "firefighter employers' contribution fund" is the 13829
fund to which the following shall be credited: 13830

(1) The firefighter employers' contribution, as provided in 13831
section 742.34 of the Revised Code, ~~and that;~~ 13832

(2) The percentage of the employers' accrued liability that 13833
is attributable to the employers' liability for prior service for 13834
members of the fire department who are still in the active service 13835
at the time that portion of the employers' accrued liability is 13836
paid, ~~and that portion of the state contribution allocated to such~~ 13837
~~fund, as provided by section 742.36 of the Revised Code, shall be~~ 13838
~~credited, and in which shall be accumulated.~~ 13839

In the firefighter employers' contribution fund shall 13840
accumulate the reserves held in trust for the payment of all 13841
pensions and other benefits provided by sections 742.01 to 742.61 13842
of the Revised Code to members of a fire department retiring in 13843
the future or their qualified beneficiaries and from which the 13844
reserves for such pensions and other benefits shall be transferred 13845
to the firefighters' pension reserve fund. 13846

(E) The "police officers' pension reserve fund" is the fund 13847
from which shall be paid all pensions and other benefits for which 13848
reserves have been transferred from the police officers' 13849
contribution fund and the police officer employers' contribution 13850
fund, and to which shall be credited that percentage of the 13851
employers' accrued liability that is attributable to the total of 13852
deductions previously made from the salaries of members of the 13853
police department who are retired and are receiving pensions or 13854

other benefits, or whose beneficiaries are receiving benefits, at 13855
the time that portion of the employers' accrued liability is paid, 13856
and that percentage of the employers' accrued liability that is 13857
attributable to prior service of members of the police department 13858
who are retired and are receiving pensions or other benefits, or 13859
whose beneficiaries are receiving benefits, at the time that 13860
portion of the employers' accrued liability is paid. 13861

(F) The "firefighters' pension reserve fund" is the fund from 13862
which shall be paid all pensions and other benefits for which 13863
reserves have been transferred from the firefighters' contribution 13864
fund and the firefighter employers' contribution fund, and to 13865
which shall be credited that percentage of the employers' accrued 13866
liability that is attributable to the total of deductions 13867
previously made from the salaries of members of the fire 13868
department who are retired and are receiving pensions or other 13869
benefits, or whose beneficiaries are receiving benefits, at the 13870
time that portion of the employers' accrued liability is paid, and 13871
that percentage of the employers' accrued liability that is 13872
attributable to prior service of members of the fire department 13873
who are retired and are receiving pensions or other benefits, or 13874
whose beneficiaries are receiving benefits, at the time that 13875
portion of the employers' accrued liability is paid. 13876

(G) The "guarantee fund" is the fund from which interest is 13877
transferred and credited on the amounts in the funds described in 13878
divisions (C), (D), (E), and (F) of this section, and is a 13879
contingent fund from which the special requirements of said funds 13880
may be paid by transfer from this fund. All income derived from 13881
the investment of funds by the board of trustees of the Ohio 13882
police and fire pension fund as trustee under section 742.11 of 13883
the Revised Code, together with all gifts and bequests or the 13884
income therefrom, shall be paid into this fund. 13885

Any deficit occurring in any other fund that will not be 13886

covered by payments to that fund, as otherwise provided by 13887
sections 742.01 to 742.61 of the Revised Code, shall be paid by 13888
transfers of amounts from the guarantee fund to such fund or 13889
funds. Should the amount in the guarantee fund be insufficient at 13890
any time to meet the amounts payable therefrom, the amount of such 13891
deficiency, with regular interest, shall be paid by an additional 13892
employer rate of current contribution as determined by the actuary 13893
and shall be approved by the board of trustees of the Ohio police 13894
and fire pension fund, and the amount of such additional employer 13895
contribution shall be credited to the guarantee fund. 13896

The board may accept gifts and bequests. Any funds that may 13897
come into the possession of the board in this manner, or any other 13898
funds whose disposition is not otherwise provided for, shall be 13899
credited to the guarantee fund. 13900

(H) The "expense fund" is the fund from which shall be paid 13901
the expenses for the administration and management of the Ohio 13902
police and fire pension fund, as provided by sections 742.01 to 13903
742.61 of the Revised Code, and to which shall be credited from 13904
the guarantee fund an amount sufficient to pay the expenses of 13905
operation. 13906

Sec. 901.43. (A) The director of agriculture may authorize 13907
any department of agriculture laboratory to perform a laboratory 13908
service for any person, organization, political subdivision, state 13909
agency, federal agency, or other entity, whether public or 13910
private. The director shall adopt and enforce rules to provide for 13911
the rendering of a laboratory service. 13912

(B) The director may charge a reasonable fee for the 13913
performance of a laboratory service, except when the service is 13914
performed on an official sample taken by the director acting 13915
pursuant to Title IX, Chapter 3715., or Chapter 3717. of the 13916
Revised Code; by a board of health acting as the licensor of 13917

retail food establishments or food service operations under 13918
Chapter 3717. of the Revised Code; or by the director of health 13919
acting as the licensor of food service operations under Chapter 13920
3717. of the Revised Code. The director of agriculture shall adopt 13921
rules specifying what constitutes an official sample. 13922

The director shall publish a list of laboratory services 13923
offered, together with the fee for each service. 13924

(C) The director may enter into a contract with any person, 13925
organization, political subdivision, state agency, federal agency, 13926
or other entity for the provision of a laboratory service. 13927

(D)(1) The director may adopt rules establishing standards 13928
for accreditation of laboratories and laboratory services and in 13929
doing so may adopt by reference existing or recognized standards 13930
or practices. 13931

(2) The director may inspect and accredit laboratories and 13932
laboratory services, and may charge a reasonable fee for the 13933
inspections and accreditation. 13934

(E)(1) ~~All~~ There is hereby created in the state treasury the 13935
animal health and food safety fund. Moneys from the following 13936
sources shall be deposited into the state treasury to the credit 13937
of the fund: all moneys collected by the director under this 13938
section that are from fees generated by a laboratory service 13939
performed by the department and related to the diseases of 13940
animals, ~~and~~ all moneys so collected that are from fees generated 13941
for the inspection and accreditation of laboratories and 13942
laboratory services related to the diseases of animals, ~~shall be~~ 13943
~~deposited in the animal industry laboratory fund, which is hereby~~ 13944
~~created in the state treasury. The director shall use the moneys~~ 13945
~~in the animal industry laboratory fund to pay the expenses~~ 13946
~~necessary to operate the animal industry laboratory, including the~~ 13947
~~purchase of supplies and equipment.~~ 13948

~~(2) All~~ all moneys collected by the director under this 13949
section that are from fees generated by a laboratory service 13950
performed by the consumer analytical laboratory, and all moneys so 13951
collected that are from fees generated for the inspection and 13952
accreditation of laboratories and laboratory services not related 13953
to weights and measures ~~or the diseases of animals, shall be~~ 13954
~~deposited in the laboratory services fund, which is hereby created~~ 13955
~~in the state treasury.~~ The director may use the moneys held in the 13956
fund ~~may be used~~ to pay the expenses necessary to operate the 13957
animal industry laboratory and the consumer analytical laboratory, 13958
including the purchase of supplies and equipment. 13959

~~(3)~~(2) All moneys collected by the director under this 13960
section that are from fees generated by a laboratory service 13961
performed by the weights and measures laboratory, and all moneys 13962
so collected that are from fees generated for the inspection and 13963
accreditation of laboratories and laboratory services related to 13964
weights and measures, shall be deposited in the state treasury to 13965
the credit of the weights and measures laboratory fund, which is 13966
hereby created in the state treasury. The moneys held in the fund 13967
may be used to pay the expenses necessary to operate the division 13968
of weights and measures, including the purchase of supplies and 13969
equipment. 13970

Sec. 901.44. There is hereby created in the state treasury 13971
the laboratory and administrative support fund. The department of 13972
agriculture shall deposit the following moneys received by the 13973
department to the credit of the fund: payment for the rental of 13974
the department's auditoriums by outside parties and reimbursement 13975
for related utility expenses, laboratory fees that are not 13976
designated for deposit into another fund, and other miscellaneous 13977
moneys that are not designated for deposit into another fund. The 13978
department may use moneys in the fund to pay costs associated with 13979

any program of the department as the director of agriculture sees 13980
fit. 13981

Sec. 903.05. (A) Each application for a permit to install or 13982
permit to operate a concentrated animal feeding facility that is 13983
submitted by an applicant who has not operated a concentrated 13984
animal feeding facility in this state for at least two of the five 13985
years immediately preceding the submission of the application 13986
shall be accompanied by all of the following: 13987

(1) A listing of all ~~concentrated~~ animal feeding facilities 13988
that the owner or operator of the proposed new or modified 13989
concentrated animal feeding facility has operated or is operating 13990
in this state; 13991

(2) A listing of the ~~concentrated~~ animal feeding facilities 13992
that the owner or operator has operated or is operating elsewhere 13993
in the United States and that are regulated under the Federal 13994
Water Pollution Control Act together with a listing of the 13995
~~concentrated~~ animal feeding facilities that the owner or operator 13996
has operated or is operating outside the United States; 13997

(3) A listing of all administrative enforcement orders issued 13998
to the owner or operator, all civil actions in which the owner or 13999
operator was determined by the trier of fact to be liable in 14000
damages or was the subject of injunctive relief or another type of 14001
civil relief, and all criminal actions in which the owner or 14002
operator pleaded guilty or was convicted, during the five years 14003
immediately preceding the submission of the application, in 14004
connection with any violation of the federal Water Pollution 14005
Control Act, the "Safe Drinking Water Act," as defined in section 14006
6109.01 of the Revised Code, or any other applicable state laws 14007
pertaining to environmental protection that was alleged to have 14008
occurred or to be occurring at any ~~concentrated~~ animal feeding 14009

facility that the owner or operator has operated or is operating 14010
in the United States or with any violation of the environmental 14011
laws of another country that was alleged to have occurred or to be 14012
occurring at any ~~concentrated~~ animal feeding facility that the 14013
owner or operator has operated or is operating outside the United 14014
States. 14015

The lists of ~~concentrated~~ animal feeding facilities operated 14016
by the owner or operator within or outside this state or outside 14017
the United States shall include, respectively, all such facilities 14018
operated by the owner or operator during the five-year period 14019
immediately preceding the submission of the application. 14020

(B) If the applicant for a permit to install or permit to 14021
operate has been involved in any prior activity involving the 14022
operation of a ~~concentrated~~ an animal feeding facility, the 14023
director of agriculture may deny the application if the director 14024
finds from the application, the information submitted under 14025
divisions (A)(1) to (3) of this section, pertinent information 14026
submitted to the director, and other pertinent information 14027
obtained by the director at the director's discretion that the 14028
applicant and persons associated with the applicant, in the 14029
operation of ~~concentrated~~ animal feeding facilities, have a 14030
history of substantial noncompliance with the Federal Water 14031
Pollution Control Act, the "Safe Drinking Water Act," as defined 14032
in section 6109.01 of the Revised Code, any other applicable state 14033
laws pertaining to environmental protection, or the environmental 14034
laws of another country that indicates that the applicant lacks 14035
sufficient reliability, expertise, and competence to operate the 14036
proposed new or modified concentrated animal feeding facility in 14037
substantial compliance with this chapter and rules adopted under 14038
it. 14039

(C) A person who seeks to acquire a concentrated animal 14040
feeding facility that has been issued an installation permit that 14041

has been transferred from the director of environmental protection 14042
to the director of agriculture, a permit to install, or a permit 14043
to operate shall submit to the director the information specified 14044
in divisions (A)(1) to (3) of this section prior to the transfer 14045
of the permit. The permit shall not be transferred as otherwise 14046
provided in division (I) of section 903.09 of the Revised Code if 14047
the director finds from the information submitted under divisions 14048
(A)(1) to (3) of this section, pertinent information submitted to 14049
the director, and other pertinent information obtained by the 14050
director at the director's discretion that the person, in the 14051
operation of ~~concentrated~~ animal feeding facilities, has a history 14052
of substantial noncompliance with the Federal Water Pollution 14053
Control Act, the "Safe Drinking Water Act," as defined in section 14054
6109.01 of the Revised Code, any other applicable state laws 14055
pertaining to environmental protection, or the environmental laws 14056
of another country that indicates that the person lacks sufficient 14057
reliability, expertise, and competence to operate the concentrated 14058
animal feeding facility in substantial compliance with this 14059
chapter and rules adopted under it. 14060

Sec. 905.32. (A) No person shall manufacture or distribute in 14061
this state any type of fertilizer until a license to manufacture 14062
or distribute has been obtained by the manufacturer or distributor 14063
from the department of agriculture upon payment of a five dollar 14064
fee: 14065

(1) For each fixed (permanent) location at which fertilizer 14066
is manufactured in this state; 14067

(2) For each mobile unit used to manufacture fertilizer in 14068
this state; 14069

(3) For each location out of the state from which fertilizer 14070
is distributed in this state to nonlicensees. 14071

All licenses ~~expire on the thirtieth day of June of each~~ 14072
shall be valid for one year beginning on the first day of December 14073
of a calendar year through the thirtieth day of November of the 14074
following calendar year. A renewal application for a license shall 14075
be submitted ~~no earlier than the first day of June each year and~~ 14076
no later than the thirtieth day of ~~June~~ November each year. A 14077
person who submits a renewal application for a license after the 14078
thirtieth day of ~~June~~ November shall include with the application 14079
a late filing fee of ten dollars. 14080

(B) An application for license shall include: 14081

(1) The name and address of the licensee; 14082

(2) The name and address of each bulk distribution point in 14083
the state, not licensed for fertilizer manufacture and 14084
distribution. 14085

The name and address shown on the license shall be shown on 14086
all labels, pertinent invoices, and bulk storage for fertilizers 14087
distributed by the licensee in this state. 14088

(C) The licensee shall inform the director of agriculture in 14089
writing of additional distribution points established during the 14090
period of the license. 14091

Sec. 905.33. (A) Except as provided in division (C) of this 14092
section, no person shall distribute in this state a specialty 14093
fertilizer until it is registered by the manufacturer or 14094
distributor with the department of agriculture. An application, in 14095
duplicate, for each brand and product name of each grade of 14096
specialty fertilizer shall be made on a form furnished by the 14097
director of agriculture and shall be accompanied with a fee of 14098
fifty dollars for each brand and product name of each grade. 14099
Labels for each brand and product name of each grade shall 14100
accompany the application. Upon the approval of an application by 14101

the director, a copy of the registration shall be furnished the 14102
applicant. All registrations ~~expire on the thirtieth day of June~~ 14103
~~of each shall be valid for one year beginning on the first day of~~ 14104
December of a calendar year through the thirtieth day of November 14105
of the following calendar year. 14106

(B) An application for registration shall include the 14107
following: 14108

(1) Name and address of the manufacturer or distributor; 14109

(2) The brand and product name; 14110

(3) The grade; 14111

(4) The guaranteed analysis; 14112

(5) The package sizes for persons that package fertilizers 14113
only in containers of ten pounds or less. 14114

(C)(1) No person who engages in the business of applying 14115
custom mixed fertilizer to lawns, golf courses, recreation areas, 14116
or other real property that is not used for agricultural 14117
production shall be required to register the custom mixed 14118
fertilizer as a specialty fertilizer in accordance with division 14119
(A) of this section if the fertilizer ingredients of the custom 14120
mixed fertilizer are registered as specialty fertilizers and the 14121
inspection fee described in division (A) of section 905.36 of the 14122
Revised Code is paid. 14123

(2) No person who engages in the business of blending custom 14124
mixed fertilizer for use on lawns, golf courses, recreation areas, 14125
or other real property that is not used for agricultural 14126
production shall be required to register the custom mixed 14127
fertilizer as a specialty fertilizer in accordance with division 14128
(A) of this section if the facility holds a nonagricultural 14129
production custom mixed fertilizer blender license issued under 14130
section 905.331 of the Revised Code. 14131

(D) A person who engages in the business of applying or 14132
blending custom mixed fertilizer as described in division (C) of 14133
this section shall maintain an original or a copy of an invoice or 14134
document of sale for all fertilizer the person applies or 14135
distributes for one year following the date of the application or 14136
distribution, and, upon the director's request, shall furnish the 14137
director with the invoice or document of sale for the director's 14138
review. 14139

Sec. 905.331. No person who engages in the business of 14140
blending a custom mixed fertilizer for use on lawns, golf courses, 14141
recreation areas, or other real property that is not used for 14142
agricultural production shall fail to register a specialty 14143
fertilizer in accordance with division (A) of section 905.33 of 14144
the Revised Code unless the person has obtained a an annual 14145
nonagricultural production custom mixed fertilizer blender license 14146
from the director of agriculture. 14147

A license issued under this section shall be valid from the 14148
first day of December of a calendar year through the thirtieth day 14149
of November of the following calendar year. A renewal application 14150
for a nonagricultural production custom mixed fertilizer blender 14151
license shall be submitted to the director ~~no earlier than the~~ 14152
~~first day of June each year and~~ no later than the thirtieth day of 14153
~~June~~ November each year and shall include the name and address of 14154
the applicant and of the premises where the blending occurs and a 14155
one-hundred-dollar fee. A person who submits a renewal application 14156
for a license after the thirtieth day of ~~June~~ November shall 14157
include with the application a late filing fee of ten dollars. All 14158
nonagricultural production custom mixed fertilizer blender 14159
licenses expire on the thirtieth day of ~~June~~ of November each 14160
year. 14161

A person holding a nonagricultural production custom mixed 14162

fertilizer blender license shall pay the inspection fees described 14163
in division (A) of section 905.36 of the Revised Code for each 14164
product being blended. 14165

Sec. 905.36. (A) A licensee or registrant, except registrants 14166
who package specialty fertilizers only in containers of ten pounds 14167
or less, shall pay the director of agriculture for all fertilizers 14168
distributed in this state an inspection fee at the rate of ~~twelve~~ 14169
twenty-five cents per ton or ~~thirteen~~ twenty-eight cents per 14170
metric ton. Licensees and registrants shall specify on an invoice 14171
whether the per ton inspection fee has been paid or whether 14172
payment of the fee is the responsibility of the purchaser of the 14173
fertilizer. The payment of this inspection fee by a licensee or 14174
registrant shall exempt all other persons from the payment of this 14175
fee. 14176

(B) Every licensee or registrant shall file a ~~semiannual~~ 14177
~~statement with the director an annual tonnage report~~ that includes 14178
the number of net tons or metric tons of fertilizer distributed to 14179
nonlicensees or nonregistrants in this state by grade; packaged; 14180
bulk, dry or liquid; ~~within thirty days after the thirtieth day of~~ 14181
~~June, and within thirty days after the thirty first day of~~ 14182
~~December, respectively, of.~~ The report shall be filed on or before 14183
the thirtieth day of November of each calendar year and shall 14184
include data from the period beginning on the first day of 14185
November of the year preceding the year in which the report is due 14186
through the thirty-first day of October of the year in which the 14187
report is due. The licensee or registrant, except registrants who 14188
package specialty fertilizers only in containers of ten pounds or 14189
less, shall include with this statement the inspection fee at the 14190
rate stated in division (A) of this section. For a tonnage report 14191
that is not filed or payment of inspection fees that is not made 14192
~~within ten days after due date~~ on or before the thirtieth day of 14193

November of the applicable calendar year, a penalty of fifty 14194
dollars or ten per cent of the amount due, whichever is greater, 14195
shall be assessed against the licensee or registrant. The amount 14196
of fees due, plus penalty, shall constitute a debt and become the 14197
basis of a judgment against the licensee or registrant. For 14198
tonnage reports found to be incorrect, a penalty of fifteen per 14199
cent of the amount due shall be assessed against the licensee or 14200
registrant and shall constitute a debt and become the basis of a 14201
judgment against the licensee or registrant. 14202

(C) No information furnished under this section shall be 14203
disclosed by any employee of the department of agriculture in such 14204
a way as to divulge the operation of any person required to make 14205
such a report. The filing by a licensee or registrant of a sales 14206
volume tonnage statement required by division (B) of this section 14207
thereby grants permission to the director to verify the same with 14208
the records of the licensee or registrant. 14209

Sec. 905.37. (A) The director of agriculture ~~shall~~ may 14210
distribute annual statements of fertilizer sales by grades of 14211
materials and mixed fertilizer by counties, in a manner prescribed 14212
by the director. 14213

(B) The director ~~shall~~ may publish ~~at least~~ annually a report 14214
of the analysis of fertilizers inspected. 14215

(C) The director may distribute a state fertilizer usage 14216
report by grade of materials and mixed fertilizers for each month. 14217

Sec. 905.38. The commercial feed, fertilizer, seed, and lime 14218
inspection and laboratory fund is hereby created in the state 14219
treasury. All moneys collected by the director of agriculture 14220
under sections 905.31 to 905.50 of the Revised Code, shall be 14221
deposited into the fund. Moneys credited to the fund under this 14222
section and sections 905.66, 907.16, and 923.46 of the Revised 14223

Code shall be used for administering and enforcing this chapter 14224
and ~~Chapter~~ Chapters 907. and 923. of the Revised Code and rules 14225
adopted under them. 14226

Sec. 905.381. The director of agriculture shall keep accurate 14227
accounts of all receipts and disbursements from the commercial 14228
feed, fertilizer, seed, and lime inspection and laboratory fund, 14229
and shall prepare, and provide upon request, an annual report 14230
classifying the receipts and disbursements as pertaining to either 14231
feed, fertilizer, seed, or lime. 14232

Sec. 905.50. If the director of agriculture has taken an 14233
official sample of a fertilizer or mixed fertilizer and determined 14234
that it constitutes mislabeled fertilizer pursuant to rules 14235
adopted under section 905.40 of the Revised Code, the person who 14236
labeled the fertilizer or mixed fertilizer shall pay a penalty to 14237
the consumer of the mislabeled fertilizer or, if the consumer 14238
cannot be determined with reasonable diligence or is not 14239
available, to the director for deposit into the commercial feed, 14240
fertilizer, seed, and lime inspection and laboratory fund created 14241
under section 905.38 of the Revised Code. The amount of the 14242
penalty shall be calculated in accordance with either division (A) 14243
or (B) of this section, whichever method of calculation yields the 14244
largest amount. 14245

(A)(1) A penalty required to be paid under this section may 14246
be calculated as follows: 14247

(a) Five dollars for each percentage point of total nitrogen 14248
or phosphorus in the fertilizer that is below the percentage of 14249
nitrogen or phosphorus guaranteed on the label, multiplied by the 14250
number of tons of mislabeled fertilizer that have been sold to the 14251
consumer; 14252

(b) Three dollars for each percentage point of potash in the 14253

fertilizer that is below the percentage of potash guaranteed on 14254
the label, multiplied by the number of tons of mislabeled 14255
fertilizer that have been sold to the consumer. 14256

(2) In the case of a fertilizer that contains a quantity of 14257
nitrogen, phosphorus, or potash that is more than five percentage 14258
points below the percentages guaranteed on the label, the 14259
penalties calculated under division (A)(1) of this section shall 14260
be tripled. 14261

(3) No penalty calculated under division (A) of this section 14262
shall be less than twenty-five dollars. 14263

(B) A penalty required to be paid under this section may be 14264
calculated by multiplying the market value of one unit of the 14265
mislabeled fertilizer by the number of units of the mislabeled 14266
fertilizer that have been sold to the consumer. 14267

(C) Upon making a determination under this section that a 14268
person has mislabeled fertilizer or mixed fertilizer, the director 14269
shall determine the parties to whom the penalty imposed by this 14270
section is required to be paid and, in accordance with division 14271
(A) or (B) of this section, as applicable, shall calculate the 14272
amount of the penalty required to be paid to each such party. 14273
After completing those determinations and calculations, the 14274
director shall issue to the person who allegedly mislabeled the 14275
fertilizer or mixed fertilizer a notice of violation. The notice 14276
shall be accompanied by an order requiring, and specifying the 14277
manner of, payment of the penalty imposed by this section to the 14278
parties in the amounts set forth in the determinations and 14279
calculations required by this division. The order shall be issued 14280
in accordance with Chapter 119. of the Revised Code. 14281

No person shall violate a term or condition of an order 14282
issued under this division. 14283

Sec. 905.501. (A) As used in this section, ~~"political:~~ 14284

(1) "Political subdivision" means a county, township, or 14285
municipal corporation and any other body corporate and politic 14286
that is responsible for government activities in a geographic area 14287
smaller than that of the state. 14288

(2) "Local legislation" includes, but is not limited to, an 14289
ordinance, resolution, regulation, rule, motion, or amendment that 14290
is enacted or adopted by a political subdivision. 14291

(B)(1) No political subdivision shall regulate the 14292
registration, packaging, labeling, sale, storage, distribution, 14293
use, or application of fertilizer, or require a person licensed or 14294
registered under sections 905.31 to 905.99 of the Revised Code to 14295
obtain a license or permit to operate in a manner described in 14296
those sections, or to satisfy any other condition except as 14297
provided by a statute or rule of this state or of the United 14298
States. 14299

(2) No political subdivision shall enact, adopt, or continue 14300
in effect local legislation relating to the registration, 14301
packaging, labeling, sale, storage, distribution, use, or 14302
application of fertilizers. 14303

Sec. 905.66. All moneys collected by the director of 14304
agriculture under sections 905.51 to 905.65 of the Revised Code 14305
shall be deposited into the commercial feed, fertilizer, seed, and 14306
lime inspection and laboratory fund created under section 905.38 14307
of the Revised Code. 14308

The director shall prepare and provide a report concerning 14309
the fund in accordance with section 905.381 of the Revised Code. 14310

Sec. 907.111. (A) The department of agriculture has sole and 14311
exclusive authority to regulate the registration, labeling, sale, 14312

storage, transportation, distribution, notification of use, use, 14313
and planting of seed within the state. The regulation of seed is a 14314
matter of general statewide interest that requires uniform 14315
statewide regulation, and this chapter and rules adopted under it 14316
constitute a comprehensive plan with respect to all aspects of the 14317
regulation of seed within this state. 14318

(B) No political subdivision shall do any of the following: 14319

(1) Regulate the registration, labeling, sale, storage, 14320
transportation, distribution, notification of use, use, or 14321
planting of seed; 14322

(2) Require a person who has been issued a permit or license 14323
under this chapter to obtain a permit or license to operate in a 14324
manner described in this chapter or to satisfy any other condition 14325
except as provided by a statute or rule of this state or of the 14326
United States; 14327

(3) Require a person who has registered a legume innoculant 14328
under this chapter to register that innoculant in a manner 14329
described in this chapter or to satisfy any other condition except 14330
as provided by a statute or rule of this state or of the United 14331
States. 14332

(C) No political subdivision shall enact, adopt, or continue 14333
in effect local legislation relating to the permitting or 14334
licensure of any person who is required to obtain a permit or 14335
license under this chapter or to the registration, labeling, sale, 14336
storage, transportation, distribution, notification of use, use, 14337
or planting of seed. 14338

(D) As used in this section, "political subdivision" and 14339
"local legislation" have the same meanings as in section 905.501 14340
of the Revised Code. 14341

Sec. 907.16. All money collected by the director of 14342
agriculture under sections 907.01 to 907.17 of the Revised Code 14343
shall be deposited into the treasury of the state to the credit of 14344
the commercial feed, fertilizer, seed, and lime inspection and 14345
laboratory fund, which is hereby created in the state treasury. 14346
~~Money credited to the fund shall be used to administer and enforce~~ 14347
~~those sections and rules adopted under them~~ section 905.38 of the 14348
Revised Code. 14349

Sec. 913.02. No person, firm, or corporation shall engage in 14350
the business of operating a cannery without obtaining a license 14351
for the operation of each cannery from the director of 14352
agriculture. 14353

In order to obtain a license, an application shall be made on 14354
a form prescribed by the director and shall be accompanied by a 14355
fee of ~~one~~ two hundred dollars. The director shall thereupon cause 14356
an investigation to be made. If the applicant is supplied with the 14357
facilities necessary for complying with sections 913.01 to 913.05 14358
of the Revised Code and rules adopted under them, a license shall 14359
be issued and shall be effective until the thirtieth day of June, 14360
and shall become invalid on that date unless renewed. The fee for 14361
each renewal is ~~one~~ two hundred dollars. License fees and renewal 14362
fees shall be deposited to the credit of the food safety fund 14363
created in section 915.24 of the Revised Code. 14364

The director may suspend or revoke any license for failure to 14365
comply with sections 913.01 to 913.05 of the Revised Code, or any 14366
rule or order adopted under those sections. In such event, the 14367
cannery immediately shall cease operation. 14368

Sec. 913.23. (A) The director of agriculture may issue 14369
licenses as required by sections 913.22 to 913.28 of the Revised 14370
Code, may make the inspections and registrations required by those 14371

sections, and may prescribe the form of application to be filed 14372
under this section. 14373

(B) No person shall manufacture or bottle for sale within 14374
this state any soft drink in closed containers unless the person 14375
has a license issued by the director. Upon receipt of an 14376
application for such a license, the director shall examine the 14377
products and the place of manufacture where the business is to be 14378
conducted, to determine whether the products and place comply with 14379
sections 913.22 to 913.28 of the Revised Code. Upon finding there 14380
is compliance, and upon payment of a license fee of ~~one~~ two 14381
hundred dollars, the director shall issue a license authorizing 14382
the applicant to manufacture or bottle for sale such soft drinks, 14383
subject to sections 913.22 to 913.28 of the Revised Code. The 14384
license shall expire on the last day of March of each year unless 14385
renewed. 14386

(C) No soft drink that is manufactured or bottled out of the 14387
state shall be sold or offered for sale within this state unless 14388
the soft drink and the plant in which the soft drink is 14389
manufactured or bottled are found by the director to comply with 14390
sections 913.22 to 913.28 of the Revised Code, and ~~is~~ are 14391
registered by the director, which shall be upon a like application 14392
as provided in division (B) of this section. 14393

An annual registration fee of ~~one~~ two hundred dollars shall 14394
be paid to the director by each applicant under this division. The 14395
registration shall be renewed annually, and the registration fee 14396
paid with the application for annual renewal. 14397

Registration of out-of-state soft drink manufacturers or 14398
bottlers or syrup and extract manufacturers is not required if a 14399
reciprocal agreement is in effect whereby a soft drink 14400
manufacturer or bottler or syrup and extract manufacturer located 14401
in this state is not subject to a license or registration fee by 14402
another state or a political subdivision thereof. 14403

(D) No person, other than a manufacturer or bottler holding a 14404
soft drink plant license under this section, shall sell, offer for 14405
sale, use, or have in the person's possession with intent to sell, 14406
any soda water syrup or extract or soft drink syrup, to be used in 14407
making, drawing, or dispensing soda water or other soft drinks, 14408
without first registering the person's name and address, the name 14409
and address of the manufacturer of the syrup or extract, the 14410
number and variety of such syrups or extracts intended to be sold, 14411
and the trade name or brand of those products, with the director, 14412
together with such samples of the syrups or extracts as the 14413
director requests for analysis. The person also shall pay to the 14414
department of agriculture at the time of making registration a 14415
license fee of ~~fifty~~ one hundred dollars. No license shall be 14416
granted by the director unless the director determines that the 14417
syrup or extract is free from all harmful drugs and other 14418
ingredients that, as used, may be injurious to health. The 14419
registration shall be renewed annually upon like terms. If any 14420
manufacturer, bottler, agent, or seller is licensed or has 14421
registered the manufacturer's, bottler's, agent's, or seller's 14422
name and product as required by this section and has paid the 14423
manufacturer's, bottler's, agent's, or seller's fee, the 14424
manufacturer's, bottler's, agent's, or seller's distributor, 14425
retail agent, or retail seller using the products shall not be 14426
required to pay that fee. This section does not apply to local 14427
sellers of soft drinks as to syrups and extracts made by 14428
themselves for their own use exclusively. 14429

(E) All moneys received under sections 913.22 to 913.28 of 14430
the Revised Code shall be deposited with the treasurer of state to 14431
the credit of the food safety fund created in section 915.24 of 14432
the Revised Code. 14433

(F) The director may revoke any license or registration 14434
issued under sections 913.22 to 913.28 of the Revised Code, 14435

whenever the director determines that those sections have been 14436
violated. When a license has been revoked, the licensee shall 14437
discontinue the manufacture and sale of soft drinks or other 14438
products for which the license was issued. When a registration has 14439
been revoked, the registrant shall discontinue the sale within 14440
this state of the registrant's products until those sections have 14441
been complied with and a new license or registration has been 14442
issued. The director may suspend any such license or registration 14443
temporarily, pending compliance with such conditions required by 14444
those sections as the director prescribes. 14445

Sec. 915.02. No person, firm, or corporation shall operate a 14446
cold-storage warehouse, for hire, without a license issued by the 14447
director of agriculture. ~~Such~~ A license shall be issued only on 14448
written application stating the location of ~~such~~ the warehouse. 14449
Upon receipt of the application the director shall cause an 14450
examination to be made into the sanitary conditions of ~~such~~ the 14451
warehouse. If it is found to be in a sanitary condition and 14452
properly equipped for the purpose of cold storage, the director 14453
shall cause a license to be issued authorizing the applicant to 14454
operate a warehouse. No license shall be issued until the 14455
applicant has paid to the director the sum of ~~one~~ two hundred 14456
dollars. ~~Such~~ A license shall be valid until the last day of March 14457
of each year and becomes invalid on that date unless renewed. A 14458
license shall be required for each separate warehouse building. 14459

Sec. 915.16. The license fee for an establishment is 14460
~~twenty-five~~ fifty dollars. Any operator operating in connection 14461
with a cold-storage warehouse holding a license under section 14462
915.02 of the Revised Code is not required to secure an additional 14463
license under section 915.15 of the Revised Code so long as ~~he~~ the 14464
operator continues to be licensed as a cold-storage warehouse; but 14465
~~he~~ the operator shall comply with sections 915.14 to 915.24, 14466

~~inclusive~~, of the Revised Code, and all rules and regulations 14467
promulgated thereunder. The license issued shall be in such form 14468
as the department of agriculture prescribes. Licenses shall be 14469
valid until the last day of November following initial issuance or 14470
renewal and shall become invalid on that date unless renewed. The 14471
original license or a certified copy thereof shall be 14472
conspicuously displayed by the operator in the establishment. 14473

Sec. 915.24. (A) There is hereby created in the state 14474
treasury the food safety fund. All of the following moneys shall 14475
be credited to the fund: 14476

(1) Bakery registration fees and fines received under 14477
sections 911.02 to 911.20 of the Revised Code; 14478

(2) Cannery license fees and renewal fees received under 14479
sections 913.01 to 913.05 of the Revised Code; 14480

(3) Moneys received under sections 913.22 to 913.28 of the 14481
Revised Code; 14482

(4) License fees, fines, and penalties recovered for the 14483
violation of sections 915.01 to 915.12 of the Revised Code; 14484

(5) License fees collected under sections 915.14 to 915.23 of 14485
the Revised Code; 14486

(6) License fees, other fees, and fines collected by or for 14487
the director of agriculture under Chapter 3717. of the Revised 14488
Code; 14489

(7) Fees collected under section 3715.04 of the Revised Code 14490
for the issuance of certificates of health and freesale. 14491

(B) The director of agriculture shall use the moneys 14492
deposited into the food safety fund to administer and enforce the 14493
laws pursuant to which the moneys were collected. 14494

Sec. 921.02. (A) No person shall distribute a pesticide 14495

within this state unless the pesticide is registered with the 14496
director of agriculture under this chapter. Registrations shall be 14497
issued for a period of time established by rule and shall be 14498
renewed in accordance with deadlines established by rule. 14499
Registration is not required if a pesticide is shipped from one 14500
plant or warehouse to another plant or warehouse operated by the 14501
same person and used solely at that plant or warehouse as a 14502
constituent part to make a pesticide that is registered under this 14503
chapter, or if the pesticide is distributed under the provisions 14504
of an experimental use permit issued under section 921.03 of the 14505
Revised Code or an experimental use permit issued by the United 14506
States environmental protection agency. 14507

(B) The applicant for registration of a pesticide shall file 14508
a statement with the director on a form provided by the director, 14509
which shall include all of the following: 14510

(1) The name and address of the applicant and the name and 14511
address of the person whose name will appear on the label, if 14512
other than the applicant's name; 14513

(2) The brand and product name of the pesticide; 14514

(3) Any necessary information required for completion of the 14515
department of agriculture's application for registration, 14516
including the agency registration number; 14517

(4) A complete copy of the labeling accompanying the 14518
pesticide and a statement of all claims to be made for it, 14519
including the directions for use and the use classification as 14520
provided for in the federal act. 14521

(C) The director, when the director considers it necessary in 14522
the administration of this chapter, may require the submission of 14523
the complete formula of any pesticide including the active and 14524
inert ingredients. 14525

(D) The director may require a full description of the tests 14526
made and the results thereof upon which the claims are based for 14527
any pesticide. The director shall not consider any data submitted 14528
in support of an application, without permission of the applicant, 14529
in support of any other application for registration unless the 14530
other applicant first has offered to pay reasonable compensation 14531
for producing the test data to be relied upon and the data are not 14532
protected from disclosure by section 921.04 of the Revised Code. 14533
In the case of a renewal of registration, a statement shall be 14534
required only with respect to information that is different from 14535
that furnished when the pesticide was registered or last 14536
registered. 14537

(E) The director may require any other information to be 14538
submitted with an application. 14539

Any applicant may designate any portion of the required 14540
registration information as a trade secret or confidential 14541
business information. Upon receipt of any required registration 14542
information designated as a trade secret or confidential business 14543
information, the director shall consider the designated 14544
information as confidential and shall not reveal or cause to be 14545
revealed any such designated information without the consent of 14546
the applicants, except to persons directly involved in the 14547
registration process described in this section or as required by 14548
law. 14549

(F) ~~Each~~ Beginning January 1, 2007, each applicant shall pay 14550
a registration and inspection fee ~~established by rule of one~~ 14551
hundred fifty dollars for each product name and brand registered 14552
for the company whose name appears on the label. If an applicant 14553
files for a renewal of registration after the deadline established 14554
by rule, the applicant shall pay a penalty fee ~~established by rule~~ 14555
of seventy-five dollars for each product name and brand registered 14556
for the applicant. The penalty fee shall be added to the original 14557

fee and paid before the renewal registration is issued. In 14558
addition to any other remedy available under this chapter, if a 14559
pesticide that is not registered pursuant to this section is 14560
distributed within this state, the person required to register the 14561
pesticide shall do so and shall pay a penalty fee ~~established by~~ 14562
~~rule of seventy-five dollars~~ for each product name and brand 14563
registered for the applicant. The penalty fee shall be added to 14564
the original fee of one hundred fifty dollars and paid before the 14565
registration is issued. 14566

(G) Provided that the state is authorized by the 14567
administrator of the United States environmental protection agency 14568
to register pesticides to meet special local needs, the director 14569
shall require the information set forth under divisions (B), (C), 14570
(D), and (E) of this section and shall register any such pesticide 14571
after determining that all of the following conditions are met: 14572

(1) Its composition is such as to warrant the proposed claims 14573
for it. 14574

(2) Its labeling and other material required to be submitted 14575
comply with the requirements of the federal act and of this 14576
chapter, and rules adopted thereunder. 14577

(3) It will perform its intended function without 14578
unreasonable adverse effects on the environment. 14579

(4) When used in accordance with widespread and commonly 14580
recognized practice, it will not generally cause unreasonable 14581
adverse effects on the environment. 14582

(5) The classification for general or restricted use is in 14583
conformity with the federal act. 14584

The director shall not make any lack of essentiality a 14585
criterion for denying the registration of any pesticide. When two 14586
pesticides meet the requirements of division (G) of this section, 14587
the director shall not register one in preference to the other. 14588

(H)(1) The director may refuse to register a pesticide if the application for registration fails to comply with this section.

(2) The director may suspend or revoke a pesticide registration after a hearing in accordance with Chapter 119. of the Revised Code for a pesticide that fails to meet the claims made for it on its label.

(3) The director may immediately suspend a pesticide registration, prior to a hearing, when the director believes that the pesticide poses an immediate hazard to human or animal health or a hazard to the environment. Not later than fifteen days after suspending the registration, the director shall determine whether the pesticide poses such a hazard. If the director determines that no hazard exists, the director shall lift the suspension of the registration. If the director determines that a hazard exists, the director shall revoke the registration in accordance with Chapter 119. of the Revised Code.

Sec. 921.16. (A) The director of agriculture shall adopt rules the director determines necessary for the effective enforcement and administration of this chapter. The rules may relate to, but are not limited to, the time, place, manner, and methods of application, materials, and amounts and concentrations of application of pesticides, may restrict or prohibit the use of pesticides in designated areas during specified periods of time, and shall encompass all reasonable factors that the director determines necessary to minimize or prevent damage to the environment. In addition, the rules shall establish the ~~fees~~, ~~deadlines~~, and time periods for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code; the fees for registration, registration renewal, late registration renewal, and failure to register under section 921.02 of the Revised Code that shall apply

~~until the fees that are established under that section take effect 14620
on January 1, 2007; and the fees, deadlines, and time periods for 14621
licensure and license renewal under sections 921.06, 921.09, 14622
921.11, and 921.13 of the Revised Code. The aggregate amount of 14623
the fees that initially are established by rule after the 14624
effective date of this amendment shall be designed to cover, but 14625
not exceed, the costs incurred by the department of agriculture in 14626
administering this chapter. Thereafter, the fees shall not be 14627
increased without the approval of the general assembly. 14628~~

(B) The director shall adopt rules that establish a schedule 14629
of civil penalties for violations of this chapter, or any rule or 14630
order adopted or issued under it, provided that the civil penalty 14631
for a first violation shall not exceed five thousand dollars and 14632
the civil penalty for each subsequent violation shall not exceed 14633
ten thousand dollars. In determining the amount of a civil penalty 14634
for a violation, the director shall consider factors relevant to 14635
the severity of the violation, including past violations and the 14636
amount of actual or potential damage to the environment or to 14637
human beings. 14638

(C) The director shall adopt rules that set forth the 14639
conditions under which the director: 14640

(1) Requires that notice or posting be given of a proposed 14641
application of a pesticide; 14642

(2) Requires inspection, condemnation, or repair of equipment 14643
used to apply a pesticide; 14644

(3) Will suspend, revoke, or refuse to issue any pesticide 14645
registration for a violation of this chapter; 14646

(4) Requires safe handling, transportation, storage, display, 14647
distribution, and disposal of pesticides and their containers; 14648

(5) Ensures the protection of the health and safety of 14649

agricultural workers storing, handling, or applying pesticides, 14650
and all residents of agricultural labor camps, as that term is 14651
defined in section 3733.41 of the Revised Code, who are living or 14652
working in the vicinity of pesticide-treated areas; 14653

(6) Requires a record to be kept of all pesticide 14654
applications made by each commercial applicator and by any trained 14655
serviceperson acting under the commercial applicator's direct 14656
supervision and of all restricted use pesticide applications made 14657
by each private applicator and by any immediate family member or 14658
subordinate employee of that private applicator who is acting 14659
under the private applicator's direct supervision as required 14660
under section 921.14 of the Revised Code; 14661

(7) Determines the pesticide-use categories of diagnostic 14662
inspections that must be conducted by a commercial applicator; 14663

(8) Requires a record to be kept of all diagnostic 14664
inspections conducted by each commercial applicator and by any 14665
trained service person. 14666

(D) The director shall prescribe standards for the licensure 14667
of applicators of pesticides consistent with those prescribed by 14668
the federal act and the regulations adopted under it or prescribe 14669
standards that are more restrictive than those prescribed by the 14670
federal act and the regulations adopted under it. The standards 14671
may relate to the use of a pesticide or to an individual's 14672
pesticide-use category. 14673

The director shall take into consideration standards of the 14674
United States environmental protection agency. 14675

(E) The director may adopt rules setting forth the conditions 14676
under which the director will: 14677

(1) Collect and examine samples of pesticides or devices; 14678

(2) Specify classes of devices that shall be subject to this 14679

chapter; 14680

(3) Prescribe other necessary registration information. 14681

(F) The director may adopt rules that do either or both of 14682
the following: 14683

(1) Designate, in addition to those restricted uses so 14684
classified by the administrator of the United States environmental 14685
protection agency, restricted uses of pesticides for the state or 14686
for designated areas within the state and, if the director 14687
considers it necessary, to further restrict such use; 14688

(2) Define what constitutes "acting under the instructions 14689
and control of a commercial applicator" as used in the definition 14690
of "direct supervision" in division (Q)(1) of section 921.01 of 14691
the Revised Code. In adopting a rule under division (F)(2) of this 14692
section, the director shall consider the factors associated with 14693
the use of pesticide in the various pesticide-use categories. 14694
Based on consideration of the factors, the director may define 14695
"acting under the instructions and control of a commercial 14696
applicator" to include communications between a commercial 14697
applicator and a trained serviceperson that are conducted via 14698
landline telephone or a means of wireless communication. Any rules 14699
adopted under division (F)(2) of this section shall be drafted in 14700
consultation with representatives of the pesticide industry. 14701

(G) Except as provided in division (D) of this section, the 14702
director shall not adopt any rule under this chapter that is 14703
inconsistent with the requirements of the federal act and 14704
regulations adopted thereunder. 14705

(H) The director, after notice and opportunity for hearing, 14706
may declare as a pest any form of plant or animal life, other than 14707
human beings and other than bacteria, viruses, and other 14708
microorganisms on or in living human beings or other living 14709
animals, that is injurious to health or the environment. 14710

(I) The director may make reports to the United States environmental protection agency, in the form and containing the information the agency may require.

(J) The director shall adopt rules for the application, use, storage, and disposal of pesticides if, in the director's judgment, existing programs of the United States environmental protection agency necessitate such rules or pesticide labels do not sufficiently address issues or situations identified by the department of agriculture or interested state agencies.

(K) The director shall adopt rules establishing all of the following:

(1) Standards, requirements, and procedures for the examination and re-examination of commercial applicators and private applicators;

(2) With respect to training programs that the director may require commercial applicators and private applicators to complete:

(a) Standards and requirements that a training program must satisfy in order to be offered by the director or the director's representative or in order to be approved by the director if a third party wishes to offer it;

(b) Eligibility standards and requirements that must be satisfied by third parties who wish to provide the training programs;

(c) Procedures that third parties must follow in order to submit a proposed training program to the director for approval;

(d) Criteria that the director must consider when determining whether to authorize a commercial applicator or private applicator to participate in a training program instead of being required to pass a re-examination.

(3) Training requirements for a trained serviceperson. 14741

(L) The director shall adopt all rules under this chapter in 14742
accordance with Chapter 119. of the Revised Code. 14743

Sec. 923.44. (A)(1) Except as otherwise provided in divisions 14744
(A)(2), (3), and (4) of this section, the first distributor of a 14745
commercial feed shall pay the director of agriculture a semiannual 14746
inspection fee at the rate of ~~ten~~ twenty-five cents per ton, with 14747
a minimum payment of ~~ten~~ twenty-five dollars, on all commercial 14748
feeds distributed by ~~him~~ the first distributor in this state. 14749
14750

(2) The semiannual inspection fee required under division 14751
(A)(1) of this section shall not be paid by the first distributor 14752
of a commercial feed if the distribution is made to an exempt 14753
buyer who shall be responsible for the fee. The director shall 14754
establish an exempt list consisting of those buyers who are 14755
responsible for the fee. 14756

(3) The semiannual inspection fee shall not be paid on a 14757
commercial feed if the fee has been paid by a previous 14758
distributor. 14759

(4) The semiannual inspection fee shall not be paid on 14760
customer-formula feed if the fee has been paid on the commercial 14761
feeds ~~which~~ that are used as components in that customer-formula 14762
feed. 14763

(B) Each distributor or exempt buyer who is required to pay a 14764
fee under division (A)(1) or (2) of this section shall file a 14765
semiannual statement with the director that includes the number of 14766
net tons of commercial feed distributed by ~~him~~ the distributor or 14767
exempt buyer in this state, within thirty days after the thirtieth 14768
day of June and within thirty days after the thirty-first day of 14769
December, respectively, of each calendar year. 14770

The inspection fee at the rate stated in division (A)(1) of 14771
this section shall accompany the statement. For a tonnage report 14772
that is not filed or payment of inspection fees that is not made 14773
within fifteen days after the due date, a penalty of ten per cent 14774
of the amount due, with a minimum penalty of fifty dollars shall 14775
be assessed against the distributor or exempt buyer. The amount of 14776
fees due, plus penalty, shall constitute a debt and become the 14777
basis of a judgment against the distributor or exempt buyer. 14778

(C) No information furnished under this section shall be 14779
disclosed by an employee of the department of agriculture in such 14780
a way as to divulge the operation of any person required to make 14781
such a report. 14782

Sec. 923.45. The director of agriculture ~~shall~~ may publish ~~at~~ 14783
~~least~~ annually in such form as ~~he~~ the director considers proper: 14784
14785

(A) Information concerning the sale of commercial feed, 14786
including any production and use data ~~he~~ the director considers 14787
advisable, provided that the data does not disclose the operation 14788
of any manufacturer or distributor; 14789

(B) A comparison of the analyses of official samples of 14790
commercial feeds distributed in this state with the guaranteed 14791
analyses on the label. 14792

Sec. 923.46. All moneys collected by the director of 14793
agriculture under sections 923.41 to 923.55 of the Revised Code 14794
shall be deposited into the state treasury to the credit of the 14795
commercial feed, fertilizer, seed, and lime inspection and 14796
laboratory fund created in section 905.38 of the Revised Code. 14797
~~Money credited to the fund shall be used only for administering~~ 14798
~~and enforcing this chapter and Chapter 905. of the Revised Code~~ 14799
~~and rules adopted under them.~~ 14800

The director shall prepare and provide a report concerning 14801
the fund in accordance with section 905.381 of the Revised Code. 14802

Sec. 926.01. As used in this chapter: 14803

(A) "Agricultural commodity" means barley, corn, oats, rye, 14804
grain sorghum, soybeans, wheat, sunflower, speltz, or any other 14805
agricultural crop ~~which~~ that the director of agriculture may 14806
designate by rule. "Agricultural commodity" does not mean any 14807
grain that is purchased for sale as seed. 14808

(B) "Agricultural commodity handling" or "handling" means any 14809
of the following: 14810

(1) Engaging in or participating in the business of 14811
purchasing ~~an~~ from producers agricultural ~~commodity for sale,~~ 14812
~~resale, processing, or commodities~~ for any ~~other~~ use in the 14813
~~following volumes~~: 14814

~~(a) In the case of purchases made from producers, more than~~ 14815
~~excess of~~ thirty thousand bushels annually; 14816

~~(b) In the case of purchases made from agricultural commodity~~ 14817
~~handlers, more than one hundred thousand bushels annually;~~ 14818

~~(c) In the case of total purchases made from producers~~ 14819
~~combined with total purchases made from handlers, more than one~~ 14820
~~hundred thousand bushels annually.~~ 14821

(2) Operating a warehouse as a bailee for the receiving, 14822
storing, shipping, or conditioning of an agricultural commodity; 14823

(3) Receiving into a warehouse an agricultural commodity 14824
purchased under a delayed price agreement; 14825

(4) Providing marketing functions, including storage, delayed 14826
price marketing, deferred payment, feed agreements, or any other 14827
marketing transaction whereby control is exerted over the monetary 14828
proceeds of a producer's agricultural commodities by a person 14829

other than the producer. 14830

(C) "Agricultural commodity handler" or "handler" means any 14831
person who is engaged in the business of agricultural commodity 14832
handling. ~~"Agricultural commodity handler" or "handler" does not 14833
include a person who does not handle agricultural commodities as a 14834
bailee and who purchases agricultural commodities in the following 14835
volumes:~~ 14836

~~(1) Thirty thousand or fewer bushels annually from producers; 14837
(2) One hundred thousand or fewer bushels annually from 14838
agricultural commodity handlers.~~ 14839

~~A person who does not handle agricultural commodities as a 14840
bailee and who annually purchases thirty thousand or fewer bushels 14841
of agricultural commodities from producers and one hundred 14842
thousand or fewer bushels of agricultural commodities from 14843
agricultural commodity handlers shall be considered to be an 14844
agricultural commodity handler if the combined annual volume of 14845
purchases from the producers and the agricultural commodity 14846
handlers exceeds one hundred thousand bushels.~~ 14847

(D) "Depositor" means: 14848

(1) Any person who delivers an agricultural commodity to a 14849
licensed handler for storage, conditioning, shipment, or sale; 14850

(2) Any owner or legal holder of a ticket or receipt issued 14851
for an agricultural commodity who is a creditor of the licensed 14852
handler for the value of the agricultural commodity; 14853

(3) Any licensed handler storing an agricultural commodity 14854
that the licensed handler owns solely, jointly, or in common with 14855
others in a warehouse owned or controlled by the licensed handler 14856
or any other licensed handler. 14857

(E) "Receipt" means a warehouse receipt issued by a licensed 14858
handler. 14859

(F) "Nonnegotiable receipt" means a receipt on which it is 14860
stated that the agricultural commodity received will be delivered 14861
to the depositor or to the order of any other person named in the 14862
receipt. 14863

(G) "Negotiable receipt" means a receipt on which it is 14864
stated that the agricultural commodity received will be delivered 14865
to the bearer or to the order of any person named in the receipt. 14866

(H) "Ticket" means a scale weight ticket, a load slip, or any 14867
evidence, other than a receipt, given to a depositor by a licensed 14868
handler upon delivery of an agricultural commodity to the handler. 14869

(I) "Warehouse" means any building, bin, protected enclosure, 14870
or similar premises under the control of a licensed or unlicensed 14871
handler used for receiving, storing, shipping, or handling an 14872
agricultural commodity. 14873

(J) "Storage" means the deposit of an agricultural commodity 14874
into a warehouse either for the account of the licensed handler 14875
operating the warehouse or for the account of a depositor. 14876

(K) "Producer" means any person who grows an agricultural 14877
commodity on land that the person owns or leases. 14878

(L) "Agent" means any person, other than a producer, who 14879
delivers an agricultural commodity to a licensed handler, either 14880
for sale or for storage, for the account of the producer. 14881

(M) "Agricultural commodity tester" or "tester" means a 14882
person who operates a moisture meter and other quality testing 14883
devices to determine the quality of an agricultural commodity. 14884

(N) "Federally licensed grain inspector" means a person who 14885
is licensed by the United States department of agriculture under 14886
the "United States Grain Standards Act," 39 Stat. 482 (1916), 7 14887
U.S.C. 71, as amended, to test and grade grain, as "grain" is 14888
defined in that act. 14889

(O) "Bailee" means a person to whom an agricultural commodity is delivered in trust for storage in a warehouse with title remaining in the name of the depositor.

(P) "Bailor" means a person who delivers an agricultural commodity to a bailee in trust for storage in a warehouse with title remaining in the name of the depositor.

(Q) "Bailment agreement" means a bailor-bailee agreement between a depositor and a licensed handler as stated in the terms of a receipt that is issued for an agricultural commodity in storage and subject to the requirements of this chapter governing the use of a receipt.

(R) "Delayed price agreement" means a written executory contract executed by and between a licensed handler and a depositor that covers the sale and transfer of title of an agricultural commodity and states in its written terms the service charges and the method for pricing the commodity at a later date.

(S) "Delayed price marketing" means the sale and transfer of title of an agricultural commodity with the price to be established at a later date according to the terms of a delayed price agreement.

(T) "Deferred payment" means the deferral of payment to a depositor by a licensed handler for an agricultural commodity to which the licensed handler has taken title, for the purpose of deferring income of the depositor from one tax year to another.

(U) "Feed agreement" means a written contract executed by and between a licensed handler and a producer or depositor who delivers an agricultural commodity to the licensed handler for storage whereby each of the following applies:

(1) The producer or depositor transfers title to the agricultural commodity to the licensed handler in exchange for a

nominal sum;	14920
(2) The producer, upon delivery of the agricultural commodity to the licensed handler, becomes a creditor of the licensed handler due to the lien that arises under section 926.021 of the Revised Code;	14921 14922 14923 14924
(3) All or part of the agricultural commodity is returned to the producer at a later date and used for feed purposes.	14925 14926
(V) Notwithstanding section 1.02 of the Revised Code, "and" shall not be read "or" and "or" shall not be read "and."	14927 14928
Sec. 927.69. To effect the purpose of sections 927.51 to 927.74 of the Revised Code, the director of agriculture or the director's authorized representative may:	14929 14930 14931
(A) Make reasonable inspection of any premises in this state and any property therein or thereon;	14932 14933
(B) Stop and inspect in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, commodity, or other article that is subject to sections 927.51 to 927.72 of the Revised Code;	14934 14935 14936 14937
(C) Conduct inspections of agricultural products that are required by other states, the United States department of agriculture, other federal agencies, or foreign countries to determine whether the products are infested. If, upon making such an inspection, the director or the director's authorized representative determines that an agricultural product is not infested, the director or the director's authorized representative may issue a certificate, as required by other states, the United States department of agriculture, other federal agencies, or foreign countries, indicating that the product is not infested.	14938 14939 14940 14941 14942 14943 14944 14945 14946 14947
If the director charges fees for any of the certificates, agreements, or inspections specified in this section, the fees	14948 14949

shall be as follows: 14950

(1) Phyto sanitary certificates, twenty-five dollars; 14951

(2) Compliance agreements, twenty dollars; 14952

(3) Solid wood packing certificates, twenty dollars; 14953

(4) Agricultural products and their conveyances inspections, 14954
sixty-five dollars an amount equal to the hourly rate of pay in 14955
the highest step in the pay range, including fringe benefits, of a 14956
plant pest control specialist multiplied by the number of hours 14957
worked by such a specialist in conducting an inspection. 14958

The director may adopt rules under section 927.52 of the 14959
Revised Code that define the certificates, agreements, and 14960
inspections. 14961

The fees shall be deposited into the state treasury to the 14962
credit of the pesticide program fund created in Chapter 921. of 14963
the Revised Code. Money credited to the fund shall be used to pay 14964
the costs incurred by the department of agriculture in 14965
administering this chapter, including employing a minimum of two 14966
additional inspectors. 14967

Sec. 1111.04. (A) Prior to soliciting or engaging in trust 14968
business in this state, a trust company shall pledge to the 14969
treasurer of state interest bearing securities authorized in 14970
division (B) of this section, having a par value, not including 14971
unaccrued interest, of one hundred thousand dollars, and approved 14972
by the superintendent of financial institutions. The trust company 14973
may pledge the securities either by delivery to the treasurer of 14974
state or by placing the securities with a qualified trustee for 14975
safekeeping to the account of the treasurer of state, the 14976
corporate fiduciary, and any other person having an interest in 14977
the securities under Chapter 1109. of the Revised Code, as their 14978
respective interests may appear and be asserted by written notice 14979

to or demand upon the qualified trustee or by order of judgment of 14980
a court. 14981

(B) Securities pledged by a trust company to satisfy the 14982
requirements of division (A) of this section shall be one or more 14983
of the following: 14984

(1) Bonds, notes, or other obligations of or guaranteed by 14985
the United States or for which the full faith and credit of the 14986
United States is pledged for the payment of principal and 14987
interest; 14988

(2) Bonds, notes, debentures, or other obligations or 14989
securities issued by any agency or instrumentality of the United 14990
States; 14991

(3) General obligations of this or any other state of the 14992
United States or any subdivision of this or any other state of the 14993
United States. 14994

(C) The treasurer of state shall accept delivery of 14995
securities pursuant to this section when accompanied by the 14996
superintendent's approval of the securities or the written receipt 14997
of a qualified trustee describing the securities and showing the 14998
superintendent's approval of the securities, and shall issue a 14999
written acknowledgment of the delivery of the securities or the 15000
qualified trustee's receipt and the superintendent's approval to 15001
the trust company. 15002

(D) The superintendent shall approve securities to be pledged 15003
by a trust company pursuant to this section if the securities are 15004
all of the following: 15005

(1) Interest bearing and of the value required by division 15006
(A) of this section; 15007

(2) Of one or more of the kinds authorized by division (B) of 15008
this section and not a derivative of or merely an interest in any 15009

of those securities; 15010

(3) Not in default. 15011

(E) The treasurer of state shall, with the approval of the 15012
superintendent, permit a trust company to pledge securities in 15013
substitution for securities pledged pursuant to this section and 15014
the withdrawal of the securities substituted for so long as the 15015
securities remaining pledged satisfy the requirements of division 15016
(A) of this section. The treasurer of state shall permit a trust 15017
company to collect interest paid on securities pledged pursuant to 15018
this section so long as the trust company is solvent. The 15019
treasurer of state shall, with the approval of the superintendent, 15020
permit a trust company to withdraw securities pledged pursuant to 15021
this section when the trust company has ceased to solicit or 15022
engage in trust business in this state. 15023

(F) For purposes of this section, a qualified trustee is a 15024
federal reserve bank located in this state, a branch of a federal 15025
reserve bank located in this state regardless of where the branch 15026
is located, a federal home loan bank, or a trust company as 15027
defined in section 1101.01 of the Revised Code, except a trust 15028
company may not act as a qualified trustee for securities it or 15029
any of its affiliates is pledging pursuant to this section. 15030

(G) The superintendent, with the approval of the treasurer of 15031
state and the attorney general, shall prescribe the form of all 15032
receipts and acknowledgments provided for by this section, and 15033
upon request shall furnish a copy of each form, with the 15034
superintendent's certification attached, to each qualified trustee 15035
eligible to hold securities for safekeeping under this section. 15036

Sec. 1327.511. All money collected under section 1327.50 of 15037
the Revised Code for services rendered by the department of 15038
agriculture in operating the type evaluation program shall be 15039

deposited in the state treasury to the credit of the metrology and 15040
scale certification fund, which is hereby created. Money credited 15041
to the fund shall be used to pay operating costs incurred by the 15042
department in administering the program. 15043

Sec. 1502.02. (A) There is hereby created in the department 15044
of natural resources the division of recycling and litter 15045
prevention to be headed by the chief of recycling and litter 15046
prevention. 15047

(B) There is hereby created in the state treasury the 15048
recycling and litter prevention fund, consisting of moneys 15049
distributed to it from fees, including the fee levied under 15050
division (A)(2) of section 3714.073 of the Revised Code, gifts, 15051
donations, grants, reimbursements, and other sources, including 15052
investment earnings. 15053

(C) The chief of recycling and litter prevention shall do all 15054
of the following: 15055

(1) Use moneys credited to the fund exclusively for the 15056
purposes set forth in sections 1502.03, 1502.04, and 1502.05 of 15057
the Revised Code, with particular emphasis on programs relating to 15058
recycling; 15059

(2) Expend for administration of the division not more than 15060
ten per cent of any fiscal year's appropriation to the division, 15061
excluding the amount assessed to the division for direct and 15062
indirect central support charges; 15063

(3) Require recipients of grants under section 1502.05 of the 15064
Revised Code, as a condition of receiving and retaining them, to 15065
do all of the following: 15066

(a) Create a separate account for the grants and any cash 15067
donations received that qualify for the donor credit allowed by 15068
section 5733.064 of the Revised Code; 15069

(b) Make expenditures from the account exclusively for the purposes for which the grants were received;	15070 15071
(c) Use any auditing and accounting practices the chief considers necessary regarding the account;	15072 15073
(d) Report to the chief information regarding the amount and donor of cash donations received as described by section 5733.064 of the Revised Code;	15074 15075 15076
(e) Use grants received to supplement and not to replace any existing funding for such purposes.	15077 15078
(4) Report to the tax commissioner information the chief receives pursuant to division (C)(3)(d) of this section.	15079 15080
Sec. 1509.06. (A) An application for a permit to drill a new well, drill an existing well deeper, reopen a well, convert a well to any use other than its original purpose, or plug back a well to a different source of supply shall be filed with the chief of the division of mineral resources management upon such form as the chief prescribes and shall contain each of the following that is applicable:	15081 15082 15083 15084 15085 15086 15087
(A) (1) The name and address of the owner and, if a corporation, the name and address of the statutory agent;	15088 15089
(B) (2) The signature of the owner or the owner's authorized agent. When an authorized agent signs an application, it shall be accompanied by a certified copy of the appointment as such agent.	15090 15091 15092
(C) (3) The names and addresses of all persons holding the royalty interest in the tract upon which the well is located or is to be drilled or within a proposed drilling unit;	15093 15094 15095
(D) (4) The location of the tract or drilling unit on which the well is located or is to be drilled identified by section or lot number, city, village, township, and county;	15096 15097 15098

(E) (5) Designation of the well by name and number;	15099
(F) (6) The geological formation to be tested or used and the proposed total depth of the well;	15100 15101
(G) (7) The type of drilling equipment to be used;	15102
(H) (8) If the well is for the injection of a liquid, identity of the geological formation to be used as the injection zone and the composition of the liquid to be injected;	15103 15104 15105
(I) (9) For an application for a permit to drill a new well, a sworn statement that the applicant has provided notice of the application to the owner of each occupied dwelling unit that is located within five hundred feet of the surface location of the well if the surface location will be less than five hundred feet from the boundary of the drilling unit and more than fifteen occupied dwelling units are located less than five hundred feet from the surface location of the well, excluding any dwelling that is located on real property all or any portion of which is included in the drilling unit. The notice shall contain a statement that an application has been filed with the division of mineral resources management, identify the name of the applicant and the proposed well location, include the name and address of the division, and contain a statement that comments regarding the application may be sent to the division. The notice may be provided by hand delivery or regular mail. The identity of the owners of occupied dwelling units shall be determined using the tax records of the municipal corporation or county in which the dwelling unit is located as of the date of the notice.	15106 15107 15108 15109 15110 15111 15112 15113 15114 15115 15116 15117 15118 15119 15120 15121 15122 15123 15124
(J) (10) A plan for restoration of the land surface disturbed by drilling operations. The plan shall provide for compliance with the restoration requirements of division (A) of section 1509.072 of the Revised Code and any rules adopted by the chief pertaining to that restoration.	15125 15126 15127 15128 15129

~~(K)~~(11) A description by name or number of the county, 15130
township, and municipal corporation roads, streets, and highways 15131
that the applicant anticipates will be used for access to and 15132
egress from the well site; 15133

~~(L)~~(12) Such other relevant information as the chief 15134
prescribes by rule. 15135

Each application shall be accompanied by a map, on a scale 15136
not smaller than four hundred feet to the inch, prepared by an 15137
Ohio registered surveyor, showing the location of the well and 15138
containing such other data as may be prescribed by the chief. If 15139
the well is or is to be located within the excavations and 15140
workings of a mine, the map also shall include the location of the 15141
mine, the name of the mine, and the name of the person operating 15142
the mine. 15143

(B) The chief shall cause a copy of the weekly circular 15144
prepared by the division to be provided to the county engineer of 15145
each county that contains active or proposed drilling activity. 15146
The weekly circular shall contain, in the manner prescribed by the 15147
chief, the names of all applicants for permits, the location of 15148
each well or proposed well, the information required by division 15149
~~(K)~~(A)(11) of this section, and any additional information the 15150
chief prescribes. In addition, the chief promptly shall transfer 15151
an electronic copy or facsimile, or if those methods are not 15152
available to a municipal corporation or township, a copy via 15153
regular mail, of a drilling permit application to the clerk of the 15154
legislative authority of the municipal corporation or to the clerk 15155
of the township in which the well or proposed well is or is to be 15156
located if the legislative authority of the municipal corporation 15157
or the board of township trustees has asked to receive copies of 15158
such applications and the appropriate clerk has provided the chief 15159
an accurate, current electronic mailing address or facsimile 15160
number, as applicable. 15161

(C) The chief shall not issue a permit for at least ten days 15162
after the date of filing of the application for the permit unless, 15163
upon reasonable cause shown, the chief waives that period or a 15164
request for expedited review is filed under this section. However, 15165
the chief shall issue a permit within twenty-one days of the 15166
filing of the application unless the chief denies the application 15167
by order. 15168

(D) An applicant may file a request with the chief for 15169
expedited review of a permit application if the well is not or is 15170
not to be located in a gas storage reservoir or reservoir 15171
protective area, as "reservoir protective area" is defined in 15172
section 1571.01 of the Revised Code. If the well is or is to be 15173
located in a coal bearing township, the application shall be 15174
accompanied by the affidavit of the landowner prescribed in 15175
section 1509.08 of the Revised Code. 15176

In addition to a complete application for a permit that meets 15177
the requirements of this section and the permit fee prescribed by 15178
this section, a request for expedited review shall be accompanied 15179
by a separate nonrefundable filing fee of five hundred dollars. 15180
Upon the filing of a request for expedited review, the chief shall 15181
cause the county engineer of the county in which the well is or is 15182
to be located to be notified of the filing of the permit 15183
application and the request for expedited review by telephone or 15184
other means that in the judgment of the chief will provide timely 15185
notice of the application and request. The chief shall issue a 15186
permit within seven days of the filing of the request unless the 15187
chief denies the application by order. Notwithstanding the 15188
provisions of this section governing expedited review of permit 15189
applications, the chief may refuse to accept requests for 15190
expedited review if, in the chief's judgment, the acceptance of 15191
the requests would prevent the issuance, within twenty-one days of 15192
their filing, of permits for which applications are pending. 15193

(E) A well shall be drilled and operated in accordance with the plans, sworn statements, and other information submitted in the approved application.

(F) The chief shall issue an order denying a permit if the chief finds that there is a substantial risk that the operation will result in violations of this chapter or rules adopted under it that will present an imminent danger to public health or safety or damage to the environment, provided that where the chief finds that terms or conditions to the permit can reasonably be expected to prevent such violations, the chief shall issue the permit subject to those terms or conditions, including, if applicable, terms and conditions regarding subjects identified in rules adopted under section 1509.03 of the Revised Code.

(G) Each application for a permit required by section 1509.05 of the Revised Code, except an application to plug back an existing well that is required by that section and an application for a well drilled or reopened for purposes of section 1509.22 of the Revised Code, also shall be accompanied by a nonrefundable fee of two as follows:

(1) Two hundred fifty dollars for a permit to conduct activities in a township with a population of fewer than five thousand;

(2) Five hundred dollars for a permit to conduct activities in a township with a population of five thousand or more, but fewer than ten thousand;

(3) Seven hundred fifty dollars for a permit to conduct activities in a township with a population of ten thousand or more, but fewer than fifteen thousand;

(4) One thousand dollars for a permit to conduct activities in either of the following:

<u>(a) A township with a population of fifteen thousand or more;</u>	15224
<u>(b) A municipal corporation regardless of population.</u>	15225
<u>For purposes of calculating fee amounts, populations shall be</u>	15226
<u>determined using the most recent federal decennial census.</u>	15227
<u>Each application for the revision or reissuance of a permit</u>	15228
<u>shall be accompanied by a nonrefundable fee of two hundred fifty</u>	15229
<u>dollars.</u>	15230
<u>(H) The chief may order the immediate suspension of drilling,</u>	15231
operating, or plugging activities after finding that any person is	15232
causing, engaging in, or maintaining a condition or activity that	15233
in the chief's judgment presents an imminent danger to public	15234
health or safety or results in or is likely to result in immediate	15235
substantial damage to natural resources or for nonpayment of the a	15236
fee required by this section. The chief may order the immediate	15237
suspension of the drilling or reopening of a well in a coal	15238
bearing township after determining that the drilling or reopening	15239
activities present an imminent and substantial threat to public	15240
health or safety or to miners' health or safety. Before issuing	15241
any such order, the chief shall notify the owner in such manner as	15242
in the chief's judgment would provide reasonable notification that	15243
the chief intends to issue a suspension order. The chief may issue	15244
such an order without prior notification if reasonable attempts to	15245
notify the owner have failed, but in such an event notification	15246
shall be given as soon thereafter as practical. Within five	15247
calendar days after the issuance of the order, the chief shall	15248
provide the owner an opportunity to be heard and to present	15249
evidence that the condition or activity is not likely to result in	15250
immediate substantial damage to natural resources or does not	15251
present an imminent danger to public health or safety or to	15252
miners' health or safety, if applicable. In the case of activities	15253
in a coal bearing township, if the chief, after considering	15254

evidence presented by the owner, determines that the activities do 15255
not present such a threat, the chief shall revoke the suspension 15256
order. Notwithstanding any provision of this chapter, the owner 15257
may appeal a suspension order directly to the court of common 15258
pleas of the county in which the activity is located or, if in a 15259
coal bearing township, to the reclamation commission under section 15260
1513.13 of the Revised Code. 15261

Sec. 1509.072. No oil or gas well owner or agent of an oil or 15262
gas well owner shall fail to restore the land surface within the 15263
area disturbed in siting, drilling, completing, and producing the 15264
well as required in this section. 15265

(A) Within five months after the date upon which the surface 15266
drilling of a well is commenced, the owner or the owner's agent, 15267
in accordance with the restoration plan filed under division 15268
~~(F)~~(A)(10) of section 1509.06 of the Revised Code, shall fill all 15269
the pits for containing brine, other waste substances resulting, 15270
obtained, or produced in connection with exploration or drilling 15271
for, or production of, oil or gas, or oil that are not required by 15272
other state or federal law or regulation, and remove all concrete 15273
bases, drilling supplies, and drilling equipment. Within nine 15274
months after the date upon which the surface drilling of a well is 15275
commenced, the owner or the owner's agent shall grade or terrace 15276
and plant, seed, or sod the area disturbed that is not required in 15277
production of the well where necessary to bind the soil and 15278
prevent substantial erosion and sedimentation. If the chief of the 15279
division of mineral resources management finds that a pit used for 15280
containing brine, other waste substances, or oil is in violation 15281
of section 1509.22 of the Revised Code or rules adopted or orders 15282
issued under it, the chief may require the pit to be emptied and 15283
closed before expiration of the five-month restoration period. 15284

(B) Within six months after a well that has produced oil or 15285

gas is plugged, or after the plugging of a dry hole, the owner or 15286
the owner's agent shall remove all production and storage 15287
structures, supplies, and equipment, and any oil, salt water, and 15288
debris, and fill any remaining excavations. Within that period the 15289
owner or the owner's agent shall grade or terrace and plant, seed, 15290
or sod the area disturbed where necessary to bind the soil and 15291
prevent substantial erosion and sedimentation. 15292

The owner shall be released from responsibility to perform 15293
any or all restoration requirements of this section on any part or 15294
all of the area disturbed upon the filing of a request for a 15295
waiver with and obtaining the written approval of the chief, which 15296
request shall be signed by the surface owner to certify the 15297
approval of the surface owner of the release sought. The chief 15298
shall approve the request unless the chief finds upon inspection 15299
that the waiver would be likely to result in substantial damage to 15300
adjoining property, substantial contamination of surface or 15301
underground water, or substantial erosion or sedimentation. 15302

The chief, by order, may shorten the time periods provided 15303
for under division (A) or (B) of this section if failure to 15304
shorten the periods would be likely to result in damage to public 15305
health or the waters or natural resources of the state. 15306

The chief, upon written application by an owner or an owner's 15307
agent showing reasonable cause, may extend the period within which 15308
restoration shall be completed under divisions (A) and (B) of this 15309
section, but not to exceed a further six-month period, except 15310
under extraordinarily adverse weather conditions or when essential 15311
equipment, fuel, or labor is unavailable to the owner or the 15312
owner's agent. 15313

If the chief refuses to approve a request for waiver or 15314
extension, the chief shall do so by order. 15315

Sec. 1509.31. Whenever the entire interest of an oil and gas lease is assigned or otherwise transferred, the assignor or transferor shall notify the holders of the royalty interests, and, if a well or wells exist on the lease, the division of mineral resources management, of the name and address of the assignee or transferee by certified mail, return receipt requested, not later than thirty days after the date of the assignment or transfer. When notice of any such assignment or transfer is required to be provided to the division, it shall be provided on a form prescribed and provided by the division and verified by both the assignor or transferor and by the assignee or transferee. The notice form applicable to assignments or transfers of a well to the owner of the surface estate of the tract on which the well is located shall contain a statement informing the landowner that the well may require periodic servicing to maintain its productivity; that, upon assignment or transfer of the well to the landowner, the landowner becomes responsible for compliance with the requirements of this chapter and rules adopted under it, including, without limitation, the proper disposal of brine obtained from the well, the plugging of the well when it becomes incapable of producing oil or gas, and the restoration of the well site; and that, upon assignment or transfer of the well to the landowner, the landowner becomes responsible for the costs of compliance with the requirements of this chapter and rules adopted under it and the costs for operating and servicing the well.

The owner holding a permit under section 1509.05 of the Revised Code is responsible for all obligations and liabilities imposed by this chapter and any rules, orders, and terms and conditions of a permit adopted or issued under it, and no assignment or transfer by the owner relieves the owner of the obligations and liabilities until and unless the assignee or transferee files with the division the information described in

divisions (A)(1), ~~(B)~~(2), ~~(C)~~(3), ~~(D)~~(4), ~~(E)~~(5), ~~(J)~~(10),
~~(K)~~(11), and ~~(L)~~(12) of section 1509.06 of the Revised Code;
obtains liability insurance coverage required by section 1509.07
of the Revised Code, except when none is required by that section;
and executes and files a surety bond, negotiable certificates of
deposit or irrevocable letters of credit, or cash, as described in
that section. Instead of a bond, but only upon acceptance by the
chief of the division of mineral resources management, the
assignee or transferee may file proof of financial responsibility,
described in section 1509.07 of the Revised Code. Section 1509.071
of the Revised Code applies to the surety bond, cash, and
negotiable certificates of deposit and irrevocable letters of
credit described in this section. Unless the chief approves a
modification, each assignee or transferee shall operate in
accordance with the plans and information filed by the permit
holder pursuant to section 1509.06 of the Revised Code.

Sec. 1515.14. Within the limits of funds appropriated to the
department of natural resources and the soil and water
conservation district assistance fund created in this section,
there shall be paid in each calendar year to each local soil and
water conservation district an amount not to exceed one dollar for
each one dollar received in accordance with section 1515.10 of the
Revised Code, received from tax levies in excess of the ten-mill
levy limitation approved for the benefit of local soil and water
conservation districts, or received from an appropriation by a
municipal corporation or a township to a maximum of eight thousand
dollars, provided that the Ohio soil and water conservation
commission may approve payment to a district in an amount in
excess of eight thousand dollars in any calendar year upon receipt
of a request and justification from the district. The county
auditor shall credit such payments to the special fund established
pursuant to section 1515.10 of the Revised Code for the local soil

and water conservation district. The department may make advances 15380
at least quarterly to each district on the basis of the estimated 15381
contribution of the state to each district. Moneys received by 15382
each district shall be expended for the purposes of the district. 15383

For the purpose of providing money to soil and water 15384
conservation districts under this section, there is hereby created 15385
in the state treasury the soil and water conservation district 15386
assistance fund consisting of money credited to it under section 15387
3714.073 of the Revised Code. 15388

Sec. 1517.02. There is hereby created in the department of 15389
natural resources the division of natural areas and preserves, 15390
which shall be administered by the chief of natural areas and 15391
preserves. The chief shall take an oath of office and shall file 15392
in the office of the secretary of state a bond signed by the chief 15393
and by a surety approved by the governor for a sum fixed pursuant 15394
to section 121.11 of the Revised Code. 15395

The chief shall administer a system of nature preserves and 15396
wild, scenic, and recreational river areas. The chief shall 15397
establish a system of nature preserves through acquisition and 15398
dedication of natural areas of state or national significance, 15399
which shall include, but not be limited to, areas ~~which~~ that 15400
represent characteristic examples of Ohio's natural landscape 15401
types and its natural vegetation and geological history. The chief 15402
shall encourage landowners to dedicate areas of unusual 15403
significance as nature preserves, and shall establish and maintain 15404
a registry of natural areas of unusual significance. 15405

The chief may supervise, operate, protect, and maintain wild, 15406
scenic, and recreational river areas, as designated by the 15407
director of natural resources. The chief may cooperate with 15408
federal agencies administering any federal program concerning 15409
wild, scenic, or recreational river areas. 15410

~~The chief may, with the approval of the director, enter into an agreement with the United States department of commerce under the "Coastal Zone Management Act of 1972," 86 Stat. 1280, 16 U.S.C.A. 1451, as amended, for the purpose of receiving grants to continue the management, operation, research, and programming at old woman creek national estuarine research reserve.~~

The chief shall do the following: 15417

(A) Formulate policies and plans for the acquisition, use, management, and protection of nature preserves; 15418
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(B) Formulate policies for the selection of areas suitable for registration; 15420
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(C) Formulate policies for the dedication of areas as nature preserves; 15422
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(D) Prepare and maintain surveys and inventories of natural areas and habitats of rare and endangered species of plants and animals; 15424
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(E) Adopt rules for the use, visitation, and protection of nature preserves, "natural areas owned or managed through easement, license, or lease by the department and administered by the division," and lands owned "or managed through easement, license, or lease" by the department and administered by the division ~~which~~ that are within or adjacent to any wild, scenic, or recreational river area, in accordance with Chapter 119. of the Revised Code; 15427
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(F) Provide facilities and improvements within the state system of nature preserves that are necessary for their visitation, use, restoration, and protection and do not impair their natural character; 15435
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(G) Provide interpretive programs and publish and disseminate information pertaining to nature preserves and natural areas for 15439
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their visitation and use; 15441

(H) Conduct and grant permits to qualified persons for the 15442
conduct of scientific research and investigations within nature 15443
preserves; 15444

(I) Establish an appropriate system for marking nature 15445
preserves; 15446

(J) Publish and submit to the governor and the general 15447
assembly a biennial report of the status and condition of each 15448
nature preserve, activities conducted within each preserve, and 15449
plans and recommendations for natural area preservation. 15450

Sec. 1521.062. (A) All dams, dikes, and levees constructed in 15451
this state and not exempted by this section or by the chief of the 15452
division of water under section 1521.06 of the Revised Code shall 15453
be inspected periodically by the chief ~~to~~, except for classes of 15454
dams that, in accordance with rules adopted under this section, 15455
are required to be inspected by registered professional engineers 15456
who have been approved for that purpose by the chief. The 15457
inspection shall ensure that continued operation and use of the 15458
dam, dike, or levee does not constitute a hazard to life, health, 15459
or property. Periodic inspections shall not be required of the 15460
following structures: 15461

(1) A dam that is less than ten feet in height and has a 15462
storage capacity of not more than fifty acre-feet at the elevation 15463
of the top of the dam, as determined by the chief. For the 15464
purposes of this section, the height of a dam shall be measured 15465
from the natural stream bed or lowest ground elevation at the 15466
downstream or outside limit of the dam to the elevation of the top 15467
of the dam. 15468

(2) A dam, regardless of height, that has a storage capacity 15469
of not more than fifteen acre-feet at the elevation of the top of 15470

the dam, as determined by the chief; 15471

(3) A dam, regardless of storage capacity, that is six feet 15472
or less in height, as determined by the chief; 15473

(4) A dam, dike, or levee belonging to a class exempted by 15474
the chief; 15475

(5) A dam, dike, or levee that has been exempted in 15476
accordance with rules adopted under section 1521.064 of the 15477
Revised Code. 15478

(B) In accordance with rules adopted under this section, the 15479
owner of a dam that is in a class of dams that is designated in 15480
the rules for inspection by registered professional engineers 15481
shall obtain the services of a registered professional engineer 15482
who has been approved by the chief to conduct the periodic 15483
inspection of dams pursuant to schedules and other standards and 15484
procedures established in the rules. The registered professional 15485
engineer shall prepare a report of the inspection in accordance 15486
with the rules and provide the inspection report to the dam owner 15487
who shall submit it to the chief. A dam that is designated under 15488
the rules for inspection by a registered professional engineer but 15489
that is not inspected within a five-year period may be inspected 15490
by the chief at the owner's expense. 15491

(C) Intervals between periodic inspections shall be 15492
determined by the chief, but shall not exceed five years. The 15493
~~chief may use inspection reports prepared for the owner of the~~ 15494
~~dam, dike, or levee by a registered professional engineer.~~ 15495

~~(C) The owner~~ (D) In the case of a dam, dike, or levee that 15496
the chief inspects, the chief shall be furnished furnish a report 15497
of ~~each~~ the inspection ~~and~~ to the owner of the dam, dike, or 15498
levee. With regard to a dam, dike, or levee that has been 15499
inspected, either by the chief or by a registered professional 15500
engineer, and that is the subject of an inspection report prepared 15501

or received by the chief, the chief shall be informed of inform 15502
the owner of any required repairs, maintenance, investigations, 15503
and other remedial and operational measures ~~by the chief~~. The 15504
chief shall order the owner to perform such repairs, maintenance, 15505
investigations, or other remedial or operational measures as ~~he~~ 15506
the chief considers necessary to safeguard life, health, or 15507
property. The order shall permit the owner a reasonable time in 15508
which to perform the needed repairs, maintenance, investigations, 15509
or other remedial measures, and the cost thereof shall be borne by 15510
the owner. All orders of the chief are subject to appeal as 15511
provided in Chapter 119. of the Revised Code. The attorney 15512
general, upon written request of the chief, may bring an action 15513
for an injunction against any person who violates this section or 15514
to enforce an order of the chief made pursuant to this section. 15515

~~(D)~~(E) The owner of a dam, dike, or levee shall monitor, 15516
maintain, and operate the structure and its appurtenances safely 15517
in accordance with state rules, terms and conditions of permits, 15518
orders, and other requirements issued pursuant to this section or 15519
section 1521.06 of the Revised Code. The owner shall fully and 15520
promptly notify the division of water and other responsible 15521
authorities of any condition ~~which~~ that threatens the safety of 15522
the structure and shall take all necessary actions to safeguard 15523
life, health, and property. 15524

~~(E)~~(F) Before commencing the repair, improvement, alteration, 15525
or removal of a dam, dike, or levee, the owner shall file an 15526
application including plans, specifications, and other required 15527
information with the division and shall secure written approval of 15528
the application by the chief. Emergency actions by the owner 15529
required to safeguard life, health, or property are exempt from 15530
this requirement. The chief may, by rule, define maintenance, 15531
repairs, or other remedial measures of a routine nature ~~which~~ that 15532
are exempt from this requirement. 15533

~~(F)~~(G) The chief may remove or correct, at the expense of the owner, any unsafe structures found to be constructed or maintained in violation of this section or section 1521.06 of the Revised Code. In the case of an owner other than a governmental agency, the cost of removal or correction of any unsafe structure, together with a description of the property on which the unsafe structure is located, shall be certified by the chief to the county auditor and placed by the county auditor upon the tax duplicate. This cost is a lien upon the lands from the date of entry and shall be collected as other taxes and returned to the division. In the case of an owner that is a governmental agency, the cost of removal or correction of any unsafe structure shall be recoverable from the owner by appropriate action in a court of competent jurisdiction.

~~(G)~~(H) If the condition of any dam, dike, or levee is found, in the judgment of the chief, to be so dangerous to the safety of life, health, or property as not to permit time for the issuance and enforcement of an order relative to repair, maintenance, or operation, the chief shall employ any of the following remedial means necessary to protect life, health, and property:

(1) Lower the water level of the lake or reservoir by releasing water;

(2) Completely drain the lake or reservoir;

(3) Take such other measures or actions as ~~he~~ the chief considers necessary to safeguard life, health, and property.

The chief shall continue in full charge and control of the dam, dike, or levee until the structure is rendered safe. The cost of the remedy shall be recoverable from the owner of the structure by appropriate action in a court of competent jurisdiction.

~~(H)~~(I) The chief may accept and expend gifts, bequests, and grants from the United States government or from any other public

or private source and may contract with the United States 15565
government or any other agency or entity for the purpose of 15566
carrying out the dam safety functions set forth in this section 15567
and section 1521.06 of the Revised Code. 15568

(J) In accordance with Chapter 119. of the Revised Code, the 15569
chief shall adopt, and may amend or rescind, rules that do all of 15570
the following: 15571

(1) Designate classes of dams for which dam owners must 15572
obtain the services of a registered professional engineer to 15573
periodically inspect the dams and to prepare reports of the 15574
inspections for submittal to the chief; 15575

(2) Establish standards in accordance with which the chief 15576
must approve or disapprove registered professional engineers to 15577
inspect dams together with procedures governing the approval 15578
process; 15579

(3) Establish schedules, standards, and procedures governing 15580
periodic inspections and standards and procedures governing the 15581
preparation and submittal of inspection reports; 15582

(4) Establish provisions regarding the enforcement of this 15583
section and rules adopted under it. 15584

Sec. 1531.27. The chief of the division of wildlife shall pay 15585
to the treasurers of the several counties wherein lands owned by 15586
the state and administered by the division are ~~situate~~ located an 15587
annual amount determined in the following manner: in each such 15588
county one per cent of the total value of such lands exclusive of 15589
improvements, as shown on the auditor's records of taxable value 15590
of real property existing at the time when the state acquired the 15591
tract or tracts comprising ~~such~~ the lands. 15592

~~Such~~ The payments shall be made from funds accruing to the 15593
division ~~of wildlife~~ from the sale of hunting or fishing licenses 15594

and ~~federal wildlife restoration funds, and the~~ from fines, 15595
penalties, and forfeitures deposited into the state treasury to 15596
the credit of the wildlife fund created in section 1531.17 of the 15597
Revised Code. The allocation of amounts to be paid from ~~such~~ those 15598
sources shall be determined by the director of natural resources. 15599

~~Such~~ The payments to the treasurers of the several counties 15600
shall be credited to the fund for school purposes within the 15601
school districts wherein ~~such~~ the lands are ~~situate~~ located. 15602

Sec. 1533.10. Except as provided in this section or division 15603
(A)(2) of section 1533.12 of the Revised Code, no person shall 15604
hunt any wild bird or wild quadruped without a hunting license. 15605
Each day that any person hunts within the state without procuring 15606
such a license constitutes a separate offense. Except as otherwise 15607
provided in this section, every applicant for a hunting license 15608
who is a resident of the state and ~~sixteen~~ eighteen years of age 15609
or more shall procure a resident hunting license, the fee for 15610
which shall be eighteen dollars, unless the rules adopted under 15611
division (B) of section 1533.12 of the Revised Code provide for 15612
issuance of a resident hunting license to the applicant free of 15613
charge. Except as provided in rules adopted under division (B)(2) 15614
of that section, each applicant who is a resident of this state 15615
and who at the time of application is sixty-six years of age or 15616
older shall procure a special senior hunting license, the fee for 15617
which shall be one-half of the regular hunting license fee. Every 15618
applicant who is under the age of ~~sixteen~~ eighteen years shall 15619
procure a special youth hunting license, the fee for which shall 15620
be one-half of the regular hunting license fee. The owner of lands 15621
in the state and the owner's children of any age and grandchildren 15622
under eighteen years of age may hunt on the lands without a 15623
hunting license. The tenant and children of the tenant, residing 15624
on lands in the state, may hunt on them without a hunting license. 15625
~~Every~~ Except as otherwise provided in division (A)(1) of section 15626

1533.12 of the Revised Code, every applicant for a hunting license 15627
who is a nonresident of the state and who is ~~sixteen~~ eighteen 15628
years of age or older shall procure a nonresident hunting license, 15629
the fee for which shall be one hundred twenty-four dollars, unless 15630
the applicant is a resident of a state that is a party to an 15631
agreement under section 1533.91 of the Revised Code, in which case 15632
the fee shall be eighteen dollars. 15633

The chief of the division of wildlife may issue a small game 15634
hunting license expiring three days from the effective date of the 15635
license to a nonresident of the state, the fee for which shall be 15636
thirty-nine dollars. No person shall take or possess deer, wild 15637
turkeys, fur-bearing animals, ducks, geese, brant, or any nongame 15638
animal while possessing only a small game hunting license. A small 15639
game hunting license does not authorize the taking or possessing 15640
of ducks, geese, or brant without having obtained, in addition to 15641
the small game hunting license, a wetlands habitat stamp as 15642
provided in section 1533.112 of the Revised Code. A small game 15643
hunting license does not authorize the taking or possessing of 15644
deer, wild turkeys, or fur-bearing animals. A nonresident of the 15645
state who wishes to take or possess deer, wild turkeys, or 15646
fur-bearing animals in this state shall procure, respectively, a 15647
special deer or wild turkey permit as provided in section 1533.11 15648
of the Revised Code or a fur taker permit as provided in section 15649
1533.111 of the Revised Code in addition to a nonresident hunting 15650
license or a special youth hunting license, as applicable, as 15651
provided in this section. 15652

No person shall procure or attempt to procure a hunting 15653
license by fraud, deceit, misrepresentation, or any false 15654
statement. 15655

This section does not authorize the taking and possessing of 15656
deer or wild turkeys without first having obtained, in addition to 15657
the hunting license required by this section, a special deer or 15658

wild turkey permit as provided in section 1533.11 of the Revised Code or the taking and possessing of ducks, geese, or brant without first having obtained, in addition to the hunting license required by this section, a wetlands habitat stamp as provided in section 1533.112 of the Revised Code.

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This section does not authorize the hunting or trapping of fur-bearing animals without first having obtained, in addition to a hunting license required by this section, a fur taker permit as provided in section 1533.111 of the Revised Code.

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No hunting license shall be issued unless it is accompanied by a written explanation of the law in section 1533.17 of the Revised Code and the penalty for its violation, including a description of terms of imprisonment and fines that may be imposed.

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No hunting license shall be issued unless the applicant presents to the agent authorized to issue the license a previously held hunting license or evidence of having held such a license in content and manner approved by the chief, a certificate of completion issued upon completion of a hunter education and conservation course approved by the chief, or evidence of equivalent training in content and manner approved by the chief.

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No person shall issue a hunting license to any person who fails to present the evidence required by this section. No person shall purchase or obtain a hunting license without presenting to the issuing agent the evidence required by this section. Issuance of a hunting license in violation of the requirements of this section is an offense by both the purchaser of the illegally obtained hunting license and the clerk or agent who issued the hunting license. Any hunting license issued in violation of this section is void.

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The chief, with approval of the wildlife council, shall adopt

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rules prescribing a hunter education and conservation course for 15690
first-time hunting license buyers and for volunteer instructors. 15691
The course shall consist of subjects including, but not limited 15692
to, hunter safety and health, use of hunting implements, hunting 15693
tradition and ethics, the hunter and conservation, the law in 15694
section 1533.17 of the Revised Code along with the penalty for its 15695
violation, including a description of terms of imprisonment and 15696
fines that may be imposed, and other law relating to hunting. 15697
Authorized personnel of the division or volunteer instructors 15698
approved by the chief shall conduct such courses with such 15699
frequency and at such locations throughout the state as to 15700
reasonably meet the needs of license applicants. The chief shall 15701
issue a certificate of completion to each person who successfully 15702
completes the course and passes an examination prescribed by the 15703
chief. 15704

Sec. 1533.11. (A) Except as provided in this section, no 15705
person shall hunt deer on lands of another without first obtaining 15706
an annual special deer permit. Except as provided in this section, 15707
no person shall hunt wild turkeys on lands of another without 15708
first obtaining an annual special wild turkey permit. Each 15709
applicant for a special deer or wild turkey permit shall pay an 15710
annual fee of twenty-three dollars for each permit unless the 15711
rules adopted under division (B) of section 1533.12 of the Revised 15712
Code provide for issuance of a deer or wild turkey permit to the 15713
applicant free of charge. Except as provided in rules adopted 15714
under division (B)(2) of that section, each applicant who is a 15715
resident of this state and who at the time of application is 15716
sixty-six years of age or older shall procure a special senior 15717
deer or wild turkey permit, the fee for which shall be one-half of 15718
the regular special deer or wild turkey permit fee. Each applicant 15719
who is under the age of ~~sixteen~~ eighteen years shall procure a 15720
special youth deer or wild turkey permit, the fee for which shall 15721

be one-half of the regular special deer or wild turkey permit fee. 15722
Except as provided in division (A)(2) of section 1533.12 of the 15723
Revised Code, a deer or wild turkey permit shall run concurrently 15724
with the hunting license. The money received shall be paid into 15725
the state treasury to the credit of the wildlife fund, created in 15726
section 1531.17 of the Revised Code, exclusively for the use of 15727
the division of wildlife in the acquisition and development of 15728
land for deer or wild turkey management, for investigating deer or 15729
wild turkey problems, and for the stocking, management, and 15730
protection of deer or wild turkey. Every person, while hunting 15731
deer or wild turkey on lands of another, shall carry the person's 15732
special deer or wild turkey permit and exhibit it to any 15733
enforcement officer so requesting. Failure to so carry and exhibit 15734
such a permit constitutes an offense under this section. The chief 15735
of the division of wildlife shall adopt any additional rules the 15736
chief considers necessary to carry out this section and section 15737
1533.10 of the Revised Code. 15738

The owner and the children of the owner of lands in this 15739
state may hunt deer or wild turkey thereon without a special deer 15740
or wild turkey permit. The tenant and children of the tenant may 15741
hunt deer or wild turkey on lands where they reside without a 15742
special deer or wild turkey permit. 15743

(B) A special deer or wild turkey permit is not transferable. 15744
No person shall carry a special deer or wild turkey permit issued 15745
in the name of another person. 15746

(C) The wildlife refunds fund is hereby created in the state 15747
treasury. The fund shall consist of money received from 15748
application fees for special deer permits that are not issued. 15749
Money in the fund shall be used to make refunds of such 15750
application fees. 15751

Sec. 1533.111. Except as provided in this section or division 15752

(A)(2) of section 1533.12 of the Revised Code, no person shall 15753
hunt or trap fur-bearing animals on land of another without first 15754
obtaining an annual fur taker permit. Each applicant for a fur 15755
taker permit shall pay an annual fee of fourteen dollars for the 15756
permit, except as otherwise provided in this section or unless the 15757
rules adopted under division (B) of section 1533.12 of the Revised 15758
Code provide for issuance of a fur taker permit to the applicant 15759
free of charge. Except as provided in rules adopted under division 15760
(B)(2) of that section, each applicant who is a resident of this 15761
state and who at the time of application is sixty-six years of age 15762
or older shall procure a special senior fur taker permit, the fee 15763
for which shall be one-half of the regular fur taker permit fee. 15764
Each applicant ~~who is a resident of the state and~~ under the age of 15765
~~sixteen~~ eighteen years shall procure a special youth fur taker 15766
permit, the fee for which shall be one-half of the regular fur 15767
taker permit fee. The fur taker permit shall run concurrently with 15768
the hunting license. The money received shall be paid into the 15769
state treasury to the credit of the fund established in section 15770
1533.15 of the Revised Code. 15771

No fur taker permit shall be issued unless it is accompanied 15772
by a written explanation of the law in section 1533.17 of the 15773
Revised Code and the penalty for its violation, including a 15774
description of terms of imprisonment and fines that may be 15775
imposed. 15776

No fur taker permit shall be issued unless the applicant 15777
presents to the agent authorized to issue a fur taker permit a 15778
previously held hunting license or trapping or fur taker permit or 15779
evidence of having held such a license or permit in content and 15780
manner approved by the chief of the division of wildlife, a 15781
certificate of completion issued upon completion of a trapper 15782
education course approved by the chief, or evidence of equivalent 15783
training in content and manner approved by the chief. 15784

No person shall issue a fur taker permit to any person who 15785
fails to present the evidence required by this section. No person 15786
shall purchase or obtain a fur taker permit without presenting to 15787
the issuing agent the evidence required by this section. Issuance 15788
of a fur taker permit in violation of the requirements of this 15789
section is an offense by both the purchaser of the illegally 15790
obtained permit and the clerk or agent who issued the permit. Any 15791
fur taker permit issued in violation of this section is void. 15792

The chief, with approval of the wildlife council, shall adopt 15793
rules prescribing a trapper education course for first-time fur 15794
taker permit buyers and for volunteer instructors. The course 15795
shall consist of subjects that include, but are not limited to, 15796
trapping techniques, animal habits and identification, trapping 15797
tradition and ethics, the trapper and conservation, the law in 15798
section 1533.17 of the Revised Code along with the penalty for its 15799
violation, including a description of terms of imprisonment and 15800
fines that may be imposed, and other law relating to trapping. 15801
Authorized personnel of the division of wildlife or volunteer 15802
instructors approved by the chief shall conduct the courses with 15803
such frequency and at such locations throughout the state as to 15804
reasonably meet the needs of permit applicants. The chief shall 15805
issue a certificate of completion to each person who successfully 15806
completes the course and passes an examination prescribed by the 15807
chief. 15808

Every person, while hunting or trapping fur-bearing animals 15809
on lands of another, shall carry the person's fur taker permit 15810
~~affixed to the person's hunting license~~ with the person's 15811
signature written ~~across the face of~~ on the permit. Failure to 15812
carry such a signed permit constitutes an offense under this 15813
section. The chief shall adopt any additional rules the chief 15814
considers necessary to carry out this section. 15815

The owner and the children of the owner of lands in this 15816

state may hunt or trap fur-bearing animals thereon without a fur taker permit. The tenant and children of the tenant may hunt or trap fur-bearing animals on lands where they reside without a fur taker permit.

A fur taker permit is not transferable. No person shall carry a fur taker permit issued in the name of another person.

A fur taker permit entitles a nonresident to take from this state fur-bearing animals taken and possessed by the nonresident as provided by law or division rule.

Sec. 1533.112. Except as provided in this section or unless otherwise provided by division rule, no person shall hunt ducks, geese, or brant on the lands of another without first obtaining an annual wetlands habitat stamp. The annual fee for the wetlands habitat stamp shall be fourteen dollars for each stamp unless the rules adopted under division (B) of section 1533.12 provide for issuance of a wetlands habitat stamp to the applicant free of charge.

Moneys received from the stamp fee shall be paid into the state treasury to the credit of the wetlands habitat fund, which is hereby established. Moneys shall be paid from the fund on the order of the director of natural resources for the following purposes:

(A) Sixty per cent for projects that the division approves for the acquisition, development, management, or preservation of waterfowl areas within the state;

(B) Forty per cent for contribution by the division to an appropriate nonprofit organization for the acquisition, development, management, or preservation of lands and waters within the United States or Canada that provide or will provide habitat for waterfowl with migration routes that cross this state.

No moneys derived from the issuance of wetlands habitat stamps shall be spent for purposes other than those specified by this section. All investment earnings of the fund shall be credited to the fund.

Wetlands habitat stamps shall be furnished by and in a form prescribed by the chief of the division of wildlife and issued by clerks and other agents authorized to issue licenses and permits under section 1533.13 of the Revised Code. The record of stamps kept by the clerks and other agents shall be uniform throughout the state, in such form or manner as the director prescribes, and open at all reasonable hours to the inspection of any person. Unless otherwise provided by rule, each stamp shall remain in force until midnight of the thirty-first day of August next ensuing. Wetlands habitat stamps may be issued in any manner to any person on any date, whether or not that date is within the period in which they are effective.

Every person to whom this section applies, while hunting ducks, geese, or brant, shall carry an unexpired wetlands habitat stamp that is validated by the person's signature written on the stamp in ink and shall exhibit the stamp to any enforcement officer so requesting. No person shall fail to carry and exhibit the person's stamp.

A wetlands habitat stamp is not transferable.

The chief shall establish a procedure to obtain subject matter to be printed on the wetlands habitat stamp and shall use, dispose of, or distribute the subject matter as the chief considers necessary. The chief also shall adopt rules necessary to administer this section.

This section does not apply to persons under sixteen years of age nor to persons exempted from procuring a hunting license under section 1533.10 or division (A)(2) of section 1533.12 of the

Revised Code. 15878

Sec. 1533.12. (A)(1) Except as otherwise provided in division 15879
(A)(2) of this section, every person on active duty in the armed 15880
forces of the United States who is stationed in this state and who 15881
wishes to engage in an activity for which a license, permit, or 15882
stamp is required under this chapter first shall obtain the 15883
requisite license, permit, or stamp. Such a person is eligible to 15884
obtain a resident hunting or fishing license regardless of whether 15885
the person qualifies as a resident of this state. To obtain a 15886
resident hunting or fishing license, the person shall present a 15887
card or other evidence identifying the person as being on active 15888
duty in the armed forces of the United States and as being 15889
stationed in this state. 15890

(2) Every person on active duty in the armed forces of the 15891
United States, while on leave or furlough, may take or catch fish 15892
of the kind lawfully permitted to be taken or caught within the 15893
state, may hunt any wild bird or wild quadruped lawfully permitted 15894
to be hunted within the state, and may trap fur-bearing animals 15895
lawfully permitted to be trapped within the state, without 15896
procuring a fishing license, a hunting license, a fur taker 15897
permit, or a wetlands habitat stamp required by this chapter, 15898
provided that the person shall carry on the person when fishing, 15899
hunting, or trapping, a card or other evidence identifying the 15900
person as being on active duty in the armed forces of the United 15901
States, and provided that the person is not otherwise violating 15902
any of the hunting, fishing, and trapping laws of this state. 15903

In order to hunt deer or wild turkey, any such person shall 15904
obtain a special deer or wild turkey permit, as applicable, under 15905
section 1533.11 of the Revised Code. However, the person need not 15906
obtain a hunting license in order to obtain such a permit. 15907

(B) The chief of the division of wildlife shall provide by 15908

rule adopted under section 1531.10 of the Revised Code all of the 15909
following: 15910

(1) Every resident of this state with a disability that has 15911
been determined by the veterans administration to be permanently 15912
and totally disabling, who receives a pension or compensation from 15913
the veterans administration, and who received an honorable 15914
discharge from the armed forces of the United States, and every 15915
veteran to whom the registrar of motor vehicles has issued a set 15916
of license plates under section 4503.41 of the Revised Code, shall 15917
be issued an annual fishing license, hunting license, fur taker 15918
permit, deer or wild turkey permit, or wetlands habitat stamp, or 15919
any combination of those licenses, permits, and stamp, free of 15920
charge when application is made to the chief in the manner 15921
prescribed by and on forms provided by the chief. 15922

(2) Every resident of the state who was born on or before 15923
December 31, 1937, shall be issued an annual fishing license, 15924
hunting license, fur taker permit, deer or wild turkey permit, or 15925
wetlands habitat stamp, or any combination of those licenses, 15926
permits, and stamp, free of charge when application is made to the 15927
chief in the manner prescribed by and on forms provided by the 15928
chief. 15929

(3) Every resident of state or county institutions, 15930
charitable institutions, and military homes in this state shall be 15931
issued an annual fishing license free of charge when application 15932
is made to the chief in the manner prescribed by and on forms 15933
provided by the chief. 15934

(4) Any mobility impaired or blind person, as defined in 15935
section 955.011 of the Revised Code, who is a resident of this 15936
state and who is unable to engage in fishing without the 15937
assistance of another person shall be issued an annual fishing 15938
license free of charge when application is made to the chief in 15939

the manner prescribed by and on forms provided by the chief. The 15940
person who is assisting the mobility impaired or blind person may 15941
assist in taking or catching fish of the kind permitted to be 15942
taken or caught without procuring the license required under 15943
section 1533.32 of the Revised Code, provided that only one line 15944
is used by both persons. 15945

(5) As used in division (B)(5) of this section, "prisoner of 15946
war" means any regularly appointed, enrolled, enlisted, or 15947
inducted member of the military forces of the United States who 15948
was captured, separated, and incarcerated by an enemy of the 15949
United States. 15950

Any person who has been a prisoner of war, was honorably 15951
discharged from the military forces, and is a resident of this 15952
state shall be issued an annual fishing license, hunting license, 15953
fur taker permit, or wetlands habitat stamp, or any combination of 15954
those licenses, permits, and stamp, free of charge when 15955
application is made to the chief in the manner prescribed by and 15956
on forms provided by the chief. 15957

(C) The chief shall adopt rules pursuant to section 1531.08 15958
of the Revised Code designating not more than two days, which need 15959
not be consecutive, in each year as "free sport fishing days" on 15960
which any resident may exercise the privileges accorded the holder 15961
of a fishing license issued under section 1533.32 of the Revised 15962
Code without procuring such a license, provided that the person is 15963
not otherwise violating any of the fishing laws of this state. 15964

Sec. 1533.122. (A) Unless otherwise provided by division 15965
rule, a person who traps, captures, removes, relocates, or 15966
controls native or nonnative wildlife shall obtain an annual 15967
wildlife control operators permit issued by the division of 15968
wildlife under this section and shall conduct those activities in 15969
accordance with this section and the rules adopted pursuant to it. 15970

Unless otherwise provided by those rules, a wildlife control operators permit shall expire on the fifteenth day of March of each year. Unless otherwise provided by those rules, the fee for such a permit shall be one hundred dollars. While engaged in trapping, capturing, removal, relocation, or control of native or nonnative wildlife, a person shall carry the person's wildlife control operators permit and shall exhibit the permit to any law enforcement officer requesting it. 15971
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(B) The chief of the division of wildlife shall adopt rules under section 1531.08 of the Revised Code governing the trapping, capturing, removal, relocation, and control of native or nonnative wildlife by wildlife control operators. The rules shall establish procedures for the issuance of wildlife control operators permits and for the record-keeping that is required under division (C) of this section, including procedures for the annual submission of records as required under that division or under division rules. In addition, the rules may establish requirements and procedures for the administration of an examination prior to the issuance of a permit under this section. The rules may require the examination to test knowledge of current wildlife rules, animal life history, control methods, and other pertinent information. The rules may require that an applicant for a wildlife control operators permit pass the examination in order to receive a permit under this section and may establish a fee for the administration of the test. The rules also may require an applicant to satisfy minimum standards established in the rules. 15979
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(C) In accordance with rules adopted pursuant to division (B) of this section, a person who has been issued a wildlife control operators permit and who has engaged in the trapping, capturing, removal, relocation, or control of native or nonnative wildlife shall keep accurate, legible, written records of all of the 15997
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following: 16002

(1) The county and township where native or nonnative wildlife have been trapped, captured, removed, relocated, or controlled; 16003
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(2) The date on which the native or nonnative wildlife were captured and the method used to trap, capture, remove, relocate, or control the native or nonnative wildlife; 16006
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(3) The species and number of native or nonnative wildlife trapped, captured, removed, relocated, or controlled; 16009
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(4) The disposition of native or nonnative wildlife trapped, captured, removed, relocated, or controlled; 16011
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(5) Any other information required by the chief. 16013

All records shall be kept on forms provided by the division for a period of three years and shall be made available for inspection by a representative of the division at reasonable hours. 16014
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(D) A summary of the information compiled under divisions (C)(1), (3), and (4) of this section for the previous year shall be submitted to the division with an application for renewal of a wildlife control operators permit. A person who fails to submit the summary with an application for renewal by the fifteenth day of March of the year in which the person's permit expires shall be denied a renewal of the permit. 16018
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(E) No person shall violate this section or a rule adopted pursuant to it. 16025
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Sec. 1533.32. Except as provided in this section or division (A)(2) or (C) of section 1533.12 of the Revised Code, no person, including nonresidents, shall take or catch any fish by angling in any of the waters in the state or engage in fishing in those 16027
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waters without a license. No person shall take or catch frogs or 16031
turtles without a valid fishing license, except as provided in 16032
this section. Persons fishing in privately owned ponds, lakes, or 16033
reservoirs to or from which fish are not accustomed to migrate are 16034
exempt from the license requirements set forth in this section. 16035
Persons fishing in privately owned ponds, lakes, or reservoirs 16036
that are open to public fishing through an agreement or lease with 16037
the division of wildlife shall comply with the license 16038
requirements set forth in this section. 16039

The fee for an annual license shall be thirty-nine dollars 16040
for a resident of a state that is not a party to an agreement 16041
under section 1533.91 of the Revised Code. The fee for an annual 16042
license shall be eighteen dollars for a resident of a state that 16043
is a party to such an agreement. The fee for an annual license for 16044
residents of this state shall be eighteen dollars unless the rules 16045
adopted under division (B) of section 1533.12 of the Revised Code 16046
provide for issuance of a resident fishing license to the 16047
applicant free of charge. Except as provided in rules adopted 16048
under division (B)(2) of that section, each applicant who is a 16049
resident of this state and who at the time of application is 16050
sixty-six years of age or older shall procure a special senior 16051
fishing license, the fee for which shall be one-half of the annual 16052
resident fishing license fee. 16053

Any person under the age of sixteen years may take or catch 16054
frogs and turtles and take or catch fish by angling without a 16055
license. 16056

The chief of the division of wildlife may issue a tourist's 16057
license expiring three days from the effective date of the license 16058
to a resident of a state that is not a party to an agreement under 16059
section 1533.91 of the Revised Code. The fee for a tourist's 16060
license shall be eighteen dollars. 16061

The chief shall adopt rules under section 1531.10 of the 16062

Revised Code providing for the issuance of a one-day fishing license to a resident of this state or of any other state. The fee for such a license shall be fifty-five per cent of the amount established under this section for a tourist's license, rounded up to the nearest whole dollar. A one-day fishing license shall allow the holder to take or catch fish by angling in the waters in the state, engage in fishing in those waters, or take or catch frogs or turtles in those waters for one day without obtaining an annual license or a tourist's license under this section. At the request of a holder of a one-day fishing license who wishes to obtain an annual license, a clerk or agent authorized to issue licenses under section 1533.13 of the Revised Code, not later than the last day on which the one-day license would be valid if it were an annual license, shall credit the amount of the fee paid for the one-day license toward the fee charged for the annual license if so authorized by the chief. The clerk or agent shall issue the annual license upon presentation of the one-day license and payment of a fee in an amount equal to the difference between the fee for the annual license and the fee for the one-day license.

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Unless otherwise provided by division rule, each annual license shall begin on the first day of March of the current year and expire on the last day of February of the following year.

No person shall alter a fishing license or possess a fishing license that has been altered.

No person shall procure or attempt to procure a fishing license by fraud, deceit, misrepresentation, or any false statement.

Owners of land over, through, upon, or along which any water flows or stands, except where the land is in or borders on state parks or state-owned lakes, together with the members of the

immediate families of such owners, may take frogs and turtles and
may take or catch fish of the kind permitted to be taken or caught
therefrom without procuring a license provided for in this
section. This exemption extends to tenants actually residing upon
such lands and to the members of the immediate families of the
tenants. Residents of state or county institutions, charitable
institutions, and military homes in this state may take frogs and
turtles without procuring the required license, provided that a
member of the institution or home has an identification card,
which shall be carried on that person when fishing.

Every fisher required to be licensed, while fishing or taking
or attempting to take frogs or turtles, shall carry the license
and exhibit it to any person. Failure to so carry and exhibit the
license constitutes an offense under this section.

Sec. 1533.99. (A) Whoever violates section 1533.17 of the
Revised Code is guilty of a misdemeanor of the third degree on a
first offense and a misdemeanor of the second degree on each
subsequent offense. In addition to any other sanction imposed
under this division, on a second or subsequent offense occurring
within a period of three consecutive years after the date of
conviction of the immediately preceding violation of that section,
any firearms or other hunting implements in the possession or
under the control of the offender at the time of the violation are
subject to seizure in accordance with section 1531.20 of the
Revised Code. If the offender persists in the offense after
reasonable warning or request to desist, the offender is guilty of
a misdemeanor of the second degree.

(B) Whoever violates section 1533.122, 1533.161, 1533.23,
1533.24, 1533.301, 1533.40, 1533.41, 1533.45, 1533.48, 1533.511,
1533.55, 1533.56, 1533.58, 1533.62, 1533.631, 1533.66, 1533.71,
1533.72, 1533.73, 1533.74, 1533.75, 1533.76, 1533.77, 1533.78,

1533.79, or 1533.80, division (F) of section 1533.731, or division 16125
(B) or (C) of section 1533.97 of the Revised Code is guilty of a 16126
misdemeanor of the third degree. 16127

(C) Whoever violates division (B) of section 1533.03, section 16128
1533.07, 1533.171, 1533.34, 1533.341, 1533.342, 1533.35, 1533.42, 16129
1533.51, 1533.63, 1533.64, 1533.67, 1533.68, 1533.721, 1533.881, 16130
or 1533.882, division (B)(2) or (3) of section 1533.731, or 16131
division (A) of section 1533.97 of the Revised Code is guilty of a 16132
misdemeanor of the first degree. 16133

(D) Whoever violates division (D) of section 1533.97 of the 16134
Revised Code is guilty of a misdemeanor of the fourth degree. The 16135
court shall require any person who is convicted of or pleads 16136
guilty to the offense to refund to all participants in the fishing 16137
tournament operated by the person any entry fees paid by the 16138
participants. 16139

(E) Whoever violates division (C) or (D) of section 1533.632 16140
of the Revised Code is guilty of a felony of the fifth degree. 16141

(F) Whoever violates any section of this chapter for which no 16142
penalty is otherwise provided is guilty of a misdemeanor of the 16143
fourth degree. 16144

(G) A court that imposes sentence for a violation of any 16145
section of this chapter governing the holding, taking, or 16146
possession of wild animals shall require the person who is 16147
convicted of or pleads guilty to the offense, in addition to any 16148
fine, term of imprisonment, seizure, and forfeiture imposed, to 16149
make restitution for the minimum value of the wild animal or 16150
animals illegally held, taken, or possessed as established under 16151
section 1531.201 of the Revised Code. An officer who collects 16152
moneys paid as restitution under this section shall pay those 16153
moneys to the treasurer of state who shall deposit them in the 16154
state treasury to the credit of the wildlife fund established 16155

under section 1531.17 of the Revised Code. 16156

Sec. 1541.03. All lands and waters dedicated and set apart 16157
for state park purposes shall be under the control and management 16158
of the division of parks and recreation, which shall protect, 16159
maintain, and keep them in repair. The division shall have the 16160
following powers over all such lands and waters: 16161

(A) To make alterations and improvements; 16162

(B) To construct and maintain dikes, wharves, landings, 16163
docks, dams, and other works; 16164

(C) To construct and maintain roads and drives in, around, 16165
upon, and to the lands and waters to make them conveniently 16166
accessible and useful to the public; 16167

(D) ~~To~~ Except as otherwise provided in this section, to 16168
adopt, amend, and rescind, in accordance with Chapter 119. of the 16169
Revised Code, rules necessary for the proper management of state 16170
parks, bodies of water, and the lands adjacent to them under its 16171
jurisdiction and control, including the following: 16172

(1) Governing opening and closing times and dates of the 16173
parks; 16174

(2) Establishing fees and charges for ~~admission to state~~ 16175
~~parks and for~~ use of facilities in ~~them~~ state parks; 16176

(3) Governing camps, camping, and fees for camps and camping; 16177

(4) Governing the application for and rental of, rental fees 16178
for, and the use of cabins; 16179

(5) Relating to public use of state park lands, and governing 16180
the operation of motor vehicles, including speeds, and parking on 16181
those lands; 16182

(6) Governing all advertising within state parks and the 16183
requirements for the operation of places selling tangible personal 16184

property and control of food service sales on lands and waters 16185
under the control of the division, which rules shall establish 16186
uniform requirements; 16187

(7) Providing uniform standards relating to the size, type, 16188
location, construction, and maintenance of structures and devices 16189
used for fishing or moorage of watercraft, rowboats, sailboats, 16190
and powercraft, as those terms are defined in section 1547.01 of 16191
the Revised Code, over waters under the control of the division 16192
and establishing reasonable fees for the construction of and 16193
annual use permits for those structures and devices; 16194

(8) Governing state beaches, swimming, inflatable devices, 16195
and fees for them; 16196

(9) Governing the removal and disposition of any watercraft, 16197
rowboat, sailboat, or powercraft, as those terms are defined in 16198
section 1547.01 of the Revised Code, left unattended for more than 16199
seven days on any lands or waters under the control of the 16200
division; 16201

(10) Governing the establishment and collection of check 16202
collection charges for checks that are returned to the division or 16203
dishonored for any reason. 16204

The division shall adopt rules under this section 16205
establishing a discount program for all persons who are issued a 16206
golden buckeye card under section 173.06 of the Revised Code. The 16207
discount program shall provide a discount for all park services 16208
and rentals, but shall not provide a discount for the purchase of 16209
merchandise. 16210

The division shall not adopt rules establishing fees or 16211
charges for parking a motor vehicle in a state park or for 16212
admission to a state park. 16213

Every resident of this state with a disability that has been 16214

determined by the veterans administration to be permanently and
totally disabling, who receives a pension or compensation from the
veterans administration, and who received an honorable discharge
from the armed forces of the United States, and every veteran to
whom the registrar of motor vehicles has issued a set of license
plates under section 4503.41 of the Revised Code, shall be exempt
from the fees for camping, provided that the resident or veteran
carries in the state park such evidence of the resident's or
veteran's disability as the chief of the division of parks and
recreation prescribes by rule.

~~Every~~ Unless otherwise provided by division rule, every
resident of this state who is sixty-five years of age or older or
who is permanently and totally disabled and who furnishes evidence
of that age or disability in a manner prescribed by division rule
shall be charged one-half of the regular fee for camping, except
on the weekends and holidays designated by the division. ~~Such a~~
~~person, and~~ shall not be charged more than ninety per cent of the
regular charges for state recreational facilities, equipment,
services, and food service operations utilized by the person at
any time of year, whether maintained or operated by the state or
leased for operation by another entity.

As used in this section, "food service operations" means
restaurants that are owned by the department of natural resources
at Hocking Hills, Lake Hope, Malabar Farm, and Rocky Fork state
parks or are part of a state park lodge. "Food service operations"
does not include automatic vending machines, concession stands, or
snack bars.

As used in this section, "prisoner of war" means any
regularly appointed, enrolled, enlisted, or inducted member of the
military forces of the United States who was captured, separated,
and incarcerated by an enemy of the United States. Any person who
has been a prisoner of war, was honorably discharged from the

military forces, and is a resident of this state is exempt from
the fees for camping. To claim this exemption, the person shall
present written evidence in the form of a record of separation, a
letter from one of the military forces of the United States, or
such other evidence as the chief prescribes by rule that satisfies
the eligibility criteria established by this section.

Sec. 1547.721. As used in sections 1547.721 to 1547.726 of
the Revised Code:

(A) "Eligible project" means a project that involves the
acquisition, construction, establishment, reconstruction,
rehabilitation, renovation, enlargement, improvement, equipping,
furnishing, or development of either of the following:

(1) Marine recreational facilities;

(2) Refuge harbors and other projects for the harboring,
mooring, docking, launching, and storing of light draft vessels.

(B) "Marine recreational facilities," "refuge harbors,"
"light draft vessels," and "allowable costs" have the meanings
established in rules adopted under section 1547.723 of the Revised
Code.

(C) "Revolving loan program" means the loan program
established under sections 1547.721 to 1547.726 of the Revised
Code.

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

Sec. 1547.722. There is hereby created in the state treasury
the watercraft revolving loan fund consisting of money
appropriated or transferred to it, money received and credited to
the fund under section 1547.726 of the Revised Code, and any
grants, gifts, or contributions of moneys received for deposit to

the credit of the fund. 16276

The director of natural resources shall use money in the 16277
watercraft revolving loan fund for the purpose of making loans 16278
under section 1547.724 of the Revised Code for eligible projects 16279
and taking actions under sections 1547.721 to 1547.726 of the 16280
Revised Code necessary to fulfill that purpose. The director may 16281
establish separate accounts in the fund for particular projects or 16282
otherwise. Income from the investment of money in the fund shall 16283
be credited to the fund, and, if the director so requires, to 16284
particular accounts in the fund. 16285

Sec. 1547.723. (A) The director of natural resources shall 16286
adopt rules under Chapter 119. of the Revised Code that the 16287
director determines to be necessary for the implementation of the 16288
revolving loan program. The rules shall include a definition of 16289
what constitutes "allowable costs" of an eligible project for 16290
purposes of the program together with a definition of "marine 16291
recreational facilities," "refuge harbors," and "light draft 16292
vessels," respectively. 16293

(B) The director may delegate any of the director's duties or 16294
responsibilities under sections 1547.721 to 1547.726 of the 16295
Revised Code to the chief of the division of watercraft. 16296

Sec. 1547.724. (A) With the approval of the controlling 16297
board, and subject to the other applicable provisions of sections 16298
1547.721 to 1547.726 of the Revised Code, the director of natural 16299
resources may lend moneys in the watercraft revolving loan fund to 16300
public or private entities for the purpose of paying the allowable 16301
costs of an eligible project. Loans shall be made under this 16302
division only if the director determines that all of the following 16303
apply: 16304

<u>(1) The project is an eligible project and is economically sound;</u>	16305 16306
<u>(2) The borrower is unable to finance the necessary allowable costs through ordinary financial channels upon comparable terms;</u>	16307 16308
<u>(3) The repayment of the loan will be adequately secured by a mortgage, lien, assignment, or pledge at a level of priority as the director may require;</u>	16309 16310 16311
<u>(4) The amount of the loan does not exceed ninety per cent of the total cost of the project.</u>	16312 16313
<u>(B) The determinations of the director under division (A) of this section shall be conclusive for purposes of the validity of a loan commitment evidenced by a loan agreement signed by the director. Further, the director's determinations that a project constitutes an eligible project and that the costs of such a project are allowable costs, together with all other determinations relevant to the project or to an action taken or agreement entered into under sections 1547.721 to 1547.726 of the Revised Code shall be conclusive for purposes of the validity and enforceability of rights of parties arising from actions taken and agreements entered into under those sections.</u>	16314 16315 16316 16317 16318 16319 16320 16321 16322 16323 16324
<u>(C) The director may take any actions necessary or appropriate with respect to a loan made under this section, including facilitating the collection of amounts due on a loan.</u>	16325 16326 16327
<u>Sec. 1547.725.</u> <u>For purposes of the revolving loan program, the director of natural resources may do any of the following:</u>	16328 16329
<u>(A) Establish fees, charges, rates of interest, times of payment of interest and principal, and other terms, conditions, and provisions of and security for loans made from the watercraft revolving loan fund that the director determines to be appropriate and in furtherance of the purpose for which the loans are made;</u>	16330 16331 16332 16333 16334

(B) Retain the services of or employ financial consultants, appraisers, consulting engineers, superintendents, managers, construction and accounting experts, attorneys, and employees, agents, and independent contractors that the director determines to be necessary and fix the compensation for their services; 16335
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(C) Receive and accept from any person grants, gifts, contributions of money, property, labor, and other things of value to be held, used, and applied only for the purpose for which such grants, gifts, and contributions are made; 16340
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(D) Enter into appropriate agreements with other governmental entities to provide for all of the following: 16344
16345

(1) Payment of allowable costs related to the development of eligible projects for which loans have been made from the watercraft revolving loan fund; 16346
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(2) Any governmental action a governmental entity is authorized to take, including undertaking on behalf and at the request of the director any action that the director is authorized to undertake pursuant to sections 1547.721 to 1547.725 of the Revised Code; 16349
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(3) The operation of facilities associated with eligible projects. 16354
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All state agencies shall cooperate with and provide assistance to the director as is necessary for the administration of sections 1547.721 to 1547.726 of the Revised Code. 16356
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16358

Sec. 1547.726. All money received by the state from the repayment of loans made from the watercraft revolving loan fund, including interest, fees, and charges associated with such loans, shall be deposited to the credit of the watercraft revolving loan fund. 16359
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Sec. 1548.06. (A)(1) Application for a certificate of title 16364
for a watercraft or outboard motor shall be made upon a form 16365
prescribed by the chief of the division of watercraft and shall be 16366
sworn to before a notary public or other officer empowered to 16367
administer oaths. The application shall be filed with the clerk of 16368
any court of common pleas. An application for a certificate of 16369
title may be filed electronically by any electronic means approved 16370
by the chief in any county with the clerk of the court of common 16371
pleas of that county. The application shall be accompanied by the 16372
fee prescribed in section 1548.10 of the Revised Code. The fee 16373
shall be retained by the clerk who issues the certificate of title 16374
and shall be distributed in accordance with that section. If a 16375
clerk of a court of common pleas, other than the clerk of the 16376
court of common pleas of an applicant's county of residence, 16377
issues a certificate of title to the applicant, the clerk shall 16378
transmit data related to the transaction to the automated title 16379
processing system. 16380

(2) If a certificate of title previously has been issued for 16381
the watercraft or outboard motor, the application for a 16382
certificate of title also shall be accompanied by the certificate 16383
of title duly assigned unless otherwise provided in this chapter. 16384
If a certificate of title previously has not been issued for the 16385
watercraft or outboard motor in this state, the application, 16386
unless otherwise provided in this chapter, shall be accompanied by 16387
a manufacturer's or importer's certificate; by a sworn statement 16388
of ownership if the watercraft or outboard motor was purchased by 16389
the applicant on or before October 9, 1963, or if the watercraft 16390
is less than fourteen feet long with a permanently affixed 16391
mechanical means of propulsion and was purchased by the applicant 16392
on or before January 1, 2000; or by a certificate of title, bill 16393
of sale, or other evidence of ownership required by the law of 16394
another state from which the watercraft or outboard motor was 16395

brought into this state. Evidence of ownership of a watercraft or 16396
outboard motor for which an Ohio certificate of title previously 16397
has not been issued and which watercraft or outboard motor does 16398
not have permanently affixed to it a manufacturer's serial number 16399
shall be accompanied by the certificate of assignment of a hull 16400
identification number assigned by the chief as provided in section 16401
1548.07 of the Revised Code. 16402

(3) The clerk shall retain the evidence of title presented by 16403
the applicant and on which the certificate of title is issued, 16404
except that, if an application for a certificate of title is filed 16405
electronically, by a vendor on behalf of a purchaser of a 16406
watercraft or outboard motor, the clerk shall retain the completed 16407
electronic record to which the vendor converted the certificate of 16408
title application and other required documents. The chief, after 16409
consultation with the attorney general, shall adopt rules that 16410
govern the location at which, and the manner in which, are stored 16411
the actual application and all other documents relating to the 16412
sale of a watercraft or outboard motor when a vendor files the 16413
application for a certificate of title electronically on behalf of 16414
a purchaser. 16415

(B) The clerk shall use reasonable diligence in ascertaining 16416
whether the facts in the application are true by checking the 16417
application and documents accompanying it or the electronic record 16418
to which a vendor converted the application and accompanying 16419
documents with the records of watercraft and outboard motors in 16420
the clerk's office. If the clerk is satisfied that the applicant 16421
is the owner of the watercraft or outboard motor and that the 16422
application is in the proper form, the clerk shall issue a 16423
physical certificate of title over the clerk's signature and 16424
sealed with the clerk's seal unless the applicant specifically 16425
requests the clerk not to issue a physical certificate of title 16426
and instead to issue an electronic certificate of title. However, 16427

if the evidence indicates and an investigation shows that one or 16428
more Ohio titles already exist for the watercraft or outboard 16429
motor, the chief may cause the redundant title or titles to be 16430
canceled. 16431

(C) In the case of the sale of a watercraft or outboard motor 16432
by a vendor to a general purchaser or user, the certificate of 16433
title shall be obtained in the name of the purchaser by the vendor 16434
upon application signed by the purchaser. In all other cases, the 16435
certificate shall be obtained by the purchaser. In all cases of 16436
transfer of watercraft or outboard motors, the application for 16437
certificate of title shall be filed within thirty days after the 16438
later of the date of purchase or assignment of ownership of the 16439
watercraft or outboard motor. If the application for certificate 16440
of title is not filed within thirty days after the later of the 16441
date of purchase or assignment of ownership of the watercraft or 16442
outboard motor, the clerk shall charge a late penalty fee of five 16443
dollars in addition to the fee prescribed by section 1548.10 of 16444
the Revised Code. The clerk shall retain the entire amount of each 16445
late penalty fee. 16446

(D) The clerk shall refuse to accept an application for 16447
certificate of title unless the applicant either tenders with the 16448
application payment of all taxes levied by or pursuant to Chapter 16449
5739. or 5741. of the Revised Code based on the applicant's county 16450
of residence less, in the case of a sale by a vendor, any discount 16451
to which the vendor is entitled under section 5739.12 of the 16452
Revised Code, or submits any of the following: 16453

~~(A)~~(1) A receipt issued by the tax commissioner or a clerk of 16454
courts showing payment of the tax; 16455

~~(B)~~(2) A copy of the unit certificate of exemption completed 16456
by the purchaser at the time of sale as provided in section 16457
5739.03 of the Revised Code; 16458

~~(C)~~(3) An exemption certificate, in a form prescribed by the 16459
tax commissioner, that specifies why the purchase is not subject 16460
to the tax imposed by Chapter 5739. or 5741. of the Revised Code. 16461

Payment of the tax shall be in accordance with rules issued 16462
by the tax commissioner, and the clerk shall issue a receipt in 16463
the form prescribed by the tax commissioner to any applicant who 16464
tenders payment of the tax with the application for the 16465
certificate of title. 16466

(E)(1) For receiving and disbursing the taxes paid to the 16467
clerk by a resident of the clerk's county, the clerk may retain a 16468
poundage fee of one and one one-hundredth per cent of the taxes 16469
collected, which shall be paid into the certificate of title 16470
administration fund created by section 325.33 of the Revised Code. 16471
The clerk shall not retain a poundage fee from payments of taxes 16472
by persons who do not reside in the clerk's county. 16473

(2) A clerk, however, may retain from the taxes paid to the 16474
clerk an amount equal to the poundage fees associated with 16475
certificates of title issued by other clerks of courts of common 16476
pleas to applicants who reside in the first clerk's county. The 16477
chief of the division of watercraft, in consultation with the tax 16478
commissioner and the clerks of the courts of common pleas, shall 16479
develop a report from the automated title processing system that 16480
informs each clerk of the amount of the poundage fees that the 16481
clerk is permitted to retain from those taxes because of 16482
certificates of title issued by the clerks of other counties to 16483
applicants who reside in the first clerk's county. 16484

(F) In the case of casual sales of watercraft or outboard 16485
motors that are subject to the tax imposed by Chapter 5739. or 16486
5741. of the Revised Code, the purchase price for the purpose of 16487
determining the tax shall be the purchase price on an affidavit 16488
executed and filed with the clerk by the vendor on a form to be 16489

prescribed by the chief, which shall be prima-facie evidence of 16490
the price for the determination of the tax. In addition to the 16491
information required by section 1548.08 of the Revised Code, each 16492
certificate of title shall contain in bold lettering the following 16493
notification and statements: "WARNING TO TRANSFEROR AND TRANSFEREE 16494
(SELLER AND BUYER). You are required by law to state the true 16495
selling price. A false statement is a violation of section 2921.13 16496
of the Revised Code and is punishable by six months imprisonment 16497
or a fine of up to one thousand dollars, or both. All transfers 16498
are audited by the department of taxation. The seller and buyer 16499
must provide any information requested by the department of 16500
taxation. The buyer may be assessed any additional tax found to be 16501
due." 16502

~~The clerk shall forward all payments of taxes, less poundage 16503
fees, to the treasurer of state in a manner to be prescribed by 16504
the tax commissioner and shall furnish information to the 16505
commissioner as the commissioner may require. (G) Each county 16506
clerk of courts shall forward to the treasurer of state all sales 16507
and use tax collections resulting from sales of titled watercraft 16508
and outboard motors during a calendar week on or before the Friday 16509
following the close of that week. If, on any Friday, the offices 16510
of the clerk of courts or the state are not open for business, the 16511
tax shall be forwarded to the treasurer of state on or before the 16512
next day on which the offices are open. Every remittance of tax 16513
under this division shall be accompanied by a remittance report in 16514
such form as the tax commissioner prescribes. Upon receipt of a 16515
tax remittance and remittance report, the treasurer of state shall 16516
date stamp the report and forward it to the tax commissioner. If 16517
the tax due for any week is not remitted by a clerk of courts as 16518
required under this division, the clerk shall forfeit the poundage 16519
fees for the sales made during that week. The treasurer of state 16520
may require the clerks of courts to transmit tax collections and 16521
remittance reports electronically. 16522~~

(H) For purposes of a transfer of a certificate of title, if the clerk is satisfied that a secured party has discharged a lien but has not canceled the lien notation with a clerk, the clerk may cancel the lien notation on the automated title processing system and notify the clerk of the county of origin.

(I) Every clerk shall have the capability to transact by electronic means all procedures and transactions relating to the issuance of watercraft or outboard motor certificates of title that are described in the Revised Code as being accomplished by electronic means.

Sec. 1707.01. As used in this chapter:

(A) Whenever the context requires it, "division" or "division of securities" may be read as "director of commerce" or as "commissioner of securities."

(B) "Security" means any certificate or instrument, or any oral, written, or electronic agreement, understanding, or opportunity, that represents title to or interest in, or is secured by any lien or charge upon, the capital, assets, profits, property, or credit of any person or of any public or governmental body, subdivision, or agency. It includes shares of stock, certificates for shares of stock, an uncertificated security, membership interests in limited liability companies, voting-trust certificates, warrants and options to purchase securities, subscription rights, interim receipts, interim certificates, promissory notes, all forms of commercial paper, evidences of indebtedness, bonds, debentures, land trust certificates, fee certificates, leasehold certificates, syndicate certificates, endowment certificates, interests in or under profit-sharing or participation agreements, interests in or under oil, gas, or mining leases, preorganization or reorganization subscriptions, preorganization certificates, reorganization certificates,

interests in any trust or pretended trust, any investment 16554
contract, any life settlement interest, any instrument evidencing 16555
a promise or an agreement to pay money, warehouse receipts for 16556
intoxicating liquor, and the currency of any government other than 16557
those of the United States and Canada, but sections 1707.01 to 16558
1707.45 of the Revised Code do not apply to the sale of real 16559
estate. 16560

(C)(1) "Sale" has the full meaning of "sale" as applied by or 16561
accepted in courts of law or equity, and includes every 16562
disposition, or attempt to dispose, of a security or of an 16563
interest in a security. "Sale" also includes a contract to sell, 16564
an exchange, an attempt to sell, an option of sale, a solicitation 16565
of a sale, a solicitation of an offer to buy, a subscription, or 16566
an offer to sell, directly or indirectly, by agent, circular, 16567
pamphlet, advertisement, or otherwise. 16568

(2) "Sell" means any act by which a sale is made. 16569

(3) The use of advertisements, circulars, or pamphlets in 16570
connection with the sale of securities in this state exclusively 16571
to the purchasers specified in division (D) of section 1707.03 of 16572
the Revised Code is not a sale when the advertisements, circulars, 16573
and pamphlets describing and offering those securities bear a 16574
readily legible legend in substance as follows: "This offer is 16575
made on behalf of dealers licensed under sections 1707.01 to 16576
1707.45 of the Revised Code, and is confined in this state 16577
exclusively to institutional investors and licensed dealers." 16578

(4) The offering of securities by any person in conjunction 16579
with a licensed dealer by use of advertisement, circular, or 16580
pamphlet is not a sale if that person does not otherwise attempt 16581
to sell securities in this state. 16582

(5) Any security given with, or as a bonus on account of, any 16583
purchase of securities is conclusively presumed to constitute a 16584

part of the subject of that purchase and has been "sold." 16585

(6) "Sale" by an owner, pledgee, or mortgagee, or by a person 16586
acting in a representative capacity, includes sale on behalf of 16587
such party by an agent, including a licensed dealer or 16588
salesperson. 16589

(D) "Person," except as otherwise provided in this chapter, 16590
means a natural person, firm, partnership, limited partnership, 16591
partnership association, syndicate, joint-stock company, 16592
unincorporated association, trust or trustee except where the 16593
trust was created or the trustee designated by law or judicial 16594
authority or by a will, and a corporation or limited liability 16595
company organized under the laws of any state, any foreign 16596
government, or any political subdivision of a state or foreign 16597
government. 16598

(E)(1) "Dealer," except as otherwise provided in this 16599
chapter, means every person, other than a salesperson, who engages 16600
or professes to engage, in this state, for either all or part of 16601
the person's time, directly or indirectly, either in the business 16602
of the sale of securities for the person's own account, or in the 16603
business of the purchase or sale of securities for the account of 16604
others in the reasonable expectation of receiving a commission, 16605
fee, or other remuneration as a result of engaging in the purchase 16606
and sale of securities. "Dealer" does not mean any of the 16607
following: 16608

(a) Any issuer, including any officer, director, employee, or 16609
trustee of, or member or manager of, or partner in, or any general 16610
partner of, any issuer, that sells, offers for sale, or does any 16611
act in furtherance of the sale of a security that represents an 16612
economic interest in that issuer, provided no commission, fee, or 16613
other similar remuneration is paid to or received by the issuer 16614
for the sale; 16615

(b) Any licensed attorney, public accountant, or firm of such attorneys or accountants, whose activities are incidental to the practice of the attorney's, accountant's, or firm's profession;

(c) Any person that, for the account of others, engages in the purchase or sale of securities that are issued and outstanding before such purchase and sale, if a majority or more of the equity interest of an issuer is sold in that transaction, and if, in the case of a corporation, the securities sold in that transaction represent a majority or more of the voting power of the corporation in the election of directors;

(d) Any person that brings an issuer together with a potential investor and whose compensation is not directly or indirectly based on the sale of any securities by the issuer to the investor;

(e) Any bank;

(f) Any person that the division of securities by rule exempts from the definition of "dealer" under division (E)(1) of this section.

(2) "Licensed dealer" means a dealer licensed under this chapter.

(F)(1) "Salesman" or "salesperson" means every natural person, other than a dealer, who is employed, authorized, or appointed by a dealer to sell securities within this state.

(2) The general partners of a partnership, and the executive officers of a corporation or unincorporated association, licensed as a dealer are not salespersons within the meaning of this definition, nor are such clerical or other employees of an issuer or dealer as are employed for work to which the sale of securities is secondary and incidental; but the division of securities may require a license from any such partner, executive officer, or

employee if it determines that protection of the public
necessitates the licensing. 16646
16647

(3) "Licensed salesperson" means a salesperson licensed under
this chapter. 16648
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(G) "Issuer" means every person who has issued, proposes to
issue, or issues any security. 16650
16651

(H) "Director" means each director or trustee of a
corporation, each trustee of a trust, each general partner of a
partnership, except a partnership association, each manager of a
partnership association, and any person vested with managerial or
directory power over an issuer not having a board of directors or
trustees. 16652
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(I) "Incorporator" means any incorporator of a corporation
and any organizer of, or any person participating, other than in a
representative or professional capacity, in the organization of an
unincorporated issuer. 16658
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(J) "Fraud," "fraudulent," "fraudulent acts," "fraudulent
practices," or "fraudulent transactions" means anything recognized
on or after July 22, 1929, as such in courts of law or equity; any
device, scheme, or artifice to defraud or to obtain money or
property by means of any false pretense, representation, or
promise; any fictitious or pretended purchase or sale of
securities; and any act, practice, transaction, or course of
business relating to the purchase or sale of securities that is
fraudulent or that has operated or would operate as a fraud upon
the seller or purchaser. 16662
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(K) Except as otherwise specifically provided, whenever any
classification or computation is based upon "par value," as
applied to securities without par value, the average of the
aggregate consideration received or to be received by the issuer
for each class of those securities shall be used as the basis for
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that classification or computation. 16677

(L)(1) "Intangible property" means patents, copyrights, 16678
secret processes, formulas, services, good will, promotion and 16679
organization fees and expenses, trademarks, trade brands, trade 16680
names, licenses, franchises, any other assets treated as 16681
intangible according to generally accepted accounting principles, 16682
and securities, accounts receivable, or contract rights having no 16683
readily determinable value. 16684

(2) "Tangible property" means all property other than 16685
intangible property and includes securities, accounts receivable, 16686
and contract rights, when the securities, accounts receivable, or 16687
contract rights have a readily determinable value. 16688

(M) "Public utilities" means those utilities defined in 16689
sections 4905.02, 4905.03, 4907.02, and 4907.03 of the Revised 16690
Code; in the case of a foreign corporation, it means those 16691
utilities defined as public utilities by the laws of its domicile; 16692
and in the case of any other foreign issuer, it means those 16693
utilities defined as public utilities by the laws of the situs of 16694
its principal place of business. The term always includes 16695
railroads whether or not they are so defined as public utilities. 16696

(N) "State" means any state of the United States, any 16697
territory or possession of the United States, the District of 16698
Columbia, and any province of Canada. 16699

(O) "Bank" means any bank, trust company, savings and loan 16700
association, savings bank, or credit union that is incorporated or 16701
organized under the laws of the United States, any state of the 16702
United States, Canada, or any province of Canada and that is 16703
subject to regulation or supervision by that country, state, or 16704
province. 16705

(P) "Include," when used in a definition, does not exclude 16706
other things or persons otherwise within the meaning of the term 16707

defined. 16708

(Q)(1) "Registration by description" means that the 16709
requirements of section 1707.08 of the Revised Code have been 16710
complied with. 16711

(2) "Registration by qualification" means that the 16712
requirements of sections 1707.09 and 1707.11 of the Revised Code 16713
have been complied with. 16714

(3) "Registration by coordination" means that there has been 16715
compliance with section 1707.091 of the Revised Code. Reference in 16716
this chapter to registration by qualification also shall be deemed 16717
to include registration by coordination unless the context 16718
otherwise indicates. 16719

(R) "Intoxicating liquor" includes all liquids and compounds 16720
that contain more than three and two-tenths per cent of alcohol by 16721
weight and are fit for use for beverage purposes. 16722

(S) "Institutional investor" means any corporation, bank, 16723
insurance company, pension fund or pension fund trust, employees' 16724
profit-sharing fund or employees' profit-sharing trust, any 16725
association engaged, as a substantial part of its business or 16726
operations, in purchasing or holding securities, or any trust in 16727
respect of which a bank is trustee or cotrustee. "Institutional 16728
investor" does not include any business entity formed for the 16729
primary purpose of evading sections 1707.01 to 1707.45 of the 16730
Revised Code. 16731

(T) "Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, 16732
"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, 16733
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, 16734
"Investment Advisers Act of 1940," 54 Stat. 847, 15 U.S.C. 80b, 16735
and "Investment Company Act of 1940," 54 Stat. 789, 15 U.S.C. 80a 16736
mean the federal statutes of those names as amended before or 16737
after March 18, 1999. 16738

(U) "Securities and exchange commission" means the securities and exchange commission established by the Securities Exchange Act of 1934.

(V)(1) "Control bid" means the purchase of or offer to purchase any equity security of a subject company from a resident of this state if either of the following applies:

(a) After the purchase of that security, the offeror would be directly or indirectly the beneficial owner of more than ten per cent of any class of the issued and outstanding equity securities of the issuer.

(b) The offeror is the subject company, there is a pending control bid by a person other than the issuer, and the number of the issued and outstanding shares of the subject company would be reduced by more than ten per cent.

(2) For purposes of division (V)(1) of this section, "control bid" does not include any of the following:

(a) A bid made by a dealer for the dealer's own account in the ordinary course of business of buying and selling securities;

(b) An offer to acquire any equity security solely in exchange for any other security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, in good faith and not for the purpose of avoiding the provisions of this chapter, and not involving any public offering of the other security within the meaning of Section 4 of Title I of the "Securities Act of 1933," 48 Stat. 77, 15 U.S.C.A. 77d(2), as amended;

(c) Any other offer to acquire any equity security, or the acquisition of any equity security pursuant to an offer, for the sole account of the offeror, from not more than fifty persons, in good faith and not for the purpose of avoiding the provisions of

this chapter. 16769

(W) "Offeror" means a person who makes, or in any way 16770
participates or aids in making, a control bid and includes persons 16771
acting jointly or in concert, or who intend to exercise jointly or 16772
in concert any voting rights attached to the securities for which 16773
the control bid is made and also includes any subject company 16774
making a control bid for its own securities. 16775

(X)(1) "Investment adviser" means any person who, for 16776
compensation, engages in the business of advising others, either 16777
directly or through publications or writings, as to the value of 16778
securities or as to the advisability of investing in, purchasing, 16779
or selling securities, or who, for compensation and as a part of 16780
regular business, issues or promulgates analyses or reports 16781
concerning securities. 16782

(2) "Investment adviser" does not mean any of the following: 16783

(a) Any attorney, accountant, engineer, or teacher, whose 16784
performance of investment advisory services described in division 16785
(X)(1) of this section is solely incidental to the practice of the 16786
attorney's, accountant's, engineer's, or teacher's profession; 16787

(b) A publisher of any bona fide newspaper, news magazine, or 16788
business or financial publication of general and regular 16789
circulation; 16790

(c) A person who acts solely as an investment adviser 16791
representative; 16792

(d) A bank holding company, as defined in the "Bank Holding 16793
Company Act of 1956," 70 Stat. 133, 12 U.S.C. 1841, that is not an 16794
investment company; 16795

(e) A bank, or any receiver, conservator, or other 16796
liquidating agent of a bank; 16797

(f) Any licensed dealer or licensed salesperson whose 16798

performance of investment advisory services described in division 16799
(X)(1) of this section is solely incidental to the conduct of the 16800
dealer's or salesperson's business as a licensed dealer or 16801
licensed salesperson and who receives no special compensation for 16802
the services; 16803

(g) Any person, the advice, analyses, or reports of which do 16804
not relate to securities other than securities that are direct 16805
obligations of, or obligations guaranteed as to principal or 16806
interest by, the United States, or securities issued or guaranteed 16807
by corporations in which the United States has a direct or 16808
indirect interest, and that have been designated by the secretary 16809
of the treasury as exempt securities as defined in the "Securities 16810
Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78c; 16811

(h) Any person that is excluded from the definition of 16812
investment adviser pursuant to section 202(a)(11)(A) to (E) of the 16813
"Investment Advisers Act of 1940," 15 U.S.C. 80b-2(a)(11), or that 16814
has received an order from the securities and exchange commission 16815
under section 202(a)(11)(F) of the "Investment Advisers Act of 16816
1940," 15 U.S.C. 80b-2(a)(11)(F), declaring that the person is not 16817
within the intent of section 202(a)(11) of the Investment Advisers 16818
Act of 1940. 16819

(i) A person who acts solely as a state retirement system 16820
investment officer or as a bureau of workers' compensation chief 16821
investment officer; 16822

(j) Any other person that the division designates by rule, if 16823
the division finds that the designation is necessary or 16824
appropriate in the public interest or for the protection of 16825
investors or clients and consistent with the purposes fairly 16826
intended by the policy and provisions of this chapter. 16827

(Y)(1) "Subject company" means an issuer that satisfies both 16828
of the following: 16829

(a) Its principal place of business or its principal executive office is located in this state, or it owns or controls assets located within this state that have a fair market value of at least one million dollars.

(b) More than ten per cent of its beneficial or record equity security holders are resident in this state, more than ten per cent of its equity securities are owned beneficially or of record by residents in this state, or more than one thousand of its beneficial or record equity security holders are resident in this state.

(2) The division of securities may adopt rules to establish more specific application of the provisions set forth in division (Y)(1) of this section. Notwithstanding the provisions set forth in division (Y)(1) of this section and any rules adopted under this division, the division, by rule or in an adjudicatory proceeding, may make a determination that an issuer does not constitute a "subject company" under division (Y)(1) of this section if appropriate review of control bids involving the issuer is to be made by any regulatory authority of another jurisdiction.

(Z) "Beneficial owner" includes any person who directly or indirectly through any contract, arrangement, understanding, or relationship has or shares, or otherwise has or shares, the power to vote or direct the voting of a security or the power to dispose of, or direct the disposition of, the security. "Beneficial ownership" includes the right, exercisable within sixty days, to acquire any security through the exercise of any option, warrant, or right, the conversion of any convertible security, or otherwise. Any security subject to any such option, warrant, right, or conversion privilege held by any person shall be deemed to be outstanding for the purpose of computing the percentage of outstanding securities of the class owned by that person, but shall not be deemed to be outstanding for the purpose of computing

the percentage of the class owned by any other person. A person
shall be deemed the beneficial owner of any security beneficially
owned by any relative or spouse or relative of the spouse residing
in the home of that person, any trust or estate in which that
person owns ten per cent or more of the total beneficial interest
or serves as trustee or executor, any corporation or entity in
which that person owns ten per cent or more of the equity, and any
affiliate or associate of that person.

(AA) "Offeree" means the beneficial or record owner of any
security that an offeror acquires or offers to acquire in
connection with a control bid.

(BB) "Equity security" means any share or similar security,
or any security convertible into any such security, or carrying
any warrant or right to subscribe to or purchase any such
security, or any such warrant or right, or any other security
that, for the protection of security holders, is treated as an
equity security pursuant to rules of the division of securities.

(CC)(1) "Investment adviser representative" means a
supervised person of an investment adviser, provided that the
supervised person has more than five clients who are natural
persons other than excepted persons defined in division (EE) of
this section, and that more than ten per cent of the supervised
person's clients are natural persons other than excepted persons
defined in division (EE) of this section. "Investment adviser
representative" does not mean any of the following:

(a) A supervised person that does not on a regular basis
solicit, meet with, or otherwise communicate with clients of the
investment adviser;

(b) A supervised person that provides only investment
advisory services described in division (X)(1) of this section by
means of written materials or oral statements that do not purport

to meet the objectives or needs of specific individuals or 16893
accounts; 16894

(c) Any other person that the division designates by rule, if 16895
the division finds that the designation is necessary or 16896
appropriate in the public interest or for the protection of 16897
investors or clients and is consistent with the provisions fairly 16898
intended by the policy and provisions of this chapter. 16899

(2) For the purpose of the calculation of clients in division 16900
(CC)(1) of this section, a natural person and the following 16901
persons are deemed a single client: Any minor child of the natural 16902
person; any relative, spouse, or relative of the spouse of the 16903
natural person who has the same principal residence as the natural 16904
person; all accounts of which the natural person or the persons 16905
referred to in division (CC)(2) of this section are the only 16906
primary beneficiaries; and all trusts of which the natural person 16907
or persons referred to in division (CC)(2) of this section are the 16908
only primary beneficiaries. Persons who are not residents of the 16909
United States need not be included in the calculation of clients 16910
under division (CC)(1) of this section. 16911

(3) If subsequent to March 18, 1999, amendments are enacted 16912
or adopted defining "investment adviser representative" for 16913
purposes of the Investment Advisers Act of 1940 or additional 16914
rules or regulations are promulgated by the securities and 16915
exchange commission regarding the definition of "investment 16916
adviser representative" for purposes of the Investment Advisers 16917
Act of 1940, the division of securities shall, by rule, adopt the 16918
substance of the amendments, rules, or regulations, unless the 16919
division finds that the amendments, rules, or regulations are not 16920
necessary for the protection of investors or in the public 16921
interest. 16922

(DD) "Supervised person" means a natural person who is any of 16923

the following: 16924

(1) A partner, officer, or director of an investment adviser, 16925
or other person occupying a similar status or performing similar 16926
functions with respect to an investment adviser; 16927

(2) An employee of an investment adviser; 16928

(3) A person who provides investment advisory services 16929
described in division (X)(1) of this section on behalf of the 16930
investment adviser and is subject to the supervision and control 16931
of the investment adviser. 16932

(EE) "Excepted person" means a natural person to whom any of 16933
the following applies: 16934

(1) Immediately after entering into the investment advisory 16935
contract with the investment adviser, the person has at least 16936
seven hundred fifty thousand dollars under the management of the 16937
investment adviser. 16938

(2) The investment adviser reasonably believes either of the 16939
following at the time the investment advisory contract is entered 16940
into with the person: 16941

(a) The person has a net worth, together with assets held 16942
jointly with a spouse, of more than one million five hundred 16943
thousand dollars. 16944

(b) The person is a qualified purchaser as defined in 16945
division (FF) of this section. 16946

(3) Immediately prior to entering into an investment advisory 16947
contract with the investment adviser, the person is either of the 16948
following: 16949

(a) An executive officer, director, trustee, general partner, 16950
or person serving in a similar capacity, of the investment 16951
adviser; 16952

(b) An employee of the investment adviser, other than an employee performing solely clerical, secretarial, or administrative functions or duties for the investment adviser, which employee, in connection with the employee's regular functions or duties, participates in the investment activities of the investment adviser, provided that, for at least twelve months, the employee has been performing such nonclerical, nonsecretarial, or nonadministrative functions or duties for or on behalf of the investment adviser or performing substantially similar functions or duties for or on behalf of another company.

If subsequent to March 18, 1999, amendments are enacted or adopted defining "excepted person" for purposes of the Investment Advisers Act of 1940 or additional rules or regulations are promulgated by the securities and exchange commission regarding the definition of "excepted person" for purposes of the Investment Advisers Act of 1940, the division of securities shall, by rule, adopt the substance of the amendments, rules, or regulations, unless the division finds that the amendments, rules, or regulations are not necessary for the protection of investors or in the public interest.

(FF)(1) "Qualified purchaser" means either of the following:

(a) A natural person who owns not less than five million dollars in investments as defined by rule by the division of securities;

(b) A natural person, acting for the person's own account or accounts of other qualified purchasers, who in the aggregate owns and invests on a discretionary basis, not less than twenty-five million dollars in investments as defined by rule by the division of securities.

(2) If subsequent to March 18, 1999, amendments are enacted or adopted defining "qualified purchaser" for purposes of the

Investment Advisers Act of 1940 or additional rules or regulations 16984
are promulgated by the securities and exchange commission 16985
regarding the definition of "qualified purchaser" for purposes of 16986
the Investment Advisers Act of 1940, the division of securities 16987
shall, by rule, adopt the amendments, rules, or regulations, 16988
unless the division finds that the amendments, rules, or 16989
regulations are not necessary for the protection of investors or 16990
in the public interest. 16991

(GG)(1) "Purchase" has the full meaning of "purchase" as 16992
applied by or accepted in courts of law or equity and includes 16993
every acquisition of, or attempt to acquire, a security or an 16994
interest in a security. "Purchase" also includes a contract to 16995
purchase, an exchange, an attempt to purchase, an option to 16996
purchase, a solicitation of a purchase, a solicitation of an offer 16997
to sell, a subscription, or an offer to purchase, directly or 16998
indirectly, by agent, circular, pamphlet, advertisement, or 16999
otherwise. 17000

(2) "Purchase" means any act by which a purchase is made. 17001

(3) Any security given with, or as a bonus on account of, any 17002
purchase of securities is conclusively presumed to constitute a 17003
part of the subject of that purchase. 17004

(HH) "Life settlement interest" means the entire interest or 17005
any fractional interest in an insurance policy or certificate of 17006
insurance, or in an insurance benefit under such a policy or 17007
certificate, that is the subject of a life settlement contract. 17008

For purposes of this division, "life settlement contract" 17009
means an agreement for the purchase, sale, assignment, transfer, 17010
devise, or bequest of any portion of the death benefit or 17011
ownership of any life insurance policy or contract, in return for 17012
consideration or any other thing of value that is less than the 17013
expected death benefit of the life insurance policy or contract. 17014

"Life settlement contract" includes a viatical settlement contract	17015
as defined in section 3916.01 of the Revised Code, but does not	17016
include any of the following:	17017
(1) A loan by an insurer under the terms of a life insurance	17018
policy, including, but not limited to, a loan secured by the cash	17019
value of the policy;	17020
(2) An agreement with a bank that takes an assignment of a	17021
life insurance policy as collateral for a loan;	17022
(3) The provision of accelerated benefits as defined in	17023
section 3915.21 of the Revised Code;	17024
(4) Any agreement between an insurer and a reinsurer;	17025
(5) An agreement by an individual to purchase an existing	17026
life insurance policy or contract from the original owner of the	17027
policy or contract, if the individual does not enter into more	17028
than one life settlement contract per calendar year;	17029
(6) The initial purchase of an insurance policy or	17030
certificate of insurance from its owner by a viatical settlement	17031
provider, as defined in section 3916.01 of the Revised Code, that	17032
is licensed under Chapter 3916. of the Revised Code.	17033
(II) "State retirement system" means the public employees	17034
retirement system, Ohio police and fire pension fund, state	17035
teachers retirement system, school employees retirement system,	17036
and state highway patrol retirement system.	17037
(JJ) "State retirement system investment officer" means an	17038
individual employed by a state retirement system as a chief	17039
investment officer, assistant investment officer, or the person in	17040
charge of a class of assets or in a position that is substantially	17041
equivalent to chief investment officer, assistant investment	17042
officer, or person in charge of a class of assets.	17043
(KK) <u>"Bureau of workers' compensation chief investment</u>	17044

officer" means an individual employed by the bureau of workers' compensation as a chief investment officer in a position that is substantially equivalent to a chief investment officer. 17045
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Sec. 1707.164. (A) No person shall act as a bureau of workers' compensation chief investment officer unless the person is licensed as a bureau of workers' compensation chief investment officer by the division of securities. 17048
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(B) No bureau of workers' compensation chief investment officer shall act as a dealer, salesperson, investment advisor, or investment advisor representative. 17052
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Sec. 1707.165. (A) Application for a bureau of workers' compensation chief investment officer's license shall be made in accordance with this section by filing with the division of securities the information, materials, and forms specified in rules adopted by the division. 17055
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(B) The division may investigate any applicant for a license and may require any additional information as it considers necessary to determine the applicant's business repute and qualifications to act as a chief investment officer. If the application for a bureau of workers' compensation chief investment officer's license involves investigation outside of this state, the applicant may be required by the division to advance sufficient funds to pay any of the actual expenses of the investigation. The division shall furnish the applicant with an itemized statement of the expenses the applicant is required to pay. 17060
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(C) The division shall by rule require an applicant for a bureau of workers' compensation chief investment officer's license to pass an examination designated by the division or achieve a specified professional designation unless the applicant meets both 17071
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<u>of the following requirements:</u>	17075
<u>(1) Acts as a bureau of workers' compensation chief investment officer on the effective date of this section;</u>	17076
<u>(2) Has experience or education acceptable to the division.</u>	17077
<u>(D) If the division finds that the applicant is of good business repute, appears to be qualified to act as a bureau of workers' compensation chief investment officer, and has complied with this chapter and rules adopted by the division under this chapter, the division, upon receipt of the fees prescribed by division (B) of section 1707.17 of the Revised Code, shall issue to the applicant a license authorizing the applicant to act as a bureau of workers' compensation chief investment officer.</u>	17078
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Sec. 1707.17. (A)(1) The license of every dealer in and salesperson of securities shall expire on the thirty-first day of December of each year, and may be renewed upon the filing with the division of securities of an application for renewal, and the payment of the fee prescribed in this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal of a dealer's or salesperson's license.	17087
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(2) The license of every investment adviser and investment adviser representative licensed under section 1707.141 or 1707.161 of the Revised Code shall expire on the thirty-first day of December of each year. The licenses may be renewed upon the filing with the division of an application for renewal, and the payment of the fee prescribed in division (B) of this section. The division shall give notice, without unreasonable delay, of its action on any application for renewal.	17094
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(3) An investment adviser required to make a notice filing under division (B) of section 1707.141 of the Revised Code annually shall file with the division the notice filing and the	17102
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fee prescribed in division (B) of this section, no later than the
thirty-first day of December of each year.

(4) The license of every state retirement system investment
officer licensed under section 1707.163 of the Revised Code and
the license of a bureau of workers' compensation chief investment
officer issued under section 1707.165 of the Revised Code shall
expire on the thirtieth day of June of each year. The licenses may
be renewed on the filing with the division of an application for
renewal, and the payment of the fee prescribed in division (B) of
this section. The division shall give notice, without unreasonable
delay, of its action on any application for renewal.

(B)(1) The fee for each dealer's license, and for each annual
renewal thereof, shall be one hundred dollars.

(2) The fee for each salesperson's license, and for each
annual renewal thereof, shall be fifty dollars.

(3) The fee for each investment adviser's license, and for
each annual renewal thereof, shall be fifty dollars.

(4) The fee for each investment adviser notice filing
required by division (B) of section 1707.141 of the Revised Code
shall be fifty dollars.

(5) The fee for each investment adviser representative's
license, and for each annual renewal thereof, shall be thirty-five
dollars.

(6) The fee for each state retirement system investment
officer's license, and for each annual renewal thereof, shall be
fifty dollars.

(7) The fee for a bureau of workers' compensation chief
investment officer's license, and for each annual renewal thereof,
shall be fifty dollars.

(C) A dealer's, salesperson's, investment adviser's,

investment adviser representative's, bureau of workers' 17135
compensation chief investment officer's, or state retirement 17136
system investment officer's license may be issued at any time for 17137
the remainder of the calendar year. In that event, the annual fee 17138
shall not be reduced. 17139

Sec. 1707.19. (A) An original license, or a renewal thereof, 17140
applied for by a dealer or salesperson of securities, or by an 17141
investment adviser, investment adviser representative, bureau of 17142
workers' compensation chief investment officer, or state 17143
retirement system investment officer, may be refused, and any such 17144
license granted may be suspended and, after notice and hearing in 17145
accordance with Chapter 119. of the Revised Code, may be revoked, 17146
by the division of securities, if the division determines that the 17147
applicant or the licensed dealer, salesperson, investment adviser, 17148
investment adviser representative, bureau of workers' compensation 17149
chief investment officer, or state retirement system investment 17150
officer: 17151

(1) Is not of good business repute; 17152

(2) Is conducting an illegitimate or fraudulent business; 17153

(3) Is, in the case of a dealer or investment adviser, 17154
insolvent; 17155

(4) Has knowingly violated any provision of sections 1707.01 17156
to 1707.45 of the Revised Code, or any regulation or order made 17157
thereunder; 17158

(5) Has knowingly made a false statement of a material fact 17159
or an omission of a material fact in an application for a license, 17160
in a description or application that has been filed, or in any 17161
statement made to the division under such sections; 17162

(6) Has refused to comply with any lawful order or 17163
requirement of the division under section 1707.23 of the Revised 17164

Code; 17165

(7) Has been guilty of any fraudulent act in connection with 17166
the sale of any securities or in connection with acting as an 17167
investment adviser, investment adviser representative, bureau of 17168
workers' compensation chief investment officer, or state 17169
retirement system investment officer; 17170

(8) Conducts business in purchasing or selling securities at 17171
such variations from the existing market as in the light of all 17172
the circumstances are unconscionable; 17173

(9) Conducts business in violation of such rules and 17174
regulations as the division prescribes for the protection of 17175
investors, clients, or prospective clients; 17176

(10)(a) Has failed to furnish to the division any information 17177
with respect to the purchases or sales of securities within this 17178
state that may be reasonably requested by the division as 17179
pertinent to the protection of investors in this state. 17180

(b) Has failed to furnish to the division any information 17181
with respect to acting as an investment adviser, investment 17182
adviser representative, bureau of workers' compensation chief 17183
investment officer, or state retirement system investment officer 17184
within this state that may be reasonably requested by the 17185
division. 17186

(B) For the protection of investors the division may 17187
prescribe reasonable rules defining fraudulent, evasive, 17188
deceptive, or grossly unfair practices or devices in the purchase 17189
or sale of securities. 17190

(C) For the protection of investors, clients, or prospective 17191
clients, the division may prescribe reasonable rules regarding the 17192
acts and practices of an investment adviser or an investment 17193
adviser representative. 17194

(D) Pending any investigation or hearing provided for in 17195
sections 1707.01 to 1707.45 of the Revised Code, the division may 17196
order the suspension of any dealer's, salesperson's, investment 17197
adviser's, investment adviser representative's, bureau of workers' 17198
compensation chief investment officer's, or state retirement 17199
system investment officer's license by notifying the party 17200
concerned of such suspension and the cause for it. If it is a 17201
salesperson whose license is suspended, the division shall also 17202
notify the dealer employing the salesperson. If it is an 17203
investment adviser representative whose license is suspended, the 17204
division also shall notify the investment adviser with whom the 17205
investment adviser representative is employed or associated. If it 17206
is a state retirement system investment officer whose license is 17207
suspended, the division shall also notify the state retirement 17208
system with whom the state retirement system investment officer is 17209
employed. If it is a bureau of workers' compensation chief 17210
investment officer whose license is suspended, the division shall 17211
also notify the bureau of workers' compensation. 17212

(E)(1) The suspension or revocation of the dealer's license 17213
suspends the licenses of all the dealer's salespersons. 17214

(2) The suspension or revocation of the investment adviser's 17215
license suspends the licenses of all the investment adviser's 17216
investment adviser representatives. The suspension or revocation 17217
of an investment adviser's registration under section 203 of the 17218
"Investment Advisers Act of 1940," 15 U.S.C. 80b-3, suspends the 17219
licenses of all the investment adviser's investment adviser 17220
representatives. 17221

(F) It is sufficient cause for refusal, revocation, or 17222
suspension of the license in case of a partnership, partnership 17223
association, corporation, or unincorporated association if any 17224
general partner of the partnership, manager of the partnership 17225
association, or executive officer of the corporation or 17226

unincorporated association is not of good business repute or has
been guilty of any act or omission which would be cause for
refusing or revoking the license of an individual dealer,
salesperson, investment adviser, or investment adviser
representative.

Sec. 1707.20. (A) The division of securities may adopt,
amend, and rescind such rules, forms, and orders as are necessary
to carry out sections 1707.01 to 1707.45 of the Revised Code,
including rules and forms governing registration statements,
applications, and reports, and defining any terms, whether or not
used in sections 1707.01 to 1707.45 of the Revised Code, insofar
as the definitions are not inconsistent with these sections. For
the purpose of rules and forms, the division may classify
securities, persons, and matters within its jurisdiction, and
prescribe different requirements for different classes.

(B) No rule, form, or order may be made, amended, or
rescinded unless the division finds that the action is necessary
or appropriate in the public interest or for the protection of
investors, clients, prospective clients, ~~or~~ state retirement
systems, or the workers' compensation system and consistent with
the purposes fairly intended by the policy and provisions of
sections 1707.01 to 1707.45 of the Revised Code. In prescribing
rules and forms and in otherwise administering sections 1707.01 to
1707.45 of the Revised Code, the division may cooperate with the
securities administrators of the other states and the securities
and exchange commission with a view of effectuating the policy of
this section to achieve maximum uniformity in the form and content
of registration statements, applications, reports, and overall
securities regulation wherever practicable.

(C) The division may by rule or order prescribe:

(1) The form and content of financial statements required

under sections 1707.01 to 1707.45 of the Revised Code; 17258

(2) The circumstances under which consolidated financial 17259
statements shall be filed; 17260

(3) Whether any required financial statements shall be 17261
certified by independent or certified public accountants. All 17262
financial statements shall be prepared in accordance with 17263
generally accepted accounting practices. 17264

(D) All rules and forms of the division shall be published; 17265
and in addition to fulfilling the requirements of Chapter 119. of 17266
the Revised Code, the division shall prescribe, and shall publish 17267
and make available its rules regarding the sale of securities, the 17268
administration of sections 1707.01 to 1707.45 of the Revised Code, 17269
and the procedure and practice before the division. 17270

(E) No provision of sections 1707.01 to 1707.45 of the 17271
Revised Code imposing any liability applies to any act done or 17272
omitted in good faith in conformity with any rule, form, or order 17273
of the division of securities, notwithstanding that the rule, 17274
form, or order may later be amended or rescinded or be determined 17275
by judicial or other authority to be invalid for any reason, 17276
except that the issuance of an order granting effectiveness to a 17277
registration under section 1707.09 or 1707.091 of the Revised Code 17278
for the purposes of this division shall not be deemed an order 17279
other than as the establishment of the fact of registration. 17280

Sec. 1707.22. Whenever a dealer's, salesperson's, investment 17281
adviser's, investment adviser representative's, bureau of workers' 17282
compensation chief investment officer's, or state retirement 17283
system investment officer's license has been refused, suspended, 17284
or revoked, or a renewal thereof has been denied, by the division 17285
of securities, or whenever the division has refused to qualify 17286
securities or has suspended or revoked the registration of any 17287

particular security by description or by qualification, or the 17288
right to buy, sell, or deal in any particular security whether it 17289
is registered or qualified or exempt, or whether the transactions 17290
in it are registered or exempt, the aggrieved party may appeal in 17291
accordance with Chapter 119. of the Revised Code. 17292

An order sustaining the refusal of the division to grant or 17293
renew a dealer's, salesperson's, investment adviser's, investment 17294
adviser representative's, bureau of workers' compensation chief 17295
investment officer's, or state retirement system investment 17296
officer's license or to grant qualification of securities, or an 17297
order sustaining the division in suspending or revoking a 17298
dealer's, salesperson's, investment adviser's, investment adviser 17299
representative's, bureau of workers' compensation chief investment 17300
officer's, or state retirement system investment officer's 17301
license, the registration of any particular security by 17302
description or by qualification, or the right to buy, sell, or 17303
deal in any particular security, shall not bar, after ten days 17304
from the order, a new registration by description, or a new 17305
application of the plaintiff for such a license or qualification 17306
or for a withdrawal of a revocation or suspension; nor shall an 17307
order in favor of the plaintiff prevent the division, after proper 17308
notice and hearing, from thereafter revoking or suspending such 17309
license, registration, or right to buy, sell, or deal in a 17310
particular security, for any proper cause which may, after the 17311
order, accrue or be discovered. 17312

Sec. 1707.23. Whenever it appears to the division of 17313
securities, from its files, upon complaint, or otherwise, that any 17314
person has engaged in, is engaged in, or is about to engage in any 17315
practice declared to be illegal or prohibited by this chapter or 17316
rules adopted under this chapter by the division, or defined as 17317
fraudulent in this chapter or rules adopted under this chapter by 17318
the division, or any other deceptive scheme or practice in 17319

connection with the sale of securities, or acting as a dealer, a 17320
salesperson, an investment adviser, investment adviser 17321
representative, bureau of workers' compensation chief investment 17322
officer, or state retirement system investment officer or when the 17323
division believes it to be in the best interests of the public and 17324
necessary for the protection of investors, the division may do any 17325
of the following: 17326

(A) Require any person to file with it, on such forms as it 17327
prescribes, an original or additional statement or report in 17328
writing, under oath or otherwise, as to any facts or circumstances 17329
concerning the issuance, sale, or offer for sale of securities 17330
within this state by the person, as to the person's acts or 17331
practices as a dealer, a salesperson, an investment adviser, 17332
investment adviser representative, bureau of workers' compensation 17333
chief investment officer, or state retirement system investment 17334
officer within this state, and as to other information as it deems 17335
material or relevant thereto; 17336

(B) Examine any investment adviser, investment adviser 17337
representative, state retirement system investment officer, bureau 17338
of workers' compensation chief investment officer, or any seller, 17339
dealer, salesperson, or issuer of any securities, and any of their 17340
agents, employees, partners, officers, directors, members, or 17341
shareholders, wherever located, under oath; and examine and 17342
produce records, books, documents, accounts, and papers as the 17343
division deems material or relevant to the inquiry; 17344

(C) Require the attendance of witnesses, and the production 17345
of books, records, and papers, as are required either by the 17346
division or by any party to a hearing before the division, and for 17347
that purpose issue a subpoena for any witness, or a subpoena duces 17348
tecum to compel the production of any books, records, or papers. 17349
The subpoena shall be served by personal service or by certified 17350

mail, return receipt requested. If the subpoena is returned 17351
because of inability to deliver, or if no return is received 17352
within thirty days of the date of mailing, the subpoena may be 17353
served by ordinary mail. If no return of ordinary mail is received 17354
within thirty days after the date of mailing, service shall be 17355
deemed to have been made. If the subpoena is returned because of 17356
inability to deliver, the division may designate a person or 17357
persons to effect either personal or residence service upon the 17358
witness. The person designated to effect personal or residence 17359
service under this division may be the sheriff of the county in 17360
which the witness resides or may be found or any other duly 17361
designated person. The fees and mileage of the person serving the 17362
subpoena shall be the same as those allowed by the courts of 17363
common pleas in criminal cases, and shall be paid from the funds 17364
of the division. Fees and mileage for the witness shall be the 17365
same as those allowed for witnesses by the courts of common pleas 17366
in criminal cases, and shall be paid from the funds of the 17367
division upon request of the witness following the hearing. 17368

(D) Initiate criminal proceedings under section 1707.042 or 17369
1707.44 of the Revised Code or rules adopted under those sections 17370
by the division by laying before the prosecuting attorney of the 17371
proper county any evidence of criminality which comes to its 17372
knowledge; and in the event of the neglect or refusal of the 17373
prosecuting attorney to prosecute such violations, or at the 17374
request of the prosecuting attorney, the division shall submit the 17375
evidence to the attorney general, who may proceed in the 17376
prosecution with all the rights, privileges, and powers conferred 17377
by law on prosecuting attorneys, including the power to appear 17378
before grand juries and to interrogate witnesses before such grand 17379
juries. 17380

(E) Require any dealers immediately to furnish to the 17381
division copies of prospectuses, circulars, or advertisements 17382

respecting securities that they publish or generally distribute, 17383
or require any investment advisers immediately to furnish to the 17384
division copies of brochures, advertisements, publications, 17385
analyses, reports, or other writings that they publish or 17386
distribute; 17387

(F) Require any dealers to mail to the division, prior to 17388
sale, notices of intention to sell, in respect to all securities 17389
which are not exempt under section 1707.02 of the Revised Code, or 17390
which are sold in transactions not exempt under section 1707.03 or 17391
1707.04 of the Revised Code; 17392

(G) Issue and cause to be served by certified mail upon all 17393
persons affected an order requiring the person or persons to cease 17394
and desist from the acts or practices appearing to the division to 17395
constitute violations of this chapter or rules adopted under this 17396
chapter by the division. The order shall state specifically the 17397
section or sections of this chapter or the rule or rules adopted 17398
under this chapter by the division that appear to the division to 17399
have been violated and the facts constituting the violation. If 17400
after the issuance of the order it appears to the division that 17401
any person or persons affected by the order have engaged in any 17402
act or practice from which the person or persons shall have been 17403
required, by the order, to cease and desist, the director of 17404
commerce may apply to the court of common pleas of any county for, 17405
and upon proof of the validity of the order of the division, the 17406
delivery of the order to the person or persons affected, and of 17407
the illegality and the continuation of the acts or practices that 17408
are the subject of the order, the court may grant an injunction 17409
implementing the order of the division. 17410

(H) Issue and initiate contempt proceedings in this state 17411
regarding subpoenas and subpoenas duces tecum at the request of 17412
the securities administrator of another state, if it appears to 17413
the division that the activities for which the information is 17414

sought would violate this chapter if the activities had occurred 17415
in this state. 17416

(I) The remedies provided by this section are cumulative and 17417
concurrent with any other remedy provided in this chapter, and the 17418
exercise of one remedy does not preclude or require the exercise 17419
of any other remedy. 17420

Sec. 1707.25. In case any person fails to file any statement 17421
or report required by sections 1707.01 to 1707.45 of the Revised 17422
Code, to obey any subpoena the issuance of which is provided for 17423
in those sections, or to produce books, records, or papers, give 17424
testimony, or answer questions, as required by those sections, the 17425
director of commerce may apply to a court of common pleas of any 17426
county for, and upon proof of such failure the court may grant, an 17427
injunction restraining the acting as an investment adviser, 17428
investment adviser representative, bureau of workers' compensation 17429
chief investment officer, or state retirement system investment 17430
officer, or the issuance, sale, or offer for sale of any 17431
securities by the person or by its agents, employees, partners, 17432
officers, directors, or shareholders, until such failure has been 17433
remedied and other relief as the facts may warrant has been had. 17434
Such injunctive relief is available in addition to the other 17435
remedies provided for in sections 1707.01 to 1707.45 of the 17436
Revised Code. 17437

Where the person refusing to comply with such order of court 17438
is an issuer of securities, the court may enjoin the sale by any 17439
dealer of any securities of the issuer, and the division of 17440
securities may revoke the qualification of the securities of the 17441
issuer, or suspend or revoke the sale of any securities of the 17442
issuer which have been registered by description, and such 17443
securities shall not thereafter be sold by any dealer until the 17444
order of the court or of the division is withdrawn. 17445

Sec. 1707.261. (A) If a court of common pleas grants an 17446
injunction pursuant to section 1707.26 of the Revised Code, after 17447
consultation with the attorney general the director of commerce 17448
may request that court to order the defendant or defendants that 17449
are subject to the injunction to make restitution or rescission to 17450
any purchaser or holder of securities damaged by the defendant's 17451
or defendants' violation of any provision of sections 1707.01 to 17452
1707.45 of the Revised Code. 17453

(B) If the court of common pleas is satisfied with the 17454
sufficiency of the director's request for restitution or 17455
rescission under division (A) of this section and with the 17456
sufficiency of the proof of a substantial violation of any 17457
provision of sections 1707.01 to 1707.45 of the Revised Code, or 17458
of the use of any act, practice, or transaction declared to be 17459
illegal or prohibited or defined as fraudulent by those sections 17460
or rules adopted under those sections by the division of 17461
securities, to the material prejudice of a purchaser or holder of 17462
securities, the court may order the defendant or defendants 17463
subject to the injunction to make restitution or rescission to any 17464
purchaser or holder of securities damaged by the defendant's or 17465
defendants' violation of sections 1707.01 to 1707.45 of the 17466
Revised Code. 17467

(C) A court order granting restitution or rescission based 17468
upon a request made pursuant to division (A) of this section shall 17469
meet the requirements of division (B) of this section and may not 17470
be based solely upon a final order issued by the division of 17471
securities pursuant to Chapter 119. of the Revised Code or upon an 17472
action to enforce a final order issued by the division pursuant to 17473
that chapter. Notwithstanding the foregoing provision, a request 17474
for restitution or rescission pursuant to division (A) of this 17475
section may concern the same acts, practices, or transactions that 17476

were, or may later be, the subject of a division of securities
action for a violation of any provision of sections 1707.01 to
1707.45 of the Revised Code. If a request for restitution or
rescission pursuant to division (A) of this section concerns the
same acts, practices, or transactions that were the subject of a
final order issued by the division of securities pursuant to
Chapter 119. of the Revised Code, the court shall review the
request in accordance with division (B) of this section, and the
standard of review in section 119.12 of the Revised Code shall not
apply to the request.

(D) No purchaser or holder of securities who is entitled to
restitution or rescission under this section shall recover,
pursuant to this section or any other proceeding, a total amount
in excess of the person's purchase price for the securities sold
in violation of sections 1707.01 to 1707.45 of the Revised Code.

(E)(1) If a court of common pleas grants an injunction
pursuant to section 1707.26 of the Revised Code against any state
retirement system investment officer, after consultation with the
attorney general, the director of commerce may request that court
to order the state retirement system investment officer or
officers that are subject to the injunction to make restitution to
the state retirement system damaged by the state retirement system
investment officer's or officers' violation of any provision of
sections 1707.01 to 1707.45 of the Revised Code.

(2) If the court of common pleas is satisfied with the
sufficiency of the director's request for restitution under
division (E)(1) of this section and with the sufficiency of the
proof of a substantial violation of any provision of sections
1707.01 to 1707.45 of the Revised Code, or of the use of any act,
practice, or transaction declared to be illegal or prohibited or
defined as fraudulent by those sections or rules adopted under
those sections by the division of securities, to the material

prejudice of a state retirement system, the court may order the
state retirement system investment officer or officers subject to
the injunction to make restitution to the state retirement system
damaged by the state retirement system investment officer's or
officers' violation of sections 1707.01 to 1707.45 of the Revised
Code. A request for restitution pursuant to division (E)(1) of
this section may concern the same acts, practices, or transactions
that were, or may later be, the subject of a division of
securities action for a violation of any provision of section
1707.01 to 1707.45 of the Revised Code.

(F)(1) If a court of common pleas grants an injunction
pursuant to section 1707.26 of the Revised Code against a bureau
of workers' compensation chief investment officer, after
consultation with the attorney general, the director of commerce
may request that court to order the bureau of workers'
compensation chief investment officer who is subject to the
injunction to make restitution to the bureau of workers'
compensation damaged by the bureau of workers' compensation chief
investment officer's violation of any provision of sections
1707.01 to 1707.45 of the Revised Code.

(2) If the court of common pleas is satisfied with the
sufficiency of the director's request for restitution under
division (F)(1) of this section and with the sufficiency of the
proof of a substantial violation of any provision of sections
1707.01 to 1707.45 of the Revised Code, or of the use of any act,
practice, or transaction declared to be illegal or prohibited or
defined as fraudulent by those sections or rules adopted under
those sections by the division of securities, to the material
prejudice of the bureau of workers' compensation, the court may
order the bureau of workers' compensation chief investment officer
subject to the injunction to make restitution to the bureau of
workers' compensation damaged by the bureau of workers'

compensation chief investment officer's violation of sections 17541
1707.01 to 1707.45 of the Revised Code. A request for restitution 17542
pursuant to division (F)(1) of this section may concern the same 17543
acts, practices, or transactions that were, or may later be, the 17544
subject of a division of securities action for a violation of any 17545
provision of section 1707.01 to 1707.45 of the Revised Code. 17546

Sec. 1707.431. For purposes of this section, the following 17547
persons shall not be deemed to have effected, participated in, or 17548
aided the seller in any way in making, a sale or contract of sale 17549
in violation of sections 1707.01 to 1707.45 of the Revised Code: 17550

(A) Any attorney, accountant, or engineer whose performance 17551
is incidental to the practice of the person's profession; 17552

(B) Any person, other than an investment adviser, investment 17553
adviser representative, bureau of workers' compensation chief 17554
investment officer, or state retirement system investment officer, 17555
who brings any issuer together with any potential investor, 17556
without receiving, directly or indirectly, a commission, fee, or 17557
other remuneration based on the sale of any securities by the 17558
issuer to the investor. Remuneration received by the person solely 17559
for the purpose of offsetting the reasonable out-of-pocket costs 17560
incurred by the person shall not be deemed a commission, fee, or 17561
other remuneration. 17562

Any person claiming exemption under this division for a 17563
publicly advertised meeting shall file a notice with the division 17564
of securities indicating an intent to cause or hold such a meeting 17565
at least twenty-one days prior to the meeting. The division may, 17566
upon receipt of such notice, issue an order denying the 17567
availability of an exemption under this division not more than 17568
fourteen days after receipt of the notice based on a finding that 17569
the applicant is not entitled to the exemption. Notwithstanding 17570
the notice described in this section, a failure to file the notice 17571

does not create a presumption that a person was participating in 17572
or aiding in the making of a sale or contract of sale in violation 17573
of this chapter. 17574

(C) Any person whom the division exempts from this provision 17575
by rule. 17576

Sec. 1707.44. (A)(1) No person shall engage in any act or 17577
practice that violates division (A), (B), or (C) of section 17578
1707.14 of the Revised Code, and no salesperson shall sell 17579
securities in this state without being licensed pursuant to 17580
section 1707.16 of the Revised Code. 17581

(2) No person shall engage in any act or practice that 17582
violates division (A) of section 1707.141 or section 1707.161 of 17583
the Revised Code. 17584

(3) No person shall engage in any act or practice that 17585
violates section 1707.162 of the Revised Code. 17586

(4) No person shall engage in any act or practice that 17587
violates section 1707.164 of the Revised Code. 17588

(B) No person shall knowingly make or cause to be made any 17589
false representation concerning a material and relevant fact, in 17590
any oral statement or in any prospectus, circular, description, 17591
application, or written statement, for any of the following 17592
purposes: 17593

(1) Registering securities or transactions, or exempting 17594
securities or transactions from registration, under this chapter; 17595

(2) Securing the qualification of any securities under this 17596
chapter; 17597

(3) Procuring the licensing of any dealer, salesperson, 17598
investment adviser, investment adviser representative, bureau of 17599
workers' compensation chief investment officer, or state 17600

retirement system investment officer under this chapter;	17601
(4) Selling any securities in this state;	17602
(5) Advising for compensation, as to the value of securities	17603
or as to the advisability of investing in, purchasing, or selling	17604
securities;	17605
(6) Submitting a notice filing to the division under division	17606
(X) of section 1707.03 or section 1707.092 or 1707.141 of the	17607
Revised Code.	17608
(C) No person shall knowingly sell, cause to be sold, offer	17609
for sale, or cause to be offered for sale, any security which	17610
comes under any of the following descriptions:	17611
(1) Is not exempt under section 1707.02 of the Revised Code,	17612
nor the subject matter of one of the transactions exempted in	17613
section 1707.03, 1707.04, or 1707.34 of the Revised Code, has not	17614
been registered by coordination or qualification, and is not the	17615
subject matter of a transaction that has been registered by	17616
description;	17617
(2) The prescribed fees for registering by description, by	17618
coordination, or by qualification have not been paid in respect to	17619
such security;	17620
(3) The person has been notified by the division, or has	17621
knowledge of the notice, that the right to buy, sell, or deal in	17622
such security has been suspended or revoked, or that the	17623
registration by description, by coordination, or by qualification	17624
under which it may be sold has been suspended or revoked;	17625
(4) The offer or sale is accompanied by a statement that the	17626
security offered or sold has been or is to be in any manner	17627
indorsed by the division.	17628
(D) No person who is an officer, director, or trustee of, or	17629
a dealer for, any issuer, and who knows such issuer to be	17630

insolvent in that the liabilities of the issuer exceed its assets, 17631
shall sell any securities of or for any such issuer, without 17632
disclosing the fact of the insolvency to the purchaser. 17633

(E) No person with intent to aid in the sale of any 17634
securities on behalf of the issuer, shall knowingly make any 17635
representation not authorized by such issuer or at material 17636
variance with statements and documents filed with the division by 17637
such issuer. 17638

(F) No person, with intent to deceive, shall sell, cause to 17639
be sold, offer for sale, or cause to be offered for sale, any 17640
securities of an insolvent issuer, with knowledge that such issuer 17641
is insolvent in that the liabilities of the issuer exceed its 17642
assets, taken at their fair market value. 17643

(G) No person in purchasing or selling securities shall 17644
knowingly engage in any act or practice that is, in this chapter, 17645
declared illegal, defined as fraudulent, or prohibited. 17646

(H) No licensed dealer shall refuse to buy from, sell to, or 17647
trade with any person because the person appears on a blacklist 17648
issued by, or is being boycotted by, any foreign corporate or 17649
governmental entity, nor sell any securities of or for any issuer 17650
who is known in relation to the issuance or sale of the securities 17651
to have engaged in such practices. 17652

(I) No dealer in securities, knowing that the dealer's 17653
liabilities exceed the reasonable value of the dealer's assets, 17654
shall accept money or securities, except in payment of or as 17655
security for an existing debt, from a customer who is ignorant of 17656
the dealer's insolvency, and thereby cause the customer to lose 17657
any part of the customer's securities or the value of those 17658
securities, by doing either of the following without the 17659
customer's consent: 17660

(1) Pledging, selling, or otherwise disposing of such 17661

securities, when the dealer has no lien on or any special property 17662
in such securities; 17663

(2) Pledging such securities for more than the amount due, or 17664
otherwise disposing of such securities for the dealer's own 17665
benefit, when the dealer has a lien or indebtedness on such 17666
securities. 17667

It is an affirmative defense to a charge under this division 17668
that, at the time the securities involved were pledged, sold, or 17669
disposed of, the dealer had in the dealer's possession or control, 17670
and available for delivery, securities of the same kinds and in 17671
amounts sufficient to satisfy all customers entitled to the 17672
securities, upon demand and tender of any amount due on the 17673
securities. 17674

(J) No person, with purpose to deceive, shall make, issue, 17675
publish, or cause to be made, issued, or published any statement 17676
or advertisement as to the value of securities, or as to alleged 17677
facts affecting the value of securities, or as to the financial 17678
condition of any issuer of securities, when the person knows that 17679
such statement or advertisement is false in any material respect. 17680

(K) No person, with purpose to deceive, shall make, record, 17681
or publish or cause to be made, recorded, or published, a report 17682
of any transaction in securities which is false in any material 17683
respect. 17684

(L) No dealer shall engage in any act that violates the 17685
provisions of section 15(c) or 15(g) of the "Securities Exchange 17686
Act of 1934," 48 Stat. 881, 15 U.S.C.A. 78o(c) or (g), or any rule 17687
or regulation promulgated by the securities and exchange 17688
commission thereunder. If, subsequent to October 11, 1994, 17689
additional amendments to section 15(c) or 15(g) are adopted, or 17690
additional rules or regulations are promulgated pursuant to such 17691
sections, the division of securities shall, by rule, adopt the 17692

amendments, rules, or regulations, unless the division finds that 17693
the amendments, rules, or regulations are not necessary for the 17694
protection of investors or in the public interest. 17695

(M)(1) No investment adviser or investment adviser 17696
representative shall do any of the following: 17697

(a) Employ any device, scheme, or artifice to defraud any 17698
person; 17699

(b) Engage in any act, practice, or course of business that 17700
operates or would operate as a fraud or deceit upon any person; 17701

(c) In acting as principal for the investment adviser's or 17702
investment adviser representative's own account, knowingly sell 17703
any security to or purchase any security from a client, or in 17704
acting as salesperson for a person other than such client, 17705
knowingly effect any sale or purchase of any security for the 17706
account of such client, without disclosing to the client in 17707
writing before the completion of the transaction the capacity in 17708
which the investment adviser or investment adviser representative 17709
is acting and obtaining the consent of the client to the 17710
transaction. Division (M)(1)(c) of this section does not apply to 17711
any investment adviser registered with the securities and exchange 17712
commission under section 203 of the "Investment Advisers Act of 17713
1940," 15 U.S.C. 80b-3, or to any transaction with a customer of a 17714
licensed dealer or salesperson if the licensed dealer or 17715
salesperson is not acting as an investment adviser or investment 17716
adviser representative in relation to the transaction. 17717

(d) Engage in any act, practice, or course of business that 17718
is fraudulent, deceptive, or manipulative. The division of 17719
securities may adopt rules reasonably designed to prevent such 17720
acts, practices, or courses of business that are fraudulent, 17721
deceptive, or manipulative. 17722

(2) No investment adviser or investment adviser 17723

representative licensed or required to be licensed under this 17724
chapter shall take or have custody of any securities or funds of 17725
any person, except as provided in rules adopted by the division. 17726

(3) In the solicitation of clients or prospective clients, no 17727
person shall make any untrue statement of a material fact or omit 17728
to state a material fact necessary in order to make the statements 17729
made not misleading in light of the circumstances under which the 17730
statements were made. 17731

(N) No person knowingly shall influence, coerce, manipulate, 17732
or mislead any person engaged in the preparation, compilation, 17733
review, or audit of financial statements to be used in the 17734
purchase or sale of securities for the purpose of rendering the 17735
financial statements materially misleading. 17736

(O) No state retirement system investment officer shall do 17737
any of the following: 17738

(1) Employ any device, scheme, or artifice to defraud any 17739
state retirement system; 17740

(2) Engage in any act, practice, or course of business that 17741
operates or would operate as a fraud or deceit on any state 17742
retirement system; 17743

(3) Engage in any act, practice, or course of business that 17744
is fraudulent, deceptive, or manipulative. The division of 17745
securities may adopt rules reasonably designed to prevent such 17746
acts, practices, or courses of business as are fraudulent, 17747
deceptive, or manipulative; 17748

(4) Knowingly fail to comply with any policy adopted 17749
regarding the officer established pursuant to section 145.094, 17750
742.104, 3307.043, 3309.043, or ~~5505.066~~ 5505.065 of the Revised 17751
Code. 17752

(P) No bureau of workers' compensation chief investment 17753

officer shall do any of the following: 17754

(1) Employ any device, scheme, or artifice to defraud the workers' compensation system; 17755
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(2) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit on the workers' compensation system; 17757
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(3) Engage in any act, practice, or course of business that is fraudulent, deceptive, or manipulative. The division of securities may adopt rules reasonably designed to prevent such acts, practices, or courses of business as are fraudulent, deceptive, or manipulative; 17760
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(4) Knowingly fail to comply with any policy adopted regarding the officer established pursuant to section 4123.441 of the Revised Code. 17765
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Sec. 1707.46. The principal executive officer of the division of securities shall be the commissioner of securities, who shall be appointed by the director of commerce. The commissioner of securities shall enforce all the laws and administrative rules enacted or adopted to regulate the sale of bonds, stocks, and other securities and to prevent fraud in such sales. The commissioner also shall enforce all the laws and administrative rules enacted or adopted to regulate investment advisers, investment adviser representatives, ~~and~~ state retirement system investment officers, and the bureau of workers' compensation chief investment officer and to prevent fraud in their acts, practices, and transactions. 17768
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The commissioner shall be paid at a rate not less than pay range 47 set out in schedule E-2 of section 124.152 of the Revised Code, to be paid as other operating expenses of the division. 17780
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Sec. 1711.52. The advisory council on amusement ride safety shall: 17783
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(A) Study any subject pertaining to amusement ride safety, including administrative, engineering, and technical subjects, and make findings and recommendations to the director of agriculture; 17785
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(B) Prior to the ~~promulgation~~ adoption of any rules or amendments to those rules under division (B) of section 1711.53 and division (B) of section 1711.551 of the Revised Code, study the proposed rules to be ~~promulgated~~ adopted by the director regarding amusement ride safety, advise the director, and make findings and recommendations to the director; 17788
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(C) Not later than December 31, 2006, prepare and submit a report to the governor, the speaker of the house of representatives, the president of the senate, and the director concerning the advisory council's recommendations for alternative funding sources for the amusement ride safety program established under this chapter. 17794
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The director shall make available to the advisory council any information, reports, and studies requested by the advisory council. 17800
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Sec. 1711.53. (A)(1) No person shall operate an amusement ride within the state without a permit issued by the director of agriculture under division (A)(2) of this section. The owner of an amusement ride, whether the ride is a temporary amusement ride or a permanent amusement ride, who desires to operate the amusement ride within the state shall, prior to the operation of the amusement ride and annually thereafter, submit to the department of agriculture an application for a permit, together with the appropriate permit and inspection fee, on a form to be furnished by the department. Prior to issuing any permit the department 17803
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shall, within thirty days after the date on which it receives the 17813
application, inspect each amusement ride described in the 17814
application. The owner of an amusement ride shall have the 17815
amusement ride ready for inspection not later than two hours after 17816
the time that is requested by the person for the inspection. 17817

(2) For each amusement ride found to comply with the rules 17818
adopted by the director under division (B) of this section and 17819
division (B) of section 1711.551 of the Revised Code, the director 17820
shall issue an annual permit, provided that evidence of liability 17821
insurance coverage for the amusement ride as required by section 17822
1711.54 of the Revised Code is on file with the department. 17823

(3) The director shall issue with each permit a decal 17824
indicating that the amusement ride has been issued the permit. The 17825
owner of the amusement ride shall affix the decal on the ride at a 17826
location where the decal is easily visible to the patrons of the 17827
ride. A copy of the permit shall be kept on file at the same 17828
address as the location of the amusement ride identified on the 17829
permit, and shall be made available for inspection, upon 17830
reasonable demand, by any person. An owner may operate an 17831
amusement ride prior to obtaining a permit, provided that the 17832
operation is for the purpose of testing the amusement ride or 17833
training amusement ride operators and other employees of the owner 17834
and the amusement ride is not open to the public. 17835

(B) The director, in accordance with Chapter 119. of the 17836
Revised Code, shall adopt rules providing for a schedule of fines, 17837
with no fine exceeding five thousand dollars, for violations of 17838
sections 1711.50 to 1711.57 of the Revised Code or any rules 17839
adopted under this division and for the classification of 17840
amusement rides and rules for the safe operation and inspection of 17841
all amusement rides as are necessary for amusement ride safety and 17842
for the protection of the general public. Rules adopted by the 17843
director for the safe operation and inspection of amusement rides 17844

shall be reasonable and based upon generally accepted engineering standards and practices. In adopting rules under this section, the director may adopt by reference, in whole or in part, the national fire code or the national electrical code (NEC) prepared by the national fire protection association, the standards of the American society for testing and materials (ASTM) or the American national standards institute (ANSI), or any other principles, tests, or standards of nationally recognized technical or scientific authorities. Insofar as is practicable and consistent with sections 1711.50 to 1711.57 of the Revised Code, rules adopted under this division shall be consistent with the rules of other states. The department shall cause sections 1711.50 to 1711.57 of the Revised Code and the rules adopted in accordance with this division and division (B) of section 1711.551 of the Revised Code to be published in pamphlet form and a copy to be furnished without charge to each owner of an amusement ride who holds a current permit or is an applicant therefor.

(C) With respect to an application for a permit for an amusement ride, an owner may apply to the director for a waiver or modification of any rule adopted under division (B) of this section if there are practical difficulties or unnecessary hardships for the amusement ride to comply with the rules. Any application shall set forth the reasons for the request. The director, with the approval of the advisory council on amusement ride safety, may waive or modify the application of a rule to any amusement ride if the public safety is secure. Any authorization by the director under this division shall be in writing and shall set forth the conditions under which the waiver or modification is authorized, and the department shall retain separate records of all proceedings under this division.

(D)(1) The director shall employ and provide for training of a chief inspector and additional inspectors and employees as may

be necessary to administer and enforce sections 1711.50 to 1711.57
of the Revised Code. The director may appoint or contract with
other persons to perform inspections of amusement rides, provided
that the persons meet the qualifications for inspectors
established by rules adopted under division (B) of this section
and are not owners, or employees of owners, of any amusement ride
subject to inspection under sections 1711.50 to 1711.57 of the
Revised Code. No person shall inspect an amusement ride who,
within six months prior to the date of inspection, was an employee
of the owner of the ride.

(2) Before the director contracts with other persons to
inspect amusement rides, the director shall seek the advice of the
advisory council on amusement ride safety on whether to contract
with those persons. The advice shall not be binding upon the
director. After having received the advice of the council, the
director may proceed to contract with inspectors in accordance
with the procedures specified in division (E)(2) of section
1711.11 of the Revised Code.

(3) With the advice and consent of the advisory council on
amusement ride safety, the director may employ a special
consultant to conduct an independent investigation of an amusement
ride accident. This consultant need not be in the civil service of
the state, but shall have qualifications to conduct the
investigation acceptable to the council.

(E)(1) Except as otherwise provided in division (E)(1) of
this section, the department shall charge the following amusement
ride fees:

Permit	\$ 50 <u>\$ 150</u>	
Annual inspection and reinspection per ride:		
Kiddie rides	\$ 100	
Roller coaster	\$ 950	
Aerial lifts or bungee		

jumping facilities	\$ 450	17909
Go karts	\$ 5	17910
Other rides	\$ 160	17911
Midseason operational inspection per ride	\$ 25	17912
Expedited inspection per ride	\$ 100	17913
Failure to cancel scheduled inspection per ride	\$ 100	17914
Failure to have amusement ride ready for inspection per ride	\$100	17915 17916
The go kart inspection fee is in addition to the inspection fee for the go kart track.		17917 17918
The fees for an expedited inspection, failure to cancel a scheduled inspection, and failure to have an amusement ride ready for inspection do not apply to go karts.		17919 17920 17921
As used in division (E)(1) of this section, "expedited inspection" means an inspection of an amusement ride by the department not later than ten days after the owner of the amusement ride files an application for a permit under this section.		17922 17923 17924 17925 17926
(2) All fees and fines collected by the department under sections 1711.50 to 1711.57 of the Revised Code shall be deposited in the state treasury to the credit of the amusement ride inspection fund, which is hereby created, and shall be used only for the purpose of administering and enforcing sections 1711.11 and 1711.50 to 1711.57 of the Revised Code.		17927 17928 17929 17930 17931 17932
(3) The owner of an amusement ride shall be required to pay a reinspection fee only if the reinspection was conducted at the owner's request under division (F) of this section, if the reinspection is required by division (F) of this section because of an accident, or if the reinspection is required by division (F) of section 1711.55 of the Revised Code. If a reinspection is conducted at the request of the chief officer of a fair, festival,		17933 17934 17935 17936 17937 17938 17939

or event where the ride is operating, the reinspection fee shall 17940
be charged to the fair, festival, or event. 17941

(4) The rules adopted under division (B) of this section 17942
shall define "kiddie rides," "roller coaster," "aerial lifts," "go 17943
karts," and "other rides" for purposes of determining the fees 17944
under division (E) of this section. The rules shall define "other 17945
rides" to include go kart tracks. 17946

(F) A reinspection of an amusement ride shall take place if 17947
an accident occurs, if the owner of the ride or the chief officer 17948
of the fair, festival, or event where the ride is operating 17949
requests a reinspection, or if the reinspection is required by 17950
division (F) of section 1711.55 of the Revised Code. 17951

(G) As a supplement to its annual inspection of a temporary 17952
amusement ride, the department may inspect the ride during each 17953
scheduled event, as listed in the schedule of events provided to 17954
the department by the owner pursuant to division (C) of section 17955
1711.55 of the Revised Code, at which the ride is operated in this 17956
state. These supplemental inspections are in addition to any other 17957
inspection or reinspection of the ride as may be required under 17958
sections 1711.50 to 1711.57 of the Revised Code, and the owner of 17959
the temporary amusement ride is not required to pay an inspection 17960
or reinspection fee for this supplemental inspection. Nothing in 17961
this division shall be construed to prohibit the owner of a 17962
temporary amusement ride having a valid permit to operate in this 17963
state from operating the ride at a scheduled event before the 17964
department conducts a supplemental inspection. 17965

(H) The department may annually conduct a midseason 17966
operational inspection of every amusement ride upon which it 17967
conducts an annual inspection pursuant to division (A) of this 17968
section. The midseason operational inspection is in addition to 17969
any other inspection or reinspection of the amusement ride as may 17970

be required pursuant to sections 1711.50 to 1711.57 of the Revised Code. The owner of an amusement ride shall submit to the department, at the time determined by the department, the midseason operational inspection fee specified in division (E) of this section. The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules specifying the time period during which the department will conduct midseason operational inspections.

Sec. 1711.531. (A) No person shall operate an amusement ride powered from an electric light company source unless the amusement ride operates through a fusible switch, enclosed circuit breaker, or panelboard that has been:

(1) Rated by the underwriters laboratories for service entrance applications;

(2) Installed in compliance with the national electrical code;

(3) Metered through a meter installed by the electric light company.

(B) An amusement ride owner shall not use an electric light company source as described in division (A) of this section unless the owner has written certification that the fusible switch, enclosed circuit breaker, or panelboard satisfies the requirements established in divisions (A)(1) to (3) of this section and that is issued by a person certified under section 3783.03 or licensed under section 4740.06 of the Revised Code. The owner shall make the certificate available to the director of agriculture upon request.

(C) This section does not apply to either of the following types of amusement rides:

(1) Rides that do not require electrical current;

(2) Rides that the director exempts in rules the director 18001
adopts. 18002

(D) A person licensed pursuant to section 4740.06 of the 18003
Revised Code, when conducting an inspection pursuant to this 18004
section, is not violating section 3783.06 of the Revised Code. 18005

(E) As used in this section, "electric light company" has the 18006
same meaning as in section 4905.03 of the Revised Code. 18007

Sec. 1713.03. The Ohio board of regents shall establish 18008
standards for certificates of authorization to be issued to 18009
institutions as defined in section 1713.01 of the Revised Code, to 18010
private institutions exempt from regulation under Chapter 3332. of 18011
the Revised Code as prescribed in section 3333.046 of the Revised 18012
Code, and to schools holding certificates of registration issued 18013
by the state board of career colleges and schools pursuant to 18014
division (C) of section 3332.05 of the Revised Code. A certificate 18015
of authorization may permit an institution or school to award one 18016
or more types of degrees. 18017

The standards for a certificate of authorization may include, 18018
for various types of institutions, schools, or degrees, minimum 18019
qualifications for faculty, library, laboratories, and other 18020
facilities as adopted and published by the Ohio board of regents. 18021
The standards shall be adopted by the board pursuant to Chapter 18022
119. of the Revised Code. 18023

An institution or school shall apply to the board for a 18024
certificate of authorization on forms containing such information 18025
as is prescribed by the board. Each institution or school with a 18026
certificate of authorization shall file an annual report with the 18027
board in such form and containing such information as the board 18028
prescribes. 18029

The board shall adopt a rule under Chapter 119. of the 18030

Revised Code establishing fees to pay the cost of reviewing an 18031
application for a certificate of authorization, which the 18032
institution or school shall pay when it applies for a certificate 18033
of authorization, and establishing fees, which an institution or 18034
school shall pay, for any further reviews the board determines 18035
necessary upon examining an institution's or school's annual 18036
report. 18037

Sec. 1751.03. (A) Each application for a certificate of 18038
authority under this chapter shall be verified by an officer or 18039
authorized representative of the applicant, shall be in a format 18040
prescribed by the superintendent of insurance, and shall set forth 18041
or be accompanied by the following: 18042

(1) A certified copy of the applicant's articles of 18043
incorporation and all amendments to the articles of incorporation; 18044

(2) A copy of any regulations adopted for the government of 18045
the corporation, any bylaws, and any similar documents, and a copy 18046
of all amendments to these regulations, bylaws, and documents. The 18047
corporate secretary shall certify that these regulations, bylaws, 18048
documents, and amendments have been properly adopted or approved. 18049

(3) A list of the names, addresses, and official positions of 18050
the persons responsible for the conduct of the applicant, 18051
including all members of the board, the principal officers, and 18052
the person responsible for completing or filing financial 18053
statements with the department of insurance, accompanied by a 18054
completed original biographical affidavit and release of 18055
information for each of these persons on forms acceptable to the 18056
department; 18057

(4) A full and complete disclosure of the extent and nature 18058
of any contractual or other financial arrangement between the 18059
applicant and any provider or a person listed in division (A)(3) 18060

of this section, including, but not limited to, a full and
complete disclosure of the financial interest held by any such
provider or person in any health care facility, provider, or
insurer that has entered into a financial relationship with the
health insuring corporation;

(5) A description of the applicant, its facilities, and its
personnel, including, but not limited to, the location, hours of
operation, and telephone numbers of all contracted facilities;

(6) The applicant's projected annual enrollee population over
a three-year period;

(7) A clear and specific description of the health care plan
or plans to be used by the applicant, including a description of
the proposed providers, procedures for accessing care, and the
form of all proposed and existing contracts relating to the
administration, delivery, or financing of health care services;

(8) A copy of each type of evidence of coverage and
identification card or similar document to be issued to
subscribers;

(9) A copy of each type of individual or group policy,
contract, or agreement to be used;

(10) The schedule of the proposed contractual periodic
prepayments or premium rates, or both, accompanied by appropriate
supporting data;

(11) A financial plan which provides a three-year projection
of operating results, including the projected expenses, income,
and sources of working capital;

(12) The enrollee complaint procedure to be utilized as
required under section 1751.19 of the Revised Code;

(13) A description of the procedures and programs to be
implemented on an ongoing basis to assure the quality of health

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care services delivered to enrollees, including, if applicable, a	18091
description of a quality assurance program complying with the	18092
requirements of sections 1751.73 to 1751.75 of the Revised Code;	18093
(14) A statement describing the geographic area or areas to	18094
be served, by county;	18095
(15) A copy of all solicitation documents;	18096
(16) A balance sheet and other financial statements showing	18097
the applicant's assets, liabilities, income, and other sources of	18098
financial support;	18099
(17) A description of the nature and extent of any	18100
reinsurance program to be implemented, and a demonstration that	18101
errors and omission insurance and, if appropriate, fidelity	18102
insurance, will be in place upon the applicant's receipt of a	18103
certificate of authority;	18104
(18) Copies of all proposed or in force related-party or	18105
intercompany agreements with an explanation of the financial	18106
impact of these agreements on the applicant. If the applicant	18107
intends to enter into a contract for managerial or administrative	18108
services, with either an affiliated or an unaffiliated person, the	18109
applicant shall provide a copy of the contract and a detailed	18110
description of the person to provide these services. The	18111
description shall include that person's experience in managing or	18112
administering health care plans, a copy of that person's most	18113
recent audited financial statement, and a completed biographical	18114
affidavit on a form acceptable to the superintendent for each of	18115
that person's principal officers and board members and for any	18116
additional employee to be directly involved in providing	18117
managerial or administrative services to the health insuring	18118
corporation. If the person to provide managerial or administrative	18119
services is affiliated with the health insuring corporation, the	18120
contract must provide for payment for services based on actual	18121

costs.	18122
(19) A statement from the applicant's board that the admitted	18123
assets of the applicant have not been and will not be pledged or	18124
hypothecated;	18125
(20) A statement from the applicant's board that the	18126
applicant will submit monthly financial statements during the	18127
first year of operations;	18128
(21) The name and address of the applicant's Ohio statutory	18129
agent for service of process, notice, or demand;	18130
(22) Copies of all documents the applicant filed with the	18131
secretary of state;	18132
(23) The location of those books and records of the applicant	18133
that must be maintained, which books and records shall be	18134
maintained in Ohio if the applicant is a domestic corporation, and	18135
which may be maintained either in the applicant's state of	18136
domicile or in Ohio if the applicant is a foreign corporation;	18137
(24) The applicant's federal identification number, corporate	18138
address, and mailing address;	18139
(25) An internal and external organizational chart;	18140
(26) A list of the assets representing the initial net worth	18141
of the applicant;	18142
(27) If the applicant has a parent company, the parent	18143
company's guaranty, on a form acceptable to the superintendent,	18144
that the applicant will maintain Ohio's minimum net worth. If no	18145
parent company exists, a statement regarding the availability of	18146
future funds if needed.	18147
(28) The names and addresses of the applicant's actuary and	18148
external auditors;	18149
(29) If the applicant is a foreign corporation, a copy of the	18150

most recent financial statements filed with the insurance	18151
regulatory agency in the applicant's state of domicile;	18152
(30) If the applicant is a foreign corporation, a statement	18153
from the insurance regulatory agency of the applicant's state of	18154
domicile stating that the regulatory agency has no objection to	18155
the applicant applying for an Ohio license and that the applicant	18156
is in good standing in the applicant's state of domicile;	18157
(31) Any other information that the superintendent may	18158
require;	18159
<u>(32) Documentation acceptable to the superintendent of the</u>	18160
<u>bond or securities required by section 1751.271 of the Revised</u>	18161
<u>Code.</u>	18162
(B)(1) A health insuring corporation, unless otherwise	18163
provided for in this chapter or in section 3901.321 of the Revised	18164
Code, shall file a timely notice with the superintendent	18165
describing any change to the corporation's articles of	18166
incorporation or regulations, or any major modification to its	18167
operations as set out in the information required by division (A)	18168
of this section that affects any of the following:	18169
(a) The solvency of the health insuring corporation;	18170
(b) The health insuring corporation's continued provision of	18171
services that it has contracted to provide;	18172
(c) The manner in which the health insuring corporation	18173
conducts its business.	18174
(2) If the change or modification is to be the result of an	18175
action to be taken by the health insuring corporation, the notice	18176
shall be filed with the superintendent prior to the health	18177
insuring corporation taking the action. The action shall be deemed	18178
approved if the superintendent does not disapprove it within sixty	18179
days of filing.	18180

(3) The filing of a notice pursuant to division (B)(1) or (2) 18181
of this section shall also serve as the submission of a notice 18182
when required for the superintendent's review for purposes of 18183
section 3901.341 of the Revised Code, if the notice contains all 18184
of the information that section 3901.341 of the Revised Code 18185
requires for such submissions and a copy of any written agreement. 18186
The filing of such a notice, for the purpose of satisfying this 18187
division and section 3901.341 of the Revised Code, shall be 18188
subject to the sixty-day review period of division (B)(2) of this 18189
section. 18190

(C)(1) No health insuring corporation shall expand its 18191
approved service area until a copy of the request for expansion, 18192
accompanied by documentation of the network of providers, forms of 18193
all proposed or existing provider contracts relating to the 18194
delivery of health care services, a schedule of proposed 18195
contractual periodic prepayments and premium rates for group 18196
contracts accompanied by appropriate supporting data, enrollment 18197
projections, plan of operation, and any other changes have been 18198
filed with the superintendent. 18199

(2) Within ten calendar days after receipt of a complete 18200
filing under division (C)(1) of this section, the superintendent 18201
shall refer the appropriate jurisdictional issues to the director 18202
of health if required pursuant to section 1751.04 of the Revised 18203
Code. 18204

(3) Within seventy-five days after the superintendent's 18205
receipt of a complete filing under division (C)(1) of this 18206
section, the superintendent shall determine whether the plan for 18207
expansion is lawful, fair, and reasonable. ~~The~~ If a referral is 18208
required pursuant to section 1751.04 of the Revised Code, the 18209
superintendent may not make a determination until the 18210
superintendent has received the director's certification of 18211
compliance, which the director shall furnish within forty-five 18212

days after the referral under division (C)(2) of this section. The 18213
director shall not certify that the requirements of section 18214
1751.04 of the Revised Code are not met, unless the applicant has 18215
been given an opportunity for a hearing as provided in division 18216
(D) of section 1751.04 of the Revised Code. The forty-five-day and 18217
seventy-five-day review periods provided for in division (C)(3) of 18218
this section shall cease to run as of the date on which the notice 18219
of the applicant's right to request a hearing is mailed and shall 18220
remain suspended until the director issues a final certification. 18221

(4) If the superintendent has not approved or disapproved all 18222
or a portion of a service area expansion within the 18223
seventy-five-day period provided for in division (C)(3) of this 18224
section, the filing shall be deemed approved. 18225

(5) Disapproval of all or a portion of the filing shall be 18226
effected by written notice, which shall state the grounds for the 18227
order of disapproval and shall be given in accordance with Chapter 18228
119. of the Revised Code. 18229

Sec. 1751.04. (A) ~~Upon~~ Except as provided by division (F) of 18230
this section, upon the receipt by the superintendent of insurance 18231
of a complete application for a certificate of authority to 18232
establish or operate a health insuring corporation, which 18233
application sets forth or is accompanied by the information and 18234
documents required by division (A) of section 1751.03 of the 18235
Revised Code, the superintendent shall transmit copies of the 18236
application and accompanying documents to the director of health. 18237

(B) The director shall review the application and 18238
accompanying documents and make findings as to whether the 18239
applicant for a certificate of authority has done all of the 18240
following with respect to any basic health care services and 18241
supplemental health care services to be furnished: 18242

(1) Demonstrated the willingness and potential ability to 18243

ensure that all basic health care services and supplemental health care services described in the evidence of coverage will be provided to all its enrollees as promptly as is appropriate and in a manner that assures continuity; 18244
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(2) Made effective arrangements to ensure that its enrollees have reliable access to qualified providers in those specialties that are generally available in the geographic area or areas to be served by the applicant and that are necessary to provide all basic health care services and supplemental health care services described in the evidence of coverage; 18248
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(3) Made appropriate arrangements for the availability of short-term health care services in emergencies within the geographic area or areas to be served by the applicant, twenty-four hours per day, seven days per week, and for the provision of adequate coverage whenever an out-of-area emergency arises; 18254
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(4) Made appropriate arrangements for an ongoing evaluation and assurance of the quality of health care services provided to enrollees, including, if applicable, the development of a quality assurance program complying with the requirements of sections 1751.73 to 1751.75 of the Revised Code, and the adequacy of the personnel, facilities, and equipment by or through which the services are rendered; 18260
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(5) Developed a procedure to gather and report statistics relating to the cost and effectiveness of its operations, the pattern of utilization of its services, and the quality, availability, and accessibility of its services. 18267
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(C) Within ninety days of the director's receipt of the application for issuance of a certificate of authority, the director shall certify to the superintendent whether or not the applicant meets the requirements of division (B) of this section 18271
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and sections 3702.51 to 3702.62 of the Revised Code. If the
director certifies that the applicant does not meet these
requirements, the director shall specify in what respects it is
deficient. However, the director shall not certify that the
requirements of this section are not met unless the applicant has
been given an opportunity for a hearing.

(D) If the applicant requests a hearing, the director shall
hold a hearing before certifying that the applicant does not meet
the requirements of this section. The hearing shall be held in
accordance with Chapter 119. of the Revised Code.

(E) The ninety-day review period provided for under division
(C) of this section shall cease to run as of the date on which the
notice of the applicant's right to request a hearing is mailed and
shall remain suspended until the director issues a final
certification order.

(F) Nothing in this section requires the director to review
or make findings with regard to an application and accompanying
documents to establish or operate a health insuring corporation to
cover solely recipients of assistance under the medicaid program
operated pursuant to Chapter 5111. of the Revised Code.

Sec. 1751.05. (A) The superintendent of insurance shall issue
or deny a certificate of authority to ~~establish or operate a~~
health insuring corporations within the deadlines specified as
follows:

(1) For a health insuring corporation to ~~any corporation~~
filing an application pursuant to section 1751.03 of the Revised
Code ~~within~~, forty-five days ~~of~~ from the superintendent's receipt
of the certification from the director of health under division
(C) of section 1751.04 of the Revised Code;

(2) For a health insuring corporation that covers solely

recipients of assistance under the medicaid program operated 18305
pursuant to Chapter 5111. of the Revised Code, one hundred 18306
thirty-five days from the superintendent's receipt of a complete 18307
application and accompanying documents. 18308

(B) A certificate of authority shall be issued upon payment 18309
of the application fee prescribed in section 1751.44 of the 18310
Revised Code if the superintendent is satisfied that the following 18311
conditions are met: 18312

(1) The persons responsible for the conduct of the affairs of 18313
the applicant are competent, trustworthy, and possess good 18314
reputations. 18315

(2) The director certifies, in accordance with division (C) 18316
of section 1751.04 of the Revised Code, that the organization's 18317
proposed plan of operation meets the requirements of division (B) 18318
of that section and sections 3702.51 to 3702.62 of the Revised 18319
Code. If, after the director has certified compliance, the 18320
application is amended in a manner that affects its approval under 18321
section 1751.04 of the Revised Code, the superintendent shall 18322
request the director to review and recertify the amended plan of 18323
operation. Within forty-five days of receipt of the amended plan 18324
from the superintendent, the director shall certify to the 18325
superintendent, pursuant to section 1751.04 of the Revised Code, 18326
whether or not the amended plan meets the requirements of section 18327
1751.04 of the Revised Code. The superintendent's forty-five-day 18328
review period shall cease to run as of the date on which the 18329
amended plan is transmitted to the director and shall remain 18330
suspended until the superintendent receives a new certification 18331
from the director. 18332

(3) The applicant constitutes an appropriate mechanism to 18333
effectively provide or arrange for the provision of the basic 18334
health care services, supplemental health care services, or 18335

specialty health care services to be provided to enrollees. 18336

(4) The applicant is financially responsible, complies with 18337
section 1751.28 of the Revised Code, and may reasonably be 18338
expected to meet its obligations to enrollees and prospective 18339
enrollees. In making this determination, the superintendent may 18340
consider: 18341

(a) The financial soundness of the applicant's arrangements 18342
for health care services, including the applicant's proposed 18343
contractual periodic prepayments or premiums and the use of 18344
copayments and deductibles; 18345

(b) The adequacy of working capital; 18346

(c) Any agreement with an insurer, a government, or any other 18347
person for insuring the payment of the cost of health care 18348
services or providing for automatic applicability of an 18349
alternative coverage in the event of discontinuance of the health 18350
insuring corporation's operations; 18351

(d) Any agreement with providers or health care facilities 18352
for the provision of health care services; 18353

(e) Any deposit of securities submitted in accordance with 18354
section 1751.27 of the Revised Code as a guarantee that the 18355
obligations will be performed. 18356

(5) The applicant has submitted documentation of an 18357
arrangement to provide health care services to its enrollees until 18358
the expiration of the enrollees' contracts with the applicant if a 18359
health care plan or the operations of the health insuring 18360
corporation are discontinued prior to the expiration of the 18361
enrollees' contracts. An arrangement to provide health care 18362
services may be made by using any one, or any combination, of the 18363
following methods: 18364

(a) The maintenance of insolvency insurance; 18365

(b) A provision in contracts with providers and health care facilities, but no health insuring corporation shall rely solely on such a provision for more than thirty days;	18366 18367 18368
(c) An agreement with other health insuring corporations or insurers, providing enrollees with automatic conversion rights upon the discontinuation of a health care plan or the health insuring corporation's operations;	18369 18370 18371 18372
(d) Such other methods as approved by the superintendent.	18373
(6) Nothing in the applicant's proposed method of operation, as shown by the information submitted pursuant to section 1751.03 of the Revised Code or by independent investigation, will cause harm to an enrollee or to the public at large, as determined by the superintendent.	18374 18375 18376 18377 18378
(7) Any deficiencies certified by the director have been corrected.	18379 18380
(8) The applicant has deposited securities as set forth in section 1751.27 of the Revised Code.	18381 18382
(B) (C) If an applicant elects to fulfill the requirements of division (A)(5) of this section through an agreement with other health insuring corporations or insurers, the agreement shall require those health insuring corporations or insurers to give thirty days' notice to the superintendent prior to cancellation or discontinuation of the agreement for any reason.	18383 18384 18385 18386 18387 18388
(C) (D) A certificate of authority shall be denied only after compliance with the requirements of section 1751.36 of the Revised Code.	18389 18390 18391
<u>Sec. 1751.271. (A) Each health insuring corporation that provides coverage to medicaid recipients shall post a performance bond in the amount of three million dollars as security to fulfill the obligations of the health insuring corporation to pay claims</u>	18392 18393 18394 18395

of contracted providers for covered health care services provided 18396
to medicaid recipients. The bond shall be payable to the 18397
department of insurance in the event that the health insuring 18398
corporation is placed in rehabilitation or liquidation proceedings 18399
under Chapter 3903. of the Revised Code, and shall become a 18400
special deposit subject to section 3903.14 or 3903.421 of the 18401
Revised Code, as applicable. In lieu of the performance bond, a 18402
medicaid health insuring corporation may deposit securities with 18403
the superintendent of insurance, acceptable to the superintendent, 18404
in the amount of three million dollars, to satisfy the bonding 18405
requirements of this section. Upon rehabilitation or liquidation, 18406
the securities shall become a special deposit subject to sections 18407
3903.14 and 3903.421 of the Revised Code, as applicable. The 18408
health insuring corporation shall receive the interest on the 18409
deposited securities as long as the health insuring corporation 18410
remains solvent. 18411

(B) The bond shall be issued by a surety company licensed 18412
with the department of insurance. The bond or deposit, or any 18413
replacement bond or deposit, shall be in a form acceptable to the 18414
superintendent, and shall remain in effect during the duration of 18415
the medicaid health insuring corporation's license and thereafter 18416
until all claims against the medicaid health insuring corporation 18417
have been paid in full. 18418

(C) Documentation of the bond acceptable to the 18419
superintendent of insurance shall be filed with the superintendent 18420
prior to the issuance of a certificate of authority. Annually, 18421
thirty days prior to the renewal of its certificate of authority, 18422
every medicaid health insuring corporation shall furnish the 18423
superintendent of insurance with evidence that the required bond 18424
is still in effect. 18425

(D) As used in this section: 18426

(1) "Contracted provider" means a provider that has a contract with a medicaid health insuring corporation to provide covered health care services to medicaid recipients. 18427
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(2) "Medicaid health insuring corporation" means a health insuring corporation that provides health insurance coverage or otherwise assumes claims liabilities for medicaid recipients. 18430
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(3) "Medicaid recipient" means a person eligible for assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code. 18433
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Sec. 1751.89. Sections 1751.77 to 1751.85 of the Revised Code do not apply to ~~either of the following:~~ 18436
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~~(A) Coverage coverage provided to beneficiaries enrolled in the medicare... choice advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;~~ 18438
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~~(B) Coverage provided to recipients of assistance under the medicaid program operated pursuant to Chapter 5111. of the Revised Code.~~ 18442
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Sec. 1901.26. (A) Subject to division (E) of this section, costs in a municipal court shall be fixed and taxed as follows: 18445
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(1) The municipal court shall require an advance deposit for the filing of any new civil action or proceeding when required by division (A)(9) of this section, and in all other cases, by rule, shall establish a schedule of fees and costs to be taxed in any civil or criminal action or proceeding. 18447
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(2) The municipal court, by rule, may require an advance deposit for the filing of any civil action or proceeding and publication fees as provided in section 2701.09 of the Revised Code. The court may waive the requirement for advance deposit upon 18452
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affidavit or other evidence that a party is unable to make the
required deposit. 18456
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(3) When a jury trial is demanded in any civil action or
proceeding, the party making the demand may be required to make an
advance deposit as fixed by rule of court, unless, upon affidavit
or other evidence, the court concludes that the party is unable to
make the required deposit. If a jury is called, the fees of a jury
shall be taxed as costs. 18458
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(4) In any civil or criminal action or proceeding, witnesses'
fees shall be fixed in accordance with sections 2335.06 and
2335.08 of the Revised Code. 18464
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(5) A reasonable charge for driving, towing, carting,
storing, keeping, and preserving motor vehicles and other personal
property recovered or seized in any proceeding may be taxed as
part of the costs in a trial of the cause, in an amount that shall
be fixed by rule of court. 18467
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(6) Chattel property seized under any writ or process issued
by the court shall be preserved pending final disposition for the
benefit of all persons interested and may be placed in storage
when necessary or proper for that preservation. The custodian of
any chattel property so stored shall not be required to part with
the possession of the property until a reasonable charge, to be
fixed by the court, is paid. 18472
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(7) The municipal court, as it determines, may refund all
deposits and advance payments of fees and costs, including those
for jurors and summoning jurors, when they have been paid by the
losing party. 18479
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(8) Charges for the publication of legal notices required by
statute or order of court may be taxed as part of the costs, as
provided by section 7.13 of the Revised Code. 18483
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(B)(1) The municipal court may determine that, for the 18486
efficient operation of the court, additional funds are necessary 18487
to acquire and pay for special projects of the court including, 18488
but not limited to, the acquisition of additional facilities or 18489
the rehabilitation of existing facilities, the acquisition of 18490
equipment, the hiring and training of staff, community service 18491
programs, mediation or dispute resolution services, the employment 18492
of magistrates, the training and education of judges, acting 18493
judges, and magistrates, and other related services. Upon that 18494
determination, the court by rule may charge a fee, in addition to 18495
all other court costs, on the filing of each criminal cause, civil 18496
action or proceeding, or judgment by confession. 18497

If the municipal court offers a special program or service in 18498
cases of a specific type, the municipal court by rule may assess 18499
an additional charge in a case of that type, over and above court 18500
costs, to cover the special program or service. The municipal 18501
court shall adjust the special assessment periodically, but not 18502
retroactively, so that the amount assessed in those cases does not 18503
exceed the actual cost of providing the service or program. 18504

All moneys collected under division (B) of this section shall 18505
be paid to the county treasurer if the court is a county-operated 18506
municipal court or to the city treasurer if the court is not a 18507
county-operated municipal court for deposit into either a general 18508
special projects fund or a fund established for a specific special 18509
project. Moneys from a fund of that nature shall be disbursed upon 18510
an order of the court in an amount no greater than the actual cost 18511
to the court of a project. If a specific fund is terminated 18512
because of the discontinuance of a program or service established 18513
under division (B) of this section, the municipal court may order 18514
that moneys remaining in the fund be transferred to an account 18515
established under this division for a similar purpose. 18516

(2) As used in division (B) of this section: 18517

(a) "Criminal cause" means a charge alleging the violation of a statute or ordinance, or subsection of a statute or ordinance, that requires a separate finding of fact or a separate plea before disposition and of which the defendant may be found guilty, whether filed as part of a multiple charge on a single summons, citation, or complaint or as a separate charge on a single summons, citation, or complaint. "Criminal cause" does not include separate violations of the same statute or ordinance, or subsection of the same statute or ordinance, unless each charge is filed on a separate summons, citation, or complaint.

(b) "Civil action or proceeding" means any civil litigation that must be determined by judgment entry.

(c) The municipal court shall collect in all its divisions except the small claims division the sum of ~~fifteen~~ twenty-six dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state. The municipal court shall collect in its small claims division the sum of ~~seven~~ eleven dollars as additional filing fees in each new civil action or proceeding for the charitable public purpose of providing financial assistance to legal aid societies that operate within the state. This division does not apply to any execution on a judgment, proceeding in aid of execution, or other post-judgment proceeding arising out of a civil action. The filing fees required to be collected under this division shall be in addition to any other court costs imposed in the action or proceeding and shall be collected at the time of the filing of the action or proceeding. The court shall not waive the payment of the additional filing fees in a new civil action or proceeding unless the court waives the advanced payment of all filing fees in the action or proceeding. All such moneys collected during a month shall be transmitted on or before the ~~first business~~ twentieth day

of ~~each~~ the following month by the clerk of the court to the 18550
treasurer of state in a manner prescribed by the treasurer of 18551
state or by the Ohio legal assistance foundation. The ~~moneys then~~ 18552
~~shall be deposited by the~~ treasurer of state shall deposit four 18553
per cent of the funds collected under this division to the credit 18554
of the civil case filing fee fund established under section 120.07 18555
of the Revised Code and ninety-six per cent of the funds collected 18556
under this division to the credit of the legal aid fund 18557
established under section 120.52 of the Revised Code. 18558

The court may retain up to one per cent of the moneys it 18559
collects under this division to cover administrative costs, 18560
including the hiring of any additional personnel necessary to 18561
implement this division. 18562

(D) In the Cleveland municipal court, reasonable charges for 18563
investigating titles of real estate to be sold or disposed of 18564
under any writ or process of the court may be taxed as part of the 18565
costs. 18566

(E) Under the circumstances described in sections 2969.21 to 18567
2969.27 of the Revised Code, the clerk of the municipal court 18568
shall charge the fees and perform the other duties specified in 18569
those sections. 18570

Sec. 1901.31. The clerk and deputy clerks of a municipal 18571
court shall be selected, be compensated, give bond, and have 18572
powers and duties as follows: 18573

(A) There shall be a clerk of the court who is appointed or 18574
elected as follows: 18575

(1)(a) Except in the Akron, Barberton, Cuyahoga Falls, 18576
~~Medina~~, Toledo, Hamilton county, Portage county, and Wayne county 18577
municipal courts, if the population of the territory equals or 18578
exceeds one hundred thousand at the regular municipal election 18579

immediately preceding the expiration of the term of the present 18580
clerk, the clerk shall be nominated and elected by the qualified 18581
electors of the territory in the manner that is provided for the 18582
nomination and election of judges in section 1901.07 of the 18583
Revised Code. 18584

The clerk so elected shall hold office for a term of six 18585
years, which term shall commence on the first day of January 18586
following the clerk's election and continue until the clerk's 18587
successor is elected and qualified. 18588

(b) In the Hamilton county municipal court, the clerk of 18589
courts of Hamilton county shall be the clerk of the municipal 18590
court and may appoint an assistant clerk who shall receive the 18591
compensation, payable out of the treasury of Hamilton county in 18592
semimonthly installments, that the board of county commissioners 18593
prescribes. The clerk of courts of Hamilton county, acting as the 18594
clerk of the Hamilton county municipal court and assuming the 18595
duties of that office, shall receive compensation at one-fourth 18596
the rate that is prescribed for the clerks of courts of common 18597
pleas as determined in accordance with the population of the 18598
county and the rates set forth in sections 325.08 and 325.18 of 18599
the Revised Code. This compensation shall be paid from the county 18600
treasury in semimonthly installments and is in addition to the 18601
annual compensation that is received for the performance of the 18602
duties of the clerk of courts of Hamilton county, as provided in 18603
sections 325.08 and 325.18 of the Revised Code. 18604

(c) In the Portage county and Wayne county municipal courts, 18605
the clerks of courts of Portage county and Wayne county shall be 18606
the clerks, respectively, of the Portage county and Wayne county 18607
municipal courts and may appoint a chief deputy clerk for each 18608
branch that is established pursuant to section 1901.311 of the 18609
Revised Code and assistant clerks as the judges of the municipal 18610
court determine are necessary, all of whom shall receive the 18611

compensation that the legislative authority prescribes. The clerks 18612
of courts of Portage county and Wayne county, acting as the clerks 18613
of the Portage county and Wayne county municipal courts and 18614
assuming the duties of these offices, shall receive compensation 18615
payable from the county treasury in semimonthly installments at 18616
one-fourth the rate that is prescribed for the clerks of courts of 18617
common pleas as determined in accordance with the population of 18618
the county and the rates set forth in sections 325.08 and 325.18 18619
of the Revised Code. 18620

(d) Except as otherwise provided in division (A)(1)(d) of 18621
this section, in the Akron municipal court, candidates for 18622
election to the office of clerk of the court shall be nominated by 18623
primary election. The primary election shall be held on the day 18624
specified in the charter of the city of Akron for the nomination 18625
of municipal officers. Notwithstanding section 3513.257 of the 18626
Revised Code, the nominating petitions of independent candidates 18627
shall be signed by at least two hundred fifty qualified electors 18628
of the territory of the court. 18629

The candidates shall file a declaration of candidacy and 18630
petition, or a nominating petition, whichever is applicable, not 18631
later than four p.m. of the seventy-fifth day before the day of 18632
the primary election, in the form prescribed by section 3513.07 or 18633
3513.261 of the Revised Code. The declaration of candidacy and 18634
petition, or the nominating petition, shall conform to the 18635
applicable requirements of section 3513.05 or 3513.257 of the 18636
Revised Code. 18637

If no valid declaration of candidacy and petition is filed by 18638
any person for nomination as a candidate of a particular political 18639
party for election to the office of clerk of the Akron municipal 18640
court, a primary election shall not be held for the purpose of 18641
nominating a candidate of that party for election to that office. 18642
If only one person files a valid declaration of candidacy and 18643

petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Akron municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

~~(e) Irrespective of the population of the territory of the Medina municipal court, the clerk of that court shall be appointed pursuant to division (A)(2)(a) of this section by the judges of that court, shall hold office until the clerk's successor is similarly appointed and qualified, and shall receive pursuant to division (C) of this section the annual compensation that the legislative authority prescribes and that is payable in semimonthly installments from the same sources and in the same manner as provided in section 1901.11 of the Revised Code.~~

~~(f)~~ Except as otherwise provided in division (A)(1)~~(f)~~(e) of this section, in the Barberton municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Barberton for the

nomination of municipal officers. Notwithstanding section 3513.257 18676
of the Revised Code, the nominating petitions of independent 18677
candidates shall be signed by at least two hundred fifty qualified 18678
electors of the territory of the court. 18679

The candidates shall file a declaration of candidacy and 18680
petition, or a nominating petition, whichever is applicable, not 18681
later than four p.m. of the seventy-fifth day before the day of 18682
the primary election, in the form prescribed by section 3513.07 or 18683
3513.261 of the Revised Code. The declaration of candidacy and 18684
petition, or the nominating petition, shall conform to the 18685
applicable requirements of section 3513.05 or 3513.257 of the 18686
Revised Code. 18687

If no valid declaration of candidacy and petition is filed by 18688
any person for nomination as a candidate of a particular political 18689
party for election to the office of clerk of the Barberton 18690
municipal court, a primary election shall not be held for the 18691
purpose of nominating a candidate of that party for election to 18692
that office. If only one person files a valid declaration of 18693
candidacy and petition for nomination as a candidate of a 18694
particular political party for election to that office, a primary 18695
election shall not be held for the purpose of nominating a 18696
candidate of that party for election to that office, and the 18697
candidate shall be issued a certificate of nomination in the 18698
manner set forth in section 3513.02 of the Revised Code. 18699

Declarations of candidacy and petitions, nominating 18700
petitions, and certificates of nomination for the office of clerk 18701
of the Barberton municipal court shall contain a designation of 18702
the term for which the candidate seeks election. At the following 18703
regular municipal election, all candidates for the office shall be 18704
submitted to the qualified electors of the territory of the court 18705
in the manner that is provided in section 1901.07 of the Revised 18706
Code for the election of the judges of the court. The clerk so 18707

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elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

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~~(g)~~(f) Except as otherwise provided in division (A)(1)~~(g)~~(f) of this section, in the Cuyahoga Falls municipal court, candidates for election to the office of clerk of the court shall be nominated by primary election. The primary election shall be held on the day specified in the charter of the city of Cuyahoga Falls for the nomination of municipal officers. Notwithstanding section 3513.257 of the Revised Code, the nominating petitions of independent candidates shall be signed by at least two hundred fifty qualified electors of the territory of the court.

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The candidates shall file a declaration of candidacy and petition, or a nominating petition, whichever is applicable, not later than four p.m. of the seventy-fifth day before the day of the primary election, in the form prescribed by section 3513.07 or 3513.261 of the Revised Code. The declaration of candidacy and petition, or the nominating petition, shall conform to the applicable requirements of section 3513.05 or 3513.257 of the Revised Code.

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If no valid declaration of candidacy and petition is filed by any person for nomination as a candidate of a particular political party for election to the office of clerk of the Cuyahoga Falls municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the

manner set forth in section 3513.02 of the Revised Code. 18740

Declarations of candidacy and petitions, nominating 18741
petitions, and certificates of nomination for the office of clerk 18742
of the Cuyahoga Falls municipal court shall contain a designation 18743
of the term for which the candidate seeks election. At the 18744
following regular municipal election, all candidates for the 18745
office shall be submitted to the qualified electors of the 18746
territory of the court in the manner that is provided in section 18747
1901.07 of the Revised Code for the election of the judges of the 18748
court. The clerk so elected shall hold office for a term of six 18749
years, which term shall commence on the first day of January 18750
following the clerk's election and continue until the clerk's 18751
successor is elected and qualified. 18752

~~(h)~~(g) Except as otherwise provided in division (A)(1)~~(h)~~(g) 18753
of this section, in the Toledo municipal court, candidates for 18754
election to the office of clerk of the court shall be nominated by 18755
primary election. The primary election shall be held on the day 18756
specified in the charter of the city of Toledo for the nomination 18757
of municipal officers. Notwithstanding section 3513.257 of the 18758
Revised Code, the nominating petitions of independent candidates 18759
shall be signed by at least two hundred fifty qualified electors 18760
of the territory of the court. 18761

The candidates shall file a declaration of candidacy and 18762
petition, or a nominating petition, whichever is applicable, not 18763
later than four p.m. of the seventy-fifth day before the day of 18764
the primary election, in the form prescribed by section 3513.07 or 18765
3513.261 of the Revised Code. The declaration of candidacy and 18766
petition, or the nominating petition, shall conform to the 18767
applicable requirements of section 3513.05 or 3513.257 of the 18768
Revised Code. 18769

If no valid declaration of candidacy and petition is filed by 18770

any person for nomination as a candidate of a particular political party for election to the office of clerk of the Toledo municipal court, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office. If only one person files a valid declaration of candidacy and petition for nomination as a candidate of a particular political party for election to that office, a primary election shall not be held for the purpose of nominating a candidate of that party for election to that office, and the candidate shall be issued a certificate of nomination in the manner set forth in section 3513.02 of the Revised Code.

Declarations of candidacy and petitions, nominating petitions, and certificates of nomination for the office of clerk of the Toledo municipal court shall contain a designation of the term for which the candidate seeks election. At the following regular municipal election, all candidates for the office shall be submitted to the qualified electors of the territory of the court in the manner that is provided in section 1901.07 of the Revised Code for the election of the judges of the court. The clerk so elected shall hold office for a term of six years, which term shall commence on the first day of January following the clerk's election and continue until the clerk's successor is elected and qualified.

(2)(a) Except for the Alliance, Auglaize county, Brown county, Columbiana county, Lorain, Massillon, and Youngstown municipal courts, in a municipal court for which the population of the territory is less than one hundred thousand ~~and in the Medina municipal court~~, the clerk shall be appointed by the court, and the clerk shall hold office until the clerk's successor is appointed and qualified.

(b) In the Alliance, Lorain, Massillon, and Youngstown municipal courts, the clerk shall be elected for a term of office

as described in division (A)(1)(a) of this section. 18803

(c) In the Auglaize county and Brown county municipal courts, 18804
the clerks of courts of Auglaize county and Brown county shall be 18805
the clerks, respectively, of the Auglaize county and Brown county 18806
municipal courts and may appoint a chief deputy clerk for each 18807
branch that is established pursuant to section 1901.311 of the 18808
Revised Code, and assistant clerks as the judge of the court 18809
determines are necessary, all of whom shall receive the 18810
compensation that the legislative authority prescribes. The clerks 18811
of courts of Auglaize county and Brown county, acting as the 18812
clerks of the Auglaize county and Brown county municipal courts 18813
and assuming the duties of these offices, shall receive 18814
compensation payable from the county treasury in semimonthly 18815
installments at one-fourth the rate that is prescribed for the 18816
clerks of courts of common pleas as determined in accordance with 18817
the population of the county and the rates set forth in sections 18818
325.08 and 325.18 of the Revised Code. 18819

(d) In the Columbiana county municipal court, the clerk of 18820
courts of Columbiana county shall be the clerk of the municipal 18821
court, may appoint a chief deputy clerk for each branch office 18822
that is established pursuant to section 1901.311 of the Revised 18823
Code, and may appoint any assistant clerks that the judges of the 18824
court determine are necessary. All of the chief deputy clerks and 18825
assistant clerks shall receive the compensation that the 18826
legislative authority prescribes. The clerk of courts of 18827
Columbiana county, acting as the clerk of the Columbiana county 18828
municipal court and assuming the duties of that office, shall 18829
receive compensation payable from the county treasury in 18830
semimonthly installments at one-fourth the rate that is prescribed 18831
for the clerks of courts of common pleas as determined in 18832
accordance with the population of the county and the rates set 18833
forth in sections 325.08 and 325.18 of the Revised Code. 18834

(3) During the temporary absence of the clerk due to illness, 18835
vacation, or other proper cause, the court may appoint a temporary 18836
clerk, who shall be paid the same compensation, have the same 18837
authority, and perform the same duties as the clerk. 18838

(B) Except in the Hamilton county, ~~Medina~~, Portage county, 18839
and Wayne county municipal courts, if a vacancy occurs in the 18840
office of the clerk of the Alliance, Lorain, Massillon, or 18841
Youngstown municipal court or occurs in the office of the clerk of 18842
a municipal court for which the population of the territory equals 18843
or exceeds one hundred thousand because the clerk ceases to hold 18844
the office before the end of the clerk's term or because a 18845
clerk-elect fails to take office, the vacancy shall be filled, 18846
until a successor is elected and qualified, by a person chosen by 18847
the residents of the territory of the court who are members of the 18848
county central committee of the political party by which the last 18849
occupant of that office or the clerk-elect was nominated. Not less 18850
than five nor more than fifteen days after a vacancy occurs, those 18851
members of that county central committee shall meet to make an 18852
appointment to fill the vacancy. At least four days before the 18853
date of the meeting, the chairperson or a secretary of the county 18854
central committee shall notify each such member of that county 18855
central committee by first class mail of the date, time, and place 18856
of the meeting and its purpose. A majority of all such members of 18857
that county central committee constitutes a quorum, and a majority 18858
of the quorum is required to make the appointment. If the office 18859
so vacated was occupied or was to be occupied by a person not 18860
nominated at a primary election, or if the appointment was not 18861
made by the committee members in accordance with this division, 18862
the court shall make an appointment to fill the vacancy. A 18863
successor shall be elected to fill the office for the unexpired 18864
term at the first municipal election that is held more than one 18865
hundred twenty days after the vacancy occurred. 18866

(C)(1) In a municipal court, other than the Auglaize county, 18867
the Brown county, the Columbiana county, and the Lorain municipal 18868
courts, for which the population of the territory is less than one 18869
hundred thousand ~~and in the Medina municipal court~~, the clerk of 18870
the municipal court shall receive the annual compensation that the 18871
presiding judge of the court prescribes, if the revenue of the 18872
court for the preceding calendar year, as certified by the auditor 18873
or chief fiscal officer of the municipal corporation in which the 18874
court is located or, in the case of a county-operated municipal 18875
court, the county auditor, is equal to or greater than the 18876
expenditures, including any debt charges, for the operation of the 18877
court payable under this chapter from the city treasury or, in the 18878
case of a county-operated municipal court, the county treasury for 18879
that calendar year, as also certified by the auditor or chief 18880
fiscal officer. If the revenue of a municipal court, other than 18881
the Auglaize county, the Brown county, the Columbiana county, and 18882
the Lorain municipal courts, for which the population of the 18883
territory is less than one hundred thousand ~~or the revenue of the~~ 18884
~~Medina municipal court~~ for the preceding calendar year as so 18885
certified is not equal to or greater than those expenditures for 18886
the operation of the court for that calendar year as so certified, 18887
the clerk of a municipal court shall receive the annual 18888
compensation that the legislative authority prescribes. As used in 18889
this division, "revenue" means the total of all costs and fees 18890
that are collected and paid to the city treasury or, in a 18891
county-operated municipal court, the county treasury by the clerk 18892
of the municipal court under division (F) of this section and all 18893
interest received and paid to the city treasury or, in a 18894
county-operated municipal court, the county treasury in relation 18895
to the costs and fees under division (G) of this section. 18896

(2) In a municipal court, other than the Hamilton county, 18897
~~Medina~~, Portage county, and Wayne county municipal courts, for 18898

which the population of the territory is one hundred thousand or 18899
more, and in the Lorain municipal court, the clerk of the 18900
municipal court shall receive annual compensation in a sum equal 18901
to eighty-five per cent of the salary of a judge of the court. 18902

(3) The compensation of a clerk described in division (C)(1) 18903
or (2) of this section is payable in semimonthly installments from 18904
the same sources and in the same manner as provided in section 18905
1901.11 of the Revised Code. 18906

(D) Before entering upon the duties of the clerk's office, 18907
the clerk of a municipal court shall give bond of not less than 18908
six thousand dollars to be determined by the judges of the court, 18909
conditioned upon the faithful performance of the clerk's duties. 18910

(E) The clerk of a municipal court may do all of the 18911
following: administer oaths, take affidavits, and issue executions 18912
upon any judgment rendered in the court, including a judgment for 18913
unpaid costs; issue, sign, and attach the seal of the court to all 18914
writs, process, subpoenas, and papers issuing out of the court; 18915
and approve all bonds, sureties, recognizances, and undertakings 18916
fixed by any judge of the court or by law. The clerk may refuse to 18917
accept for filing any pleading or paper submitted for filing by a 18918
person who has been found to be a vexatious litigator under 18919
section 2323.52 of the Revised Code and who has failed to obtain 18920
leave to proceed under that section. The clerk shall do all of the 18921
following: file and safely keep all journals, records, books, and 18922
papers belonging or appertaining to the court; record the 18923
proceedings of the court; perform all other duties that the judges 18924
of the court may prescribe; and keep a book showing all receipts 18925
and disbursements, which book shall be open for public inspection 18926
at all times. 18927

The clerk shall prepare and maintain a general index, a 18928
docket, and other records that the court, by rule, requires, all 18929
of which shall be the public records of the court. In the docket, 18930

the clerk shall enter, at the time of the commencement of an
action, the names of the parties in full, the names of the
counsel, and the nature of the proceedings. Under proper dates,
the clerk shall note the filing of the complaint, issuing of
summons or other process, returns, and any subsequent pleadings.
The clerk also shall enter all reports, verdicts, orders,
judgments, and proceedings of the court, clearly specifying the
relief granted or orders made in each action. The court may order
an extended record of any of the above to be made and entered,
under the proper action heading, upon the docket at the request of
any party to the case, the expense of which record may be taxed as
costs in the case or may be required to be prepaid by the party
demanding the record, upon order of the court.

(F) The clerk of a municipal court shall receive, collect,
and issue receipts for all costs, fees, fines, bail, and other
moneys payable to the office or to any officer of the court. The
clerk shall each month disburse to the proper persons or officers,
and take receipts for, all costs, fees, fines, bail, and other
moneys that the clerk collects. Subject to sections 3375.50 and
4511.193 of the Revised Code and to any other section of the
Revised Code that requires a specific manner of disbursement of
any moneys received by a municipal court and except for the
Hamilton county, Lawrence county, and Ottawa county municipal
courts, the clerk shall pay all fines received for violation of
municipal ordinances into the treasury of the municipal
corporation the ordinance of which was violated and shall pay all
fines received for violation of township resolutions adopted
pursuant to Chapter 504. of the Revised Code into the treasury of
the township the resolution of which was violated. Subject to
sections 1901.024 and 4511.193 of the Revised Code, in the
Hamilton county, Lawrence county, and Ottawa county municipal
courts, the clerk shall pay fifty per cent of the fines received

for violation of municipal ordinances and fifty per cent of the 18963
fines received for violation of township resolutions adopted 18964
pursuant to Chapter 504. of the Revised Code into the treasury of 18965
the county. Subject to sections 3375.50, 3375.53, 4511.19, and 18966
5503.04 of the Revised Code and to any other section of the 18967
Revised Code that requires a specific manner of disbursement of 18968
any moneys received by a municipal court, the clerk shall pay all 18969
fines collected for the violation of state laws into the county 18970
treasury. Except in a county-operated municipal court, the clerk 18971
shall pay all costs and fees the disbursement of which is not 18972
otherwise provided for in the Revised Code into the city treasury. 18973
The clerk of a county-operated municipal court shall pay the costs 18974
and fees the disbursement of which is not otherwise provided for 18975
in the Revised Code into the county treasury. Moneys deposited as 18976
security for costs shall be retained pending the litigation. The 18977
clerk shall keep a separate account of all receipts and 18978
disbursements in civil and criminal cases, which shall be a 18979
permanent public record of the office. On the expiration of the 18980
term of the clerk, the clerk shall deliver the records to the 18981
clerk's successor. The clerk shall have other powers and duties as 18982
are prescribed by rule or order of the court. 18983

(G) All moneys paid into a municipal court shall be noted on 18984
the record of the case in which they are paid and shall be 18985
deposited in a state or national bank, or a domestic savings and 18986
loan association, as defined in section 1151.01 of the Revised 18987
Code, that is selected by the clerk. Any interest received upon 18988
the deposits shall be paid into the city treasury, except that, in 18989
a county-operated municipal court, the interest shall be paid into 18990
the treasury of the county in which the court is located. 18991

On the first Monday in January of each year, the clerk shall 18992
make a list of the titles of all cases in the court that were 18993
finally determined more than one year past in which there remains 18994

unclaimed in the possession of the clerk any funds, or any part of
a deposit for security of costs not consumed by the costs in the
case. The clerk shall give notice of the moneys to the parties who
are entitled to the moneys or to their attorneys of record. All
the moneys remaining unclaimed on the first day of April of each
year shall be paid by the clerk to the city treasurer, except
that, in a county-operated municipal court, the moneys shall be
paid to the treasurer of the county in which the court is located.
The treasurer shall pay any part of the moneys at any time to the
person who has the right to the moneys upon proper certification
of the clerk.

(H) Deputy clerks may be appointed by the clerk and shall
receive the compensation, payable in semimonthly installments out
of the city treasury, that the clerk may prescribe, except that
the compensation of any deputy clerk of a county-operated
municipal court shall be paid out of the treasury of the county in
which the court is located. Each deputy clerk shall take an oath
of office before entering upon the duties of the deputy clerk's
office and, when so qualified, may perform the duties appertaining
to the office of the clerk. The clerk may require any of the
deputy clerks to give bond of not less than three thousand
dollars, conditioned for the faithful performance of the deputy
clerk's duties.

(I) For the purposes of this section, whenever the population
of the territory of a municipal court falls below one hundred
thousand but not below ninety thousand, and the population of the
territory prior to the most recent regular federal census exceeded
one hundred thousand, the legislative authority of the municipal
corporation may declare, by resolution, that the territory shall
be considered to have a population of at least one hundred
thousand.

(J) The clerk or a deputy clerk shall be in attendance at all

sessions of the municipal court, although not necessarily in the
courtroom, and may administer oaths to witnesses and jurors and
receive verdicts.

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Sec. 1907.24. (A) Subject to division (C) of this section, a
county court shall fix and tax fees and costs as follows:

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(1) The county court shall require an advance deposit for the
filing of any new civil action or proceeding when required by
division (C) of this section and, in all other cases, shall
establish a schedule of fees and costs to be taxed in any civil or
criminal action or proceeding.

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(2) The county court by rule may require an advance deposit
for the filing of a civil action or proceeding and publication
fees as provided in section 2701.09 of the Revised Code. The court
may waive an advance deposit requirement upon the presentation of
an affidavit or other evidence that establishes that a party is
unable to make the requisite deposit.

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(3) When a party demands a jury trial in a civil action or
proceeding, the county court may require the party to make an
advance deposit as fixed by rule of court, unless the court
concludes, on the basis of an affidavit or other evidence
presented by the party, that the party is unable to make the
requisite deposit. If a jury is called, the county court shall tax
the fees of a jury as costs.

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(4) In a civil or criminal action or proceeding, the county
court shall fix the fees of witnesses in accordance with sections
2335.06 and 2335.08 of the Revised Code.

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(5) A county court may tax as part of the costs in a trial of
the cause, in an amount fixed by rule of court, a reasonable
charge for driving, towing, carting, storing, keeping, and
preserving motor vehicles and other personal property recovered or

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seized in a proceeding. 19057

(6) The court shall preserve chattel property seized under a writ or process issued by the court pending final disposition for the benefit of all interested persons. The court may place the chattel property in storage when necessary or proper for its preservation. The custodian of chattel property so stored shall not be required to part with the possession of the property until a reasonable charge, to be fixed by the court, is paid. 19058
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(7) The county court, as it determines, may refund all deposits and advance payments of fees and costs, including those for jurors and summoning jurors, when they have been paid by the losing party. 19065
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(8) The court may tax as part of costs charges for the publication of legal notices required by statute or order of court, as provided by section 7.13 of the Revised Code. 19069
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(B)(1) The county court may determine that, for the efficient operation of the court, additional funds are necessary to acquire and pay for special projects of the court including, but not limited to, the acquisition of additional facilities or the rehabilitation of existing facilities, the acquisition of equipment, the hiring and training of staff, community service programs, mediation or dispute resolution services, the employment of magistrates, the training and education of judges, acting judges, and magistrates, and other related services. Upon that determination, the court by rule may charge a fee, in addition to all other court costs, on the filing of each criminal cause, civil action or proceeding, or judgment by confession. 19072
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If the county court offers a special program or service in cases of a specific type, the county court by rule may assess an additional charge in a case of that type, over and above court costs, to cover the special program or service. The county court 19084
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shall adjust the special assessment periodically, but not
retroactively, so that the amount assessed in those cases does not
exceed the actual cost of providing the service or program.

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All moneys collected under division (B) of this section shall
be paid to the county treasurer for deposit into either a general
special projects fund or a fund established for a specific special
project. Moneys from a fund of that nature shall be disbursed upon
an order of the court in an amount no greater than the actual cost
to the court of a project. If a specific fund is terminated
because of the discontinuance of a program or service established
under division (B) of this section, the county court may order
that moneys remaining in the fund be transferred to an account
established under this division for a similar purpose.

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(2) As used in division (B) of this section:

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(a) "Criminal cause" means a charge alleging the violation of
a statute or ordinance, or subsection of a statute or ordinance,
that requires a separate finding of fact or a separate plea before
disposition and of which the defendant may be found guilty,
whether filed as part of a multiple charge on a single summons,
citation, or complaint or as a separate charge on a single
summons, citation, or complaint. "Criminal cause" does not include
separate violations of the same statute or ordinance, or
subsection of the same statute or ordinance, unless each charge is
filed on a separate summons, citation, or complaint.

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(b) "Civil action or proceeding" means any civil litigation
that must be determined by judgment entry.

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(C) Subject to division (E) of this section, the county court
shall collect in all its divisions except the small claims
division the sum of ~~fifteen~~ twenty-six dollars as additional
filing fees in each new civil action or proceeding for the
charitable public purpose of providing financial assistance to

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legal aid societies that operate within the state. Subject to 19119
division (E) of this section, the county court shall collect in 19120
its small claims division the sum of ~~seven~~ eleven dollars as 19121
additional filing fees in each new civil action or proceeding for 19122
the charitable public purpose of providing financial assistance to 19123
legal aid societies that operate within the state. This division 19124
does not apply to any execution on a judgment, proceeding in aid 19125
of execution, or other post-judgment proceeding arising out of a 19126
civil action. The filing fees required to be collected under this 19127
division shall be in addition to any other court costs imposed in 19128
the action or proceeding and shall be collected at the time of the 19129
filing of the action or proceeding. The court shall not waive the 19130
payment of the additional filing fees in a new civil action or 19131
proceeding unless the court waives the advanced payment of all 19132
filing fees in the action or proceeding. All such moneys collected 19133
during a month shall be transmitted on or before the twentieth day 19134
of the following month by the clerk of the court to the treasurer 19135
of state in a manner prescribed by the treasurer of state or by 19136
the Ohio legal assistance foundation. The ~~moneys then shall be~~ 19137
~~deposited by the~~ treasurer of state shall deposit four per cent of 19138
the funds collected under this division to the credit of the civil 19139
case filing fee fund established under section 120.07 of the 19140
Revised Code and ninety-six per cent of the funds collected under 19141
this division to the credit of the legal aid fund established 19142
under section 120.52 of the Revised Code. 19143

The court may retain up to one per cent of the moneys it 19144
collects under this division to cover administrative costs, 19145
including the hiring of any additional personnel necessary to 19146
implement this division. 19147

(D) The county court shall establish by rule a schedule of 19148
fees for miscellaneous services performed by the county court or 19149
any of its judges in accordance with law. If judges of the court 19150

of common pleas perform similar services, the fees prescribed in 19151
the schedule shall not exceed the fees for those services 19152
prescribed by the court of common pleas. 19153

(E) Under the circumstances described in sections 2969.21 to 19154
2969.27 of the Revised Code, the clerk of the county court shall 19155
charge the fees and perform the other duties specified in those 19156
sections. 19157

Sec. 2113.041. (A) The administrator of the estate recovery 19158
program established pursuant to section 5111.11 of the Revised 19159
Code may present an affidavit to a financial institution 19160
requesting that the financial institution release account proceeds 19161
to recover the cost of services correctly provided to a medicaid 19162
recipient who is subject to the estate recovery program. The 19163
affidavit shall include all of the following information: 19164

(1) The name of the decedent; 19165

(2) The name of any person who gave notice that the decedent 19166
was a medicaid recipient and that person's relationship to the 19167
decedent; 19168

(3) The name of the financial institution; 19169

(4) The account number; 19170

(5) A description of the claim for estate recovery; 19171

(6) The amount of funds to be recovered. 19172

(B) A financial institution may release account proceeds to 19173
the administrator of the estate recovery program if all of the 19174
following apply: 19175

(1) The decedent held an account at the financial institution 19176
that was in the decedent's name only. 19177

(2) No estate has been, and it is reasonable to assume that 19178
no estate will be, opened for the decedent. 19179

(3) The decedent has no outstanding debts known to the administrator of the estate recovery program. 19180
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(4) The financial institution has received no objections or has determined that no valid objections to release of proceeds have been received. 19182
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(C) If proceeds have been released pursuant to division (B) of this section and the department of job and family services receives notice of a valid claim to the proceeds that has a higher priority under section 2117.25 of the Revised Code than the claim of the estate recovery program, the department may refund the proceeds to the financial institution or pay them to the person or government entity with the claim. 19185
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Sec. 2117.061. (A) As used in this section, ~~"person:~~ 19192

(1) "Medicaid estate recovery program" means the program instituted under section 5111.11 of the Revised Code. 19193
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(2) "Permanently institutionalized individual" has the same meaning as in section 5111.11 of the Revised Code. 19195
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(3) "Person responsible for the estate" means the executor, administrator, commissioner, or person who filed pursuant to section 2113.03 of the Revised Code for release from administration of an estate. 19197
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(B) If ~~the a~~ decedent, at the time of death, was fifty-five years of age or older ~~at the time of death or a permanently institutionalized individual,~~ the person responsible for ~~an~~ the decedent's estate shall determine whether the decedent was, at any time during the decedent's life, a medicaid recipient ~~of medical assistance~~ under Chapter 5111. of the Revised Code. If the decedent was a medicaid recipient, the person responsible for the estate shall ~~give written notice to that effect~~ submit a properly completed medicaid estate recovery reporting form prescribed under 19201
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division (D) of this section to the administrator of the medicaid 19210
estate recovery program ~~instituted under section 5111.11 of the~~ 19211
~~Revised Code~~ not later than thirty days after the occurrence of 19212
any of the following: 19213

(1) The granting of letters testamentary; 19214

(2) The administration of the estate; 19215

(3) The filing of an application for release from 19216
administration or summary release from administration. 19217

(C) The person responsible for ~~an~~ the estate shall mark the 19218
appropriate box on the appropriate probate form to indicate 19219
compliance with the requirements of division (B) of this section. 19220

The probate court shall send a copy of the completed probate 19221
form to the administrator of the medicaid estate recovery program. 19222

(D) The administrator of the estate recovery program shall 19223
prescribe a medicaid estate recovery reporting form for the 19224
purpose of division (B) of this section. The form shall require, 19225
at a minimum, that the person responsible for the estate list all 19226
of the decedent's real and personal property and other assets that 19227
are part of the decedent's estate as defined in section 5111.11 of 19228
the Revised Code. The administrator shall include on the form a 19229
statement printed in bold letters informing the person responsible 19230
for the estate that knowingly making a false statement on the form 19231
is falsification under section 2921.13 of the Revised Code, a 19232
misdemeanor of the first degree. 19233

(E) The estate recovery program administrator shall present a 19234
claim for estate recovery to the person responsible for the estate 19235
or the person's legal representative not later than ninety days 19236
after the date on which ~~notice~~ the medicaid estate recovery 19237
reporting form is received under division (B) of this section or 19238
one year after the decedent's death, whichever is later. 19239

Sec. 2151.282. (A) There is hereby created the Ohio court 19240
appointed special advocate/guardian ad litem (CASA/GAL) study 19241
committee consisting of five members. One member shall be a 19242
representative of the Ohio court appointed special 19243
advocate/guardian ad litem association appointed by the governor 19244
and shall be the chairperson of the committee. One member shall be 19245
a member of the Ohio juvenile judges association, appointed by the 19246
president of the senate. One member shall be a member of the Ohio 19247
state bar association appointed by the speaker of the house of 19248
representatives. One member shall be a representative of the 19249
office of the state public defender appointed by the minority 19250
leader of the senate. One member shall be a representative of the 19251
Ohio county commissioner's association appointed by the minority 19252
leader of the house of representatives. The members of the 19253
committee shall be appointed within sixty days after the effective 19254
date of this section. The committee shall do all of the following: 19255

(1) Compile available public data associated with state and 19256
local costs of advocating on behalf of children who have been 19257
found to be abused, neglected, or dependent children; 19258

(2) Examine the costs in counties that have established and 19259
operated an Ohio CASA/GAL association program, and the costs in 19260
counties that utilize the county public defender, joint county 19261
public defender, or court-appointed counsel, to advocate on behalf 19262
of children who have been found to be abused, neglected, or 19263
dependent children; 19264

(3) Analyze the total cost of advocating on behalf of 19265
children who have been found to be abused, neglected, or dependent 19266
children on a per county basis and a per child served basis; 19267

(4) Analyze the cost benefit of having an Ohio CASA/GAL 19268
association versus utilizing the county public defender, joint 19269
county public defender, or court-appointed counsel to advocate on 19270

behalf of children who have been found to be abused, neglected, or dependent children; 19271
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(5) Analyze the advocacy services provided to abused children, neglected children, or dependent children by Ohio CASA/GAL association programs versus the advocacy services provided to abused, neglected, or dependent children by county public defenders, joint county public defenders, or court-appointed counsel. 19273
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(B) The Ohio CASA/GAL association shall provide staff for the Ohio CASA/GAL study committee and shall pay for any expenses incurred by the study committee. The study committee shall meet within thirty days after the appointment of the members to the study committee. 19279
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(C) The Ohio CASA/GAL study committee shall prepare a report containing all relevant data and information that division (A) of this section requires the study committee to compile, examine, and analyze. The Ohio CASA/GAL study committee shall deliver a final copy of the report to the governor, the speaker of the house of representatives, and the president of the senate on or before July 1, 2007. 19284
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Sec. 2151.352. A child, ~~or~~ the child's parents, or custodian, or any other person in loco parentis of ~~such~~ the child is entitled to representation by legal counsel at all stages of the proceedings under this chapter or Chapter 2152. of the Revised Code ~~and if~~. If, as an indigent person, ~~any such person~~ a party is unable to employ counsel, the party is entitled to have counsel provided for the person pursuant to Chapter 120. of the Revised Code except in civil matters in which the juvenile court is exercising jurisdiction pursuant to division (A)(2), (3), (9), (10), (11), (12), or (13); (B)(2), (3), (4), (5), or (6); (C); (D); or (F)(1) or (2) of section 2151.23 of the Revised Code. If a 19291
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party appears without counsel, the court shall ascertain whether 19302
the party knows of the party's right to counsel and of the party's 19303
right to be provided with counsel if the party is an indigent 19304
person. The court may continue the case to enable a party to 19305
obtain counsel ~~or~~ to be represented by the county public defender 19306
or the joint county public defender ~~and shall provide, or to be~~
appointed counsel upon request pursuant to Chapter 120. of the 19307
Revised Code. Counsel must be provided for a child not represented 19308
by the child's parent, guardian, or custodian. If the interests of 19309
two or more such parties conflict, separate counsel shall be 19310
provided for each of them. 19311
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Section 2935.14 of the Revised Code applies to any child 19313
taken into custody. The parents, custodian, or guardian of such 19314
child, and any attorney at law representing them or the child, 19315
shall be entitled to visit such child at any reasonable time, be 19316
present at any hearing involving the child, and be given 19317
reasonable notice of such hearing. 19318

Any report or part thereof concerning such child, which is 19319
used in the hearing and is pertinent thereto, shall for good cause 19320
shown be made available to any attorney at law representing such 19321
child and to any attorney at law representing the parents, 19322
custodian, or guardian of such child, upon written request prior 19323
to any hearing involving such child. 19324

Sec. 2151.416. (A) Each agency that is required by section 19325
2151.412 of the Revised Code to prepare a case plan for a child 19326
shall complete a semiannual administrative review of the case plan 19327
no later than six months after the earlier of the date on which 19328
the complaint in the case was filed or the child was first placed 19329
in shelter care. After the first administrative review, the agency 19330
shall complete semiannual administrative reviews no later than 19331
every six months. If the court issues an order pursuant to section 19332

2151.414 or 2151.415 of the Revised Code, the agency shall 19333
complete an administrative review no later than six months after 19334
the court's order and continue to complete administrative reviews 19335
no later than every six months after the first review, except that 19336
the court hearing held pursuant to section 2151.417 of the Revised 19337
Code may take the place of any administrative review that would 19338
otherwise be held at the time of the court hearing. When 19339
conducting a review, the child's health and safety shall be the 19340
paramount concern. 19341

(B) Each administrative review required by division (A) of 19342
this section shall be conducted by a review panel of at least 19343
three persons, including, but not limited to, both of the 19344
following: 19345

(1) A caseworker with day-to-day responsibility for, or 19346
familiarity with, the management of the child's case plan; 19347

(2) A person who is not responsible for the management of the 19348
child's case plan or for the delivery of services to the child or 19349
the parents, guardian, or custodian of the child. 19350

(C) Each semiannual administrative review shall include, but 19351
not be limited to, a joint meeting by the review panel with the 19352
parents, guardian, or custodian of the child, the guardian ad 19353
litem of the child, and the child's foster care provider and shall 19354
include an opportunity for those persons to submit any written 19355
materials to be included in the case record of the child. If a 19356
parent, guardian, custodian, guardian ad litem, or foster care 19357
provider of the child cannot be located after reasonable efforts 19358
to do so or declines to participate in the administrative review 19359
after being contacted, the agency does not have to include them in 19360
the joint meeting. 19361

(D) The agency shall prepare a written summary of the 19362
semiannual administrative review that shall include, but not be 19363

limited to, all of the following:	19364
(1) A conclusion regarding the safety and appropriateness of the child's foster care placement;	19365 19366
(2) The extent of the compliance with the case plan of all parties;	19367 19368
(3) The extent of progress that has been made toward alleviating the circumstances that required the agency to assume temporary custody of the child;	19369 19370 19371
(4) An estimated date by which the child may be returned to and safely maintained in the child's home or placed for adoption or legal custody;	19372 19373 19374
(5) An updated case plan that includes any changes that the agency is proposing in the case plan;	19375 19376
(6) The recommendation of the agency as to which agency or person should be given custodial rights over the child for the six-month period after the administrative review;	19377 19378 19379
(7) The names of all persons who participated in the administrative review.	19380 19381
(E) The agency shall file the summary with the court no later than seven days after the completion of the administrative review. If the agency proposes a change to the case plan as a result of the administrative review, the agency shall file the proposed change with the court at the time it files the summary. The agency shall give notice of the summary and proposed change in writing before the end of the next day after filing them to all parties and the child's guardian ad litem. All parties and the guardian ad litem shall have seven days after the date the notice is sent to object to and request a hearing on the proposed change.	19382 19383 19384 19385 19386 19387 19388 19389 19390 19391
(1) If the court receives a timely request for a hearing, the court shall schedule a hearing pursuant to section 2151.417 of the	19392 19393

Revised Code to be held not later than thirty days after the court
receives the request. The court shall give notice of the date,
time, and location of the hearing to all parties and the guardian
ad litem. The agency may implement the proposed change after the
hearing, if the court approves it. The agency shall not implement
the proposed change unless it is approved by the court.

(2) If the court does not receive a timely request for a
hearing, the court may approve the proposed change without a
hearing. If the court approves the proposed change without a
hearing, it shall journalize the case plan with the change not
later than fourteen days after the change is filed with the court.
If the court does not approve the proposed change to the case
plan, it shall schedule a review hearing to be held pursuant to
section 2151.417 of the Revised Code no later than thirty days
after the expiration of the fourteen-day time period and give
notice of the date, time, and location of the hearing to all
parties and the guardian ad litem of the child. If, despite the
requirements of this division and division (D) of section 2151.417
of the Revised Code, the court neither approves and journalizes
the proposed change nor conducts a hearing, the agency may
implement the proposed change not earlier than fifteen days after
it is submitted to the court.

(F) The director of job and family services may adopt rules
pursuant to Chapter 119. of the Revised Code for procedures and
standard forms for conducting administrative reviews pursuant to
this section.

(G) The juvenile court that receives the written summary of
the administrative review, upon determining, either from the
written summary, case plan, or otherwise, that the custody or care
arrangement is not in the best interest of the child, may
terminate the custody of an agency and place the child in the
custody of another institution or association certified by the

department of job and family services under section 5103.03 of the Revised Code. 19426
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(H) The department of job and family services shall report annually to the public and to the general assembly on the results of the review of case plans of each agency ~~and on the results of the summaries submitted to the department under section 3107.10 of the Revised Code.~~ The annual report shall include any information that is required by the department, including, but not limited to, all of the following: 19428
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(1) A statistical analysis of the administrative reviews conducted pursuant to this section and section 2151.417 of the Revised Code; 19435
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(2) The number of children in temporary or permanent custody for whom an administrative review was conducted, the number of children whose custody status changed during the period, the number of children whose residential placement changed during the period, and the number of residential placement changes for each child during the period; 19438
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(3) An analysis of the utilization of public social services by agencies and parents or guardians, and the utilization of the adoption listing service of the department pursuant to section 5103.154 of the Revised Code; 19444
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~~(4) A compilation and analysis of data submitted to the department under section 3107.10 of the Revised Code.~~ 19448
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Sec. 2151.652. A joint board of county commissioners that has organized a district for the establishment and support of a school, forestry camp, or other facility or facilities under section 2151.65 of the Revised Code shall approve all contracts entered into by or on behalf of the district and shall approve the district's annual budget. The joint board of county commissioners 19450
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has exclusive authority to retain legal counsel for the district. 19456

Sec. 2152.43. (A) A board of county commissioners that 19457
provides a detention facility and the board of trustees of a 19458
district detention facility may apply to the department of youth 19459
services under section 5139.281 of the Revised Code for assistance 19460
in defraying the cost of operating and maintaining the facility. 19461
The application shall be made on forms prescribed and furnished by 19462
the department. 19463

The board of county commissioners of each county that 19464
participates in a district detention facility may apply to the 19465
department of youth services for assistance in defraying the 19466
county's share of the cost of acquisition or construction of the 19467
facility, as provided in section 5139.271 of the Revised Code. 19468
Application shall be made in accordance with rules adopted by the 19469
department. No county shall be reimbursed for expenses incurred in 19470
the acquisition or construction of a district detention facility 19471
that serves a district having a population of less than one 19472
hundred thousand. 19473

(B)(1) The joint boards of county commissioners of district 19474
detention facilities shall defray all necessary expenses of the 19475
facility not paid from funds made available under section 5139.281 19476
of the Revised Code, through annual assessments of taxes, through 19477
gifts, or through other means. 19478

If any county withdraws from a district under division (D) of 19479
section 2152.41 of the Revised Code, it shall continue to have 19480
levied against its tax duplicate any tax levied by the district 19481
during the period in which the county was a member of the district 19482
for current operating expenses, permanent improvements, or the 19483
retirement of bonded indebtedness. The levy shall continue to be a 19484
levy against the tax duplicate of the county until the time that 19485
it expires or is renewed. 19486

(2) The current expenses of maintaining the facility not paid 19487
from funds made available under section 5139.281 of the Revised 19488
Code or division (C) of this section, and the cost of ordinary 19489
repairs to the facility, shall be paid by each county in 19490
accordance with one of the following methods as approved by the 19491
joint board of county commissioners: 19492

(a) In proportion to the number of children from that county 19493
who are maintained in the facility during the year; 19494

(b) By a levy submitted by the joint board of county 19495
commissioners under division (A) of section 5705.19 of the Revised 19496
Code and approved by the electors of the district; 19497

(c) In proportion to the taxable property of each county, as 19498
shown by its tax duplicate; 19499

(d) In any ~~combination of the methods for payment described~~ 19500
~~in division (B)(2)(a), (b), or (c) of this section~~ other method 19501
agreed upon by unanimous vote of the joint board of county 19502
commissioners. 19503

(C) When any person donates or bequeaths any real or personal 19504
property to a county or district detention facility, the juvenile 19505
court or the trustees of the facility may accept and use the gift, 19506
consistent with the best interest of the institution and the 19507
conditions of the gift. 19508

Sec. 2152.44. (A) As soon as practical after the organization 19509
of the joint board of county commissioners as provided by section 19510
2152.41 of the Revised Code, the joint board shall appoint a board 19511
of not less than five trustees. The board shall hold office until 19512
the first annual meeting after the choice of an established site 19513
and buildings, or after the selection and purchase of a building 19514
site. At that time, the joint board of county commissioners shall 19515
appoint a board of not less than five trustees, one of whom shall 19516

hold office for a term of one year, one for a term of two years, 19517
one for a term of three years, half of the remaining number for a 19518
term of four years, and the remainder for a term of five years. 19519
Annually thereafter, the joint board of county commissioners shall 19520
appoint one or more trustees, each of whom shall hold office for a 19521
term of five years, to succeed the trustee or trustees whose term 19522
of office expires. A trustee may be appointed to successive terms. 19523
Any person appointed as a trustee shall be recommended and 19524
approved by the juvenile court judge or judges of the county of 19525
which the person resides. 19526

At least one trustee shall reside in each county in the 19527
district. In districts composed of two counties, each county shall 19528
be entitled to not less than two trustees. In districts composed 19529
of more than four counties, the number of trustees shall be 19530
sufficiently increased, provided that there shall always be an 19531
uneven number of trustees on the board. The county in which a 19532
district detention facility is located shall have not less than 19533
two trustees, who, in the interim period between the regular 19534
meetings of the trustees, shall act as an executive committee in 19535
the discharge of all business pertaining to the facility. 19536

The joint board of county commissioners may remove any 19537
trustee for good cause. The trustee appointed to fill any vacancy 19538
shall hold the office for the unexpired term of the predecessor 19539
trustee. 19540

(B) The annual meeting of the board of trustees shall be held 19541
on the first Tuesday in May in each year. 19542

A majority of the board constitutes a quorum. Other board 19543
meetings shall be held at least quarterly. The juvenile court 19544
judge of each county of the district, or the judge's designee, 19545
shall attend the meetings. The members of the board shall receive 19546
no compensation for their services, except their actual and 19547

necessary expenses. The treasurer shall pay the member's traveling expenses when properly certified. 19548
19549

(C) When the board of trustees does not choose an established institution in one of the counties of the district, it may select a suitable site for the erection of a district detention facility. The site must be easily accessible, conducive to health, economy in purchasing or in building, and the general interest of the facility and its residents, and be as near as practicable to the geographical center of the district. 19550
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In the interim between the selection and purchase of a site, and the erection and occupancy of the district detention facility, the joint board of county commissioners provided under section ~~2151.41~~ 2152.41 of the Revised Code may delegate to the board of trustees any powers and duties that, in its judgment, will be of general interest or aid to the institution. The joint board of county commissioners may appropriate a trustees' fund, to be expended by the trustees for contracts, purchases, or other necessary expenses of the facility. The trustees shall make a complete settlement with the joint board of county commissioners once each six months, or quarterly if required, and shall make to the board of county commissioners and to the juvenile court of each of the counties a full report of the condition of the facility and residents. 19557
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(D) The choice of an established site and buildings, or the purchase of a site, stock, implements, and general farm equipment, should there be a farm, the erection of buildings, and the completion and furnishing of the district detention facility for occupancy, shall be in the hands of the joint board of county commissioners organized under section 2152.41 of the Revised Code. The joint board of county commissioners may delegate all or a portion of these duties to the board of trustees, under any restrictions that the joint board of county commissioners imposes. 19571
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When an established site and buildings are used for a 19580
district detention facility, the joint board of county 19581
commissioners shall cause the value of that site and those 19582
buildings to be properly appraised. This appraisal value, or in 19583
case of the purchase of a site, the purchase price and the cost of 19584
all improvements thereto, shall be paid by the counties comprising 19585
the district, in proportion to the taxable property of each 19586
county, as shown by its tax duplicate. 19587

(E) Once a district is established, the trustees shall 19588
operate, maintain, and manage the facility as provided in sections 19589
2152.41 to 2152.43 of the Revised Code. 19590

(F) A joint board of county commissioners that has organized 19591
a district for the establishment and support of a detention 19592
facility under section 2152.41 of the Revised Code shall approve 19593
all contracts entered into by or on behalf of the district and 19594
shall approve the district's annual budget. The joint board of 19595
county commissioners has exclusive authority to retain legal 19596
counsel for the district. 19597

Sec. 2152.74. (A) As used in this section, "DNA analysis" and 19598
"DNA specimen" have the same meanings as in section 109.573 of the 19599
Revised Code. 19600

(B)(1) A child who is adjudicated a delinquent child for 19601
committing an act listed in division (D) of this section and who 19602
is committed to the custody of the department of youth services, 19603
placed in a detention facility or district detention facility 19604
pursuant to division (A)(3) of section 2152.19 of the Revised 19605
Code, or placed in a school, camp, institution, or other facility 19606
for delinquent children described in division (A)(2) of section 19607
2152.19 of the Revised Code shall submit to a DNA specimen 19608
collection procedure administered by the director of youth 19609
services if committed to the department or by the chief 19610

administrative officer of the detention facility, district
detention facility, school, camp, institution, or other facility
for delinquent children to which the child was committed or in
which the child was placed. If the court commits the child to the
department of youth services, the director of youth services shall
cause the DNA specimen to be collected from the child during the
intake process at an institution operated by or under the control
of the department. If the court commits the child to or places the
child in a detention facility, district detention facility,
school, camp, institution, or other facility for delinquent
children, the chief administrative officer of the detention
facility, district detention facility, school, camp, institution,
or facility to which the child is committed or in which the child
is placed shall cause the DNA specimen to be collected from the
child during the intake process for the detention facility,
district detention facility, school, camp, institution, or
facility. In accordance with division (C) of this section, the
director or the chief administrative officer shall cause the DNA
specimen to be forwarded to the bureau of criminal identification
and investigation no later than fifteen days after the date of the
collection of the DNA specimen. The DNA specimen shall be
collected from the child in accordance with division (C) of this
section.

(2) If a child is adjudicated a delinquent child for
committing an act listed in division (D) of this section, is
committed to or placed in the department of youth services, a
detention facility or district detention facility, or a school,
camp, institution, or other facility for delinquent children, and
does not submit to a DNA specimen collection procedure pursuant to
division (B)(1) of this section, prior to the child's release from
the custody of the department of youth services, from the custody
of the detention facility or district detention facility, or from

the custody of the school, camp, institution, or facility, the
child shall submit to, and the director of youth services or the
chief administrator of the detention facility, district detention
facility, school, camp, institution, or facility to which the
child is committed or in which the child was placed shall
administer, a DNA specimen collection procedure at the institution
operated by or under the control of the department of youth
services or at the detention facility, district detention
facility, school, camp, institution, or facility to which the
child is committed or in which the child was placed. In accordance
with division (C) of this section, the director or the chief
administrative officer shall cause the DNA specimen to be
forwarded to the bureau of criminal identification and
investigation no later than fifteen days after the date of the
collection of the DNA specimen. The DNA specimen shall be
collected in accordance with division (C) of this section.

(C) If the DNA specimen is collected by withdrawing blood
from the child or a similarly invasive procedure, a physician,
registered nurse, licensed practical nurse, duly licensed clinical
laboratory technician, or other qualified medical practitioner
shall collect in a medically approved manner the DNA specimen
required to be collected pursuant to division (B) of this section.
If the DNA specimen is collected by swabbing for buccal cells or a
similarly noninvasive procedure, this section does not require
that the DNA specimen be collected by a qualified medical
practitioner of that nature. No later than fifteen days after the
date of the collection of the DNA specimen, the director of youth
services or the chief administrative officer of the detention
facility, district detention facility, school, camp, institution,
or other facility for delinquent children to which the child is
committed or in which the child was placed shall cause the DNA
specimen to be forwarded to the bureau of criminal identification

and investigation in accordance with procedures established by the
superintendent of the bureau under division (H) of section 109.573
of the Revised Code. The bureau shall provide the specimen vials,
mailing tubes, labels, postage, and instruction needed for the
collection and forwarding of the DNA specimen to the bureau.

(D) The director of youth services and the chief
administrative officer of a detention facility, district detention
facility, school, camp, institution, or other facility for
delinquent children shall cause a DNA specimen to be collected in
accordance with divisions (B) and (C) of this section from each
child in its custody who is adjudicated a delinquent child for
committing any of the following acts:

(1) A violation of section 2903.01, 2903.02, 2903.11,
2905.01, 2907.02, 2907.03, 2907.05, 2911.01, 2911.02, 2911.11, or
2911.12 of the Revised Code;

(2) A violation of section 2907.12 of the Revised Code as it
existed prior to September 3, 1996;

(3) An attempt to commit a violation of section 2903.01,
2903.02, 2907.02, 2907.03, or 2907.05 of the Revised Code or to
commit a violation of section 2907.12 of the Revised Code as it
existed prior to September 3, 1996;

(4) A violation of any law that arose out of the same facts
and circumstances and same act as did a charge against the child
of a violation of section 2903.01, 2903.02, 2905.01, 2907.02,
2907.03, 2907.05, or 2911.11 of the Revised Code that previously
was dismissed or amended or as did a charge against the child of a
violation of section 2907.12 of the Revised Code as it existed
prior to September 3, 1996, that previously was dismissed or
amended;

(5) A violation of section 2905.02 or 2919.23 of the Revised
Code that would have been a violation of section 2905.04 of the

Revised Code as it existed prior to July 1, 1996, had the
violation been committed prior to that date;

(6) A felony violation of any law that arose out of the same
facts and circumstances and same act as did a charge against the
child of a violation of section 2903.11, 2911.01, 2911.02, or
2911.12 of the Revised Code that previously was dismissed or
amended;

(7) A violation of section 2923.01 of the Revised Code
involving a conspiracy to commit a violation of section 2903.01,
2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the
Revised Code;

(8) A violation of section 2923.03 of the Revised Code
involving complicity in committing a violation of section 2903.01,
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05,
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a
violation of section 2907.12 of the Revised Code as it existed
prior to September 3, 1996.

(E) The director of youth services and the chief
administrative officer of a detention facility, district detention
facility, school, camp, institution, or other facility for
delinquent children is not required to comply with this section in
relation to the following acts until the superintendent of the
bureau of criminal identification and investigation gives agencies
in the juvenile justice system, as defined in section ~~181.51~~
5502.61 of the Revised Code, in the state official notification
that the state DNA laboratory is prepared to accept DNA specimens
of that nature:

(1) A violation of section 2903.11, 2911.01, 2911.02, or
2911.12 of the Revised Code;

(2) An attempt to commit a violation of section 2903.01 or
2903.02 of the Revised Code;

(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the child of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(4) A violation of section 2923.01 of the Revised Code involving a conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(5) A violation of section 2923.03 of the Revised Code involving complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

Sec. 2303.201. (A)(1) The court of common pleas of any county may determine that for the efficient operation of the court additional funds are required to computerize the court, to make available computerized legal research services, or to do both. Upon making a determination that additional funds are required for either or both of those purposes, the court shall authorize and direct the clerk of the court of common pleas to charge one additional fee, not to exceed three dollars, on the filing of each cause of action or appeal under divisions (A), (Q), and (U) of section 2303.20 of the Revised Code.

(2) All fees collected under division (A)(1) of this section shall be paid to the county treasurer. The treasurer shall place the funds from the fees in a separate fund to be disbursed, upon an order of the court, in an amount not greater than the actual cost to the court of procuring and maintaining computerization of the court, computerized legal research services, or both.

(3) If the court determines that the funds in the fund described in division (A)(2) of this section are more than sufficient to satisfy the purpose for which the additional fee described in division (A)(1) of this section was imposed, the court may declare a surplus in the fund and expend those surplus funds for other appropriate technological expenses of the court.

(B)(1) The court of common pleas of any county may determine that, for the efficient operation of the court, additional funds are required to computerize the office of the clerk of the court of common pleas and, upon that determination, authorize and direct the clerk of the court of common pleas to charge an additional fee, not to exceed ten dollars, on the filing of each cause of action or appeal, on the filing, docketing, and endorsing of each certificate of judgment, or on the docketing and indexing of each aid in execution or petition to vacate, revive, or modify a judgment under divisions (A), (P), (Q), (T), and (U) of section 2303.20 of the Revised Code. Subject to division (B)(2) of this section, all moneys collected under division (B)(1) of this section shall be paid to the county treasurer to be disbursed, upon an order of the court of common pleas and subject to appropriation by the board of county commissioners, in an amount no greater than the actual cost to the court of procuring and maintaining computer systems for the office of the clerk of the court of common pleas.

(2) If the court of common pleas of a county makes the determination described in division (B)(1) of this section, the board of county commissioners of that county may issue one or more general obligation bonds for the purpose of procuring and maintaining the computer systems for the office of the clerk of the court of common pleas. In addition to the purposes stated in division (B)(1) of this section for which the moneys collected under that division may be expended, the moneys additionally may

be expended to pay debt charges on and financing costs related to 19800
any general obligation bonds issued pursuant to division (B)(2) of 19801
this section as they become due. General obligation bonds issued 19802
pursuant to division (B)(2) of this section are Chapter 133. 19803
securities. 19804

(C) The court of common pleas shall collect the sum of 19805
~~fifteen~~ twenty-six dollars as additional filing fees in each new 19806
civil action or proceeding for the charitable public purpose of 19807
providing financial assistance to legal aid societies that operate 19808
within the state. This division does not apply to proceedings 19809
concerning annulments, dissolutions of marriage, divorces, legal 19810
separation, spousal support, marital property or separate property 19811
distribution, support, or other domestic relations matters; to a 19812
juvenile division of a court of common pleas; to a probate 19813
division of a court of common pleas, except that the additional 19814
filing fees shall apply to name change, guardianship, ~~and~~ 19815
adoption, and decedents' estate proceedings; or to an execution on 19816
a judgment, proceeding in aid of execution, or other post-judgment 19817
proceeding arising out of a civil action. The filing fees required 19818
to be collected under this division shall be in addition to any 19819
other filing fees imposed in the action or proceeding and shall be 19820
collected at the time of the filing of the action or proceeding. 19821
The court shall not waive the payment of the additional filing 19822
fees in a new civil action or proceeding unless the court waives 19823
the advanced payment of all filing fees in the action or 19824
proceeding. All such moneys collected during a month shall be 19825
transmitted on or before the twentieth day of the following month 19826
by the clerk of the court to the treasurer of state in a manner 19827
prescribed by the treasurer of state or by the Ohio legal 19828
assistance foundation. ~~The moneys then shall be deposited by the~~ 19829
treasurer of state shall deposit four per cent of the funds 19830
collected under this division to the credit of the civil case 19831

filing fee fund established under section 120.07 of the Revised 19832
Code and ninety-six per cent of the funds collected under this 19833
division to the credit of the legal aid fund established under 19834
section 120.52 of the Revised Code. 19835

The court may retain up to one per cent of the moneys it 19836
collects under this division to cover administrative costs, 19837
including the hiring of any additional personnel necessary to 19838
implement this division. 19839

(D) On and after the thirtieth day after December 9, 1994, 19840
the court of common pleas shall collect the sum of thirty-two 19841
dollars as additional filing fees in each new action or proceeding 19842
for annulment, divorce, or dissolution of marriage for the purpose 19843
of funding shelters for victims of domestic violence pursuant to 19844
sections 3113.35 to 3113.39 of the Revised Code. The filing fees 19845
required to be collected under this division shall be in addition 19846
to any other filing fees imposed in the action or proceeding and 19847
shall be collected at the time of the filing of the action or 19848
proceeding. The court shall not waive the payment of the 19849
additional filing fees in a new action or proceeding for 19850
annulment, divorce, or dissolution of marriage unless the court 19851
waives the advanced payment of all filing fees in the action or 19852
proceeding. On or before the twentieth day of each month, all 19853
moneys collected during the immediately preceding month pursuant 19854
to this division shall be deposited by the clerk of the court into 19855
the county treasury in the special fund used for deposit of 19856
additional marriage license fees as described in section 3113.34 19857
of the Revised Code. Upon their deposit into the fund, the moneys 19858
shall be retained in the fund and expended only as described in 19859
section 3113.34 of the Revised Code. 19860

(E)(1) The court of common pleas may determine that, for the 19861
efficient operation of the court, additional funds are necessary 19862
to acquire and pay for special projects of the court, including, 19863

but not limited to, the acquisition of additional facilities or 19864
the rehabilitation of existing facilities, the acquisition of 19865
equipment, the hiring and training of staff, community service 19866
programs, mediation or dispute resolution services, the employment 19867
of magistrates, the training and education of judges, acting 19868
judges, and magistrates, and other related services. Upon that 19869
determination, the court by rule may charge a fee, in addition to 19870
all other court costs, on the filing of each criminal cause, civil 19871
action or proceeding, or judgment by confession. 19872

If the court of common pleas offers a special program or 19873
service in cases of a specific type, the court by rule may assess 19874
an additional charge in a case of that type, over and above court 19875
costs, to cover the special program or service. The court shall 19876
adjust the special assessment periodically, but not retroactively, 19877
so that the amount assessed in those cases does not exceed the 19878
actual cost of providing the service or program. 19879

All moneys collected under division (E) of this section shall 19880
be paid to the county treasurer for deposit into either a general 19881
special projects fund or a fund established for a specific special 19882
project. Moneys from a fund of that nature shall be disbursed upon 19883
an order of the court in an amount no greater than the actual cost 19884
to the court of a project. If a specific fund is terminated 19885
because of the discontinuance of a program or service established 19886
under division (E) of this section, the court may order that 19887
moneys remaining in the fund be transferred to an account 19888
established under this division for a similar purpose. 19889

(2) As used in division (E) of this section: 19890

(a) "Criminal cause" means a charge alleging the violation of 19891
a statute or ordinance, or subsection of a statute or ordinance, 19892
that requires a separate finding of fact or a separate plea before 19893
disposition and of which the defendant may be found guilty, 19894

whether filed as part of a multiple charge on a single summons, 19895
citation, or complaint or as a separate charge on a single 19896
summons, citation, or complaint. "Criminal cause" does not include 19897
separate violations of the same statute or ordinance, or 19898
subsection of the same statute or ordinance, unless each charge is 19899
filed on a separate summons, citation, or complaint. 19900

(b) "Civil action or proceeding" means any civil litigation 19901
that must be determined by judgment entry. 19902

Sec. 2305.234. (A) As used in this section: 19903

(1) "Chiropractic claim," "medical claim," and "optometric 19904
claim" have the same meanings as in section 2305.113 of the 19905
Revised Code. 19906

(2) "Dental claim" has the same meaning as in section 19907
2305.113 of the Revised Code, except that it does not include any 19908
claim arising out of a dental operation or any derivative claim 19909
for relief that arises out of a dental operation. 19910

(3) "Governmental health care program" has the same meaning 19911
as in section 4731.65 of the Revised Code. 19912

(4) "Health care facility or location" means a hospital, 19913
clinic, ambulatory surgical facility, office of a health care 19914
professional or associated group of health care professionals, 19915
training institution for health care professionals, or any other 19916
place where medical, dental, or other health-related diagnosis, 19917
care, or treatment is provided to a person. 19918

(5) "Health care professional" means any of the following who 19919
provide medical, dental, or other health-related diagnosis, care, 19920
or treatment: 19921

(a) Physicians authorized under Chapter 4731. of the Revised 19922
Code to practice medicine and surgery or osteopathic medicine and 19923
surgery; 19924

(b) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code and individuals who hold a certificate of authority issued under that chapter that authorizes the practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner;	19925 19926 19927 19928 19929 19930
(c) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;	19931 19932
(d) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;	19933 19934
(e) Physical therapists, physical therapist assistants, occupational therapists, and occupational therapy assistants licensed under Chapter 4755. of the Revised Code;	19935 19936 19937
(f) Chiropractors licensed under Chapter 4734. of the Revised Code;	19938 19939
(g) Optometrists licensed under Chapter 4725. of the Revised Code;	19940 19941
(h) Podiatrists authorized under Chapter 4731. of the Revised Code to practice podiatry;	19942 19943
(i) Dietitians licensed under Chapter 4759. of the Revised Code;	19944 19945
(j) Pharmacists licensed under Chapter 4729. of the Revised Code;	19946 19947
(k) Emergency medical technicians-basic, emergency medical technicians-intermediate, and emergency medical technicians-paramedic, certified under Chapter 4765. of the Revised Code;	19948 19949 19950 19951
(l) Respiratory care professionals licensed under Chapter 4761. of the Revised Code;	19952 19953

(m) Speech-language pathologists and audiologists licensed under Chapter 4753. of the Revised Code. 19954
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(6) "Health care worker" means a person other than a health care professional who provides medical, dental, or other health-related care or treatment under the direction of a health care professional with the authority to direct that individual's activities, including medical technicians, medical assistants, dental assistants, orderlies, aides, and individuals acting in similar capacities. 19956
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(7) "Indigent and uninsured person" means a person who meets all of the following requirements: 19963
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(a) The person's income is not greater than two hundred per cent of the current poverty line as defined by the United States office of management and budget and revised in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended. 19965
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(b) The person is not eligible to receive medical assistance under Chapter 5111., ~~disability medical assistance under Chapter 5115.~~ of the Revised Code, or assistance under any other governmental health care program. 19970
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(c) Either of the following applies: 19974

(i) The person is not a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan. 19975
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(ii) The person is a policyholder, certificate holder, insured, contract holder, subscriber, enrollee, member, beneficiary, or other covered individual under a health insurance or health care policy, contract, or plan, but the insurer, policy, contract, or plan denies coverage or is the subject of insolvency 19979
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or bankruptcy proceedings in any jurisdiction.	19984
(8) "Nonprofit health care referral organization" means an	19985
entity that is not operated for profit and refers patients to, or	19986
arranges for the provision of, health-related diagnosis, care, or	19987
treatment by a health care professional or health care worker.	19988
(9) "Operation" means any procedure that involves cutting or	19989
otherwise infiltrating human tissue by mechanical means, including	19990
surgery, laser surgery, ionizing radiation, therapeutic	19991
ultrasound, or the removal of intraocular foreign bodies.	19992
"Operation" does not include the administration of medication by	19993
injection, unless the injection is administered in conjunction	19994
with a procedure infiltrating human tissue by mechanical means	19995
other than the administration of medicine by injection.	19996
"Operation" does not include routine dental restorative	19997
procedures, the scaling of teeth, or extractions of teeth that are	19998
not impacted.	19999
(10) "Tort action" means a civil action for damages for	20000
injury, death, or loss to person or property other than a civil	20001
action for damages for a breach of contract or another agreement	20002
between persons or government entities.	20003
(11) "Volunteer" means an individual who provides any	20004
medical, dental, or other health-care related diagnosis, care, or	20005
treatment without the expectation of receiving and without receipt	20006
of any compensation or other form of remuneration from an indigent	20007
and uninsured person, another person on behalf of an indigent and	20008
uninsured person, any health care facility or location, any	20009
nonprofit health care referral organization, or any other person	20010
or government entity.	20011
(12) "Community control sanction" has the same meaning as in	20012
section 2929.01 of the Revised Code.	20013
(13) "Deep sedation" means a drug-induced depression of	20014

consciousness during which a patient cannot be easily aroused but 20015
responds purposefully following repeated or painful stimulation, a 20016
patient's ability to independently maintain ventilatory function 20017
may be impaired, a patient may require assistance in maintaining a 20018
patent airway and spontaneous ventilation may be inadequate, and 20019
cardiovascular function is usually maintained. 20020

(14) "General anesthesia" means a drug-induced loss of 20021
consciousness during which a patient is not arousable, even by 20022
painful stimulation, the ability to independently maintain 20023
ventilatory function is often impaired, a patient often requires 20024
assistance in maintaining a patent airway, positive pressure 20025
ventilation may be required because of depressed spontaneous 20026
ventilation or drug-induced depression of neuromuscular function, 20027
and cardiovascular function may be impaired. 20028

(B)(1) Subject to divisions (F) and (G)(3) of this section, a 20029
health care professional who is a volunteer and complies with 20030
division (B)(2) of this section is not liable in damages to any 20031
person or government entity in a tort or other civil action, 20032
including an action on a medical, dental, chiropractic, 20033
optometric, or other health-related claim, for injury, death, or 20034
loss to person or property that allegedly arises from an action or 20035
omission of the volunteer in the provision to an indigent and 20036
uninsured person of medical, dental, or other health-related 20037
diagnosis, care, or treatment, including the provision of samples 20038
of medicine and other medical products, unless the action or 20039
omission constitutes willful or wanton misconduct. 20040

(2) To qualify for the immunity described in division (B)(1) 20041
of this section, a health care professional shall do all of the 20042
following prior to providing diagnosis, care, or treatment: 20043

(a) Determine, in good faith, that the indigent and uninsured 20044
person is mentally capable of giving informed consent to the 20045

provision of the diagnosis, care, or treatment and is not subject 20046
to duress or under undue influence; 20047

(b) Inform the person of the provisions of this section, 20048
including notifying the person that, by giving informed consent to 20049
the provision of the diagnosis, care, or treatment, the person 20050
cannot hold the health care professional liable for damages in a 20051
tort or other civil action, including an action on a medical, 20052
dental, chiropractic, optometric, or other health-related claim, 20053
unless the action or omission of the health care professional 20054
constitutes willful or wanton misconduct; 20055

(c) Obtain the informed consent of the person and a written 20056
waiver, signed by the person or by another individual on behalf of 20057
and in the presence of the person, that states that the person is 20058
mentally competent to give informed consent and, without being 20059
subject to duress or under undue influence, gives informed consent 20060
to the provision of the diagnosis, care, or treatment subject to 20061
the provisions of this section. A written waiver under division 20062
(B)(2)(c) of this section shall state clearly and in conspicuous 20063
type that the person or other individual who signs the waiver is 20064
signing it with full knowledge that, by giving informed consent to 20065
the provision of the diagnosis, care, or treatment, the person 20066
cannot bring a tort or other civil action, including an action on 20067
a medical, dental, chiropractic, optometric, or other 20068
health-related claim, against the health care professional unless 20069
the action or omission of the health care professional constitutes 20070
willful or wanton misconduct. 20071

(3) A physician or podiatrist who is not covered by medical 20072
malpractice insurance, but complies with division (B)(2) of this 20073
section, is not required to comply with division (A) of section 20074
4731.143 of the Revised Code. 20075

(C) Subject to divisions (F) and (G)(3) of this section, 20076

health care workers who are volunteers are not liable in damages 20077
to any person or government entity in a tort or other civil 20078
action, including an action upon a medical, dental, chiropractic, 20079
optometric, or other health-related claim, for injury, death, or 20080
loss to person or property that allegedly arises from an action or 20081
omission of the health care worker in the provision to an indigent 20082
and uninsured person of medical, dental, or other health-related 20083
diagnosis, care, or treatment, unless the action or omission 20084
constitutes willful or wanton misconduct. 20085

(D) Subject to divisions (F) and (G)(3) of this section, a 20086
nonprofit health care referral organization is not liable in 20087
damages to any person or government entity in a tort or other 20088
civil action, including an action on a medical, dental, 20089
chiropractic, optometric, or other health-related claim, for 20090
injury, death, or loss to person or property that allegedly arises 20091
from an action or omission of the nonprofit health care referral 20092
organization in referring indigent and uninsured persons to, or 20093
arranging for the provision of, medical, dental, or other 20094
health-related diagnosis, care, or treatment by a health care 20095
professional described in division (B)(1) of this section or a 20096
health care worker described in division (C) of this section, 20097
unless the action or omission constitutes willful or wanton 20098
misconduct. 20099

(E) Subject to divisions (F) and (G)(3) of this section and 20100
to the extent that the registration requirements of section 20101
3701.071 of the Revised Code apply, a health care facility or 20102
location associated with a health care professional described in 20103
division (B)(1) of this section, a health care worker described in 20104
division (C) of this section, or a nonprofit health care referral 20105
organization described in division (D) of this section is not 20106
liable in damages to any person or government entity in a tort or 20107
other civil action, including an action on a medical, dental, 20108

chiropractic, optometric, or other health-related claim, for 20109
injury, death, or loss to person or property that allegedly arises 20110
from an action or omission of the health care professional or 20111
worker or nonprofit health care referral organization relative to 20112
the medical, dental, or other health-related diagnosis, care, or 20113
treatment provided to an indigent and uninsured person on behalf 20114
of or at the health care facility or location, unless the action 20115
or omission constitutes willful or wanton misconduct. 20116

(F)(1) Except as provided in division (F)(2) of this section, 20117
the immunities provided by divisions (B), (C), (D), and (E) of 20118
this section are not available to a health care professional, 20119
health care worker, nonprofit health care referral organization, 20120
or health care facility or location if, at the time of an alleged 20121
injury, death, or loss to person or property, the health care 20122
professionals or health care workers involved are providing one of 20123
the following: 20124

(a) Any medical, dental, or other health-related diagnosis, 20125
care, or treatment pursuant to a community service work order 20126
entered by a court under division (B) of section 2951.02 of the 20127
Revised Code or imposed by a court as a community control 20128
sanction; 20129

(b) Performance of an operation to which any one of the 20130
following applies: 20131

(i) The operation requires the administration of deep 20132
sedation or general anesthesia. 20133

(ii) The operation is a procedure that is not typically 20134
performed in an office. 20135

(iii) The individual involved is a health care professional, 20136
and the operation is beyond the scope of practice or the 20137
education, training, and competence, as applicable, of the health 20138
care professional. 20139

(c) Delivery of a baby or any other purposeful termination of a human pregnancy. 20140
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(2) Division (F)(1) of this section does not apply when a health care professional or health care worker provides medical, dental, or other health-related diagnosis, care, or treatment that is necessary to preserve the life of a person in a medical emergency. 20142
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(G)(1) This section does not create a new cause of action or substantive legal right against a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location. 20147
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(2) This section does not affect any immunities from civil liability or defenses established by another section of the Revised Code or available at common law to which a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location may be entitled in connection with the provision of emergency or other medical, dental, or other health-related diagnosis, care, or treatment. 20151
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(3) This section does not grant an immunity from tort or other civil liability to a health care professional, health care worker, nonprofit health care referral organization, or health care facility or location for actions that are outside the scope of authority of health care professionals or health care workers. 20158
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(4) This section does not affect any legal responsibility of a health care professional, health care worker, or nonprofit health care referral organization to comply with any applicable law of this state or rule of an agency of this state. 20163
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(5) This section does not affect any legal responsibility of a health care facility or location to comply with any applicable law of this state, rule of an agency of this state, or local code, ordinance, or regulation that pertains to or regulates building, 20167
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housing, air pollution, water pollution, sanitation, health, fire,
zoning, or safety. 20171
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Sec. 2305.2341. (A) The medical liability insurance 20173
reimbursement program is hereby established. Free 20174
clini2305.2341cs, including the clinics' staff and volunteer 20175
health care professionals and volunteer health care workers, may 20176
participate in the medical liability insurance reimbursement 20177
program established by this section. The coverage provided under 20178
the program shall be limited to claims that arise out of the 20179
diagnosis, treatment, and care of patients of free clinics, as 20180
defined in division (D)(1) of this section. 20181

(B) A free clinic is eligible to receive reimbursement under 20182
the medical liability insurance reimbursement program for the 20183
premiums that the clinic pays for medical liability insurance 20184
coverage for the clinic, its staff, and volunteer health care 20185
professionals and health care workers. Free clinics shall register 20186
with the department of health by the thirty-first day of January 20187
of each year in order to participate in and to obtain 20188
reimbursement under the program. Free clinics shall provide all of 20189
the following to the department of health at the time of 20190
registration: 20191

(1) A statement of the number of volunteer and paid health 20192
care professionals and health care workers providing health care 20193
services at the free clinic at that time; 20194

(2) A statement of the number of health care services 20195
rendered by the free clinic during the previous fiscal year; 20196

(3) A signed form acknowledging that the free clinic agrees 20197
to follow its medical liability insurer's risk management and loss 20198
prevention policies; 20199

(4) A copy of the medical liability insurance policy 20200

purchased by the free clinic, or the policy's declaration page, 20201
and documentation of the premiums paid by the clinic. 20202

(C) The department of health shall reimburse free clinics 20203
participating in the professional liability insurance 20204
reimbursement program for eighty per cent of the premiums that the 20205
free clinic pays for medical liability insurance coverage up to 20206
twenty thousand dollars. Appropriations to the department of 20207
health may be made from the general fund of the state for this 20208
purpose. 20209

(D) As used in this section: 20210

(1) "Free clinic" means a nonprofit organization exempt from 20211
federal income taxation under section 501(c)(3) of the "Internal 20212
Revenue Code of 1986," as amended, or a program component of a 20213
nonprofit organization, whose primary mission is to provide health 20214
care services for free or for a minimal administrative fee to 20215
individuals with limited resources. A free clinic facilitates the 20216
delivery of health care services through the use of volunteer 20217
health care professionals and voluntary care networks. For this 20218
purpose, a free clinic shall comply with all of the following: 20219

(a) If a free clinic does request a minimal administrative 20220
fee, a free clinic shall not deny an individual access to its 20221
health care services based on an individual's ability to pay the 20222
fee. 20223

(b) A free clinic shall not bill a patient for health care 20224
services rendered. 20225

(c) Free clinics shall not perform operations, as defined by 20226
divisions (A)(9) and (F)(1)(b) of section 2305.234 of the Revised 20227
Code. 20228

A clinic is not a free clinic if the clinic bills medicaid, 20229
medicare, or other third-party payers for health care services 20230

rendered at the clinic, and receives twenty-five per cent or more 20231
of the clinic's annual revenue from the third-party payments. 20232

(2) "Health care professional" and "health care worker" have 20233
the same meanings as in section 2305.234 of the Revised Code. 20234

Sec. 2307.65. (A) The attorney general may bring a civil 20235
action in the Franklin county court of common pleas on behalf of 20236
the department of job and family services, and the prosecuting 20237
attorney of the county in which a violation of division (B) of 20238
section 2913.401 of the Revised Code occurs may bring a civil 20239
action in the court of common pleas of that county on behalf of 20240
the county department of job and family services, against a person 20241
who violates division (B) of section 2913.401 of the Revised Code 20242
for the recovery of the amount of benefits paid on behalf of a 20243
person that either department would not have paid but for the 20244
violation minus any amounts paid in restitution under division 20245
(C)(2) of section 2913.401 of the Revised Code and for reasonable 20246
attorney's fees and all other fees and costs of litigation. 20247

(B) In a civil action brought under division (A) of this 20248
section, if the defendant failed to disclose a transfer of 20249
property in violation of division (B)(3) of section 2913.401 of 20250
the Revised Code, the court may also grant any of the following 20251
relief to the extent permitted by 42 U.S.C. 1396p: 20252

(1) Avoidance of the transfer of property that was not 20253
disclosed in violation of division (B)(3) of section 2913.401 of 20254
the Revised Code to the extent of the amount of benefits the 20255
department would not have paid but for the violation; 20256

(2) An order of attachment or garnishment against the 20257
property in accordance with Chapter 2715. or 2716. of the Revised 20258
Code; 20259

(3) An injunction against any further disposition by the 20260

transferor or transferee, or both, of the property the transfer of 20261
which was not disclosed in violation of division (B)(3) of section 20262
2913.401 of the Revised Code or against the disposition of other 20263
property by the transferor or transferee; 20264

(4) Appointment of a receiver to take charge of the property 20265
transferred or of other property of the transferee; 20266

(5) Any other relief that the court considers just and 20267
equitable. 20268

(C) To the extent permitted by 42 U.S.C. 1396p, the 20269
department of job and family services or the county department of 20270
job and family services may enforce a judgment obtained under this 20271
section by levying on property the transfer of which was not 20272
disclosed in violation of division (B)(3) of section 2913.401 of 20273
the Revised Code or on the proceeds of the transfer of that 20274
property in accordance with Chapter 2329. of the Revised Code. 20275

(D) The remedies provided in divisions (B) and (C) of this 20276
section do not apply if the transferee of the property the 20277
transfer of which was not disclosed in violation of division 20278
(B)(3) of section 2913.401 of the Revised Code acquired the 20279
property in good faith and for fair market value. 20280

(E) The remedies provided in this section are not exclusive 20281
and do not preclude the use of any other criminal or civil remedy 20282
for any act that is in violation of section 2913.401 of the 20283
Revised Code. 20284

(F) Amounts of medicaid benefits paid and recovered in an 20285
action brought under this section shall be credited to the general 20286
revenue fund, and any applicable federal share shall be returned 20287
to the appropriate agency or department of the United States. 20288

Sec. 2329.66. (A) Every person who is domiciled in this state 20289
may hold property exempt from execution, garnishment, attachment, 20290

or sale to satisfy a judgment or order, as follows: 20291

(1)(a) In the case of a judgment or order regarding money 20292
owed for health care services rendered or health care supplies 20293
provided to the person or a dependent of the person, one parcel or 20294
item of real or personal property that the person or a dependent 20295
of the person uses as a residence. Division (A)(1)(a) of this 20296
section does not preclude, affect, or invalidate the creation 20297
under this chapter of a judgment lien upon the exempted property 20298
but only delays the enforcement of the lien until the property is 20299
sold or otherwise transferred by the owner or in accordance with 20300
other applicable laws to a person or entity other than the 20301
surviving spouse or surviving minor children of the judgment 20302
debtor. Every person who is domiciled in this state may hold 20303
exempt from a judgment lien created pursuant to division (A)(1)(a) 20304
of this section the person's interest, not to exceed five thousand 20305
dollars, in the exempted property. 20306

(b) In the case of all other judgments and orders, the 20307
person's interest, not to exceed five thousand dollars, in one 20308
parcel or item of real or personal property that the person or a 20309
dependent of the person uses as a residence. 20310

(2) The person's interest, not to exceed one thousand 20311
dollars, in one motor vehicle; 20312

(3) The person's interest, not to exceed two hundred dollars 20313
in any particular item, in wearing apparel, beds, and bedding, and 20314
the person's interest, not to exceed three hundred dollars in each 20315
item, in one cooking unit and one refrigerator or other food 20316
preservation unit; 20317

(4)(a) The person's interest, not to exceed four hundred 20318
dollars, in cash on hand, money due and payable, money to become 20319
due within ninety days, tax refunds, and money on deposit with a 20320
bank, savings and loan association, credit union, public utility, 20321

landlord, or other person. Division (A)(4)(a) of this section 20322
applies only in bankruptcy proceedings. This exemption may include 20323
the portion of personal earnings that is not exempt under division 20324
(A)(13) of this section. 20325

(b) Subject to division (A)(4)(d) of this section, the 20326
person's interest, not to exceed two hundred dollars in any 20327
particular item, in household furnishings, household goods, 20328
appliances, books, animals, crops, musical instruments, firearms, 20329
and hunting and fishing equipment, that are held primarily for the 20330
personal, family, or household use of the person; 20331

(c) Subject to division (A)(4)(d) of this section, the 20332
person's interest in one or more items of jewelry, not to exceed 20333
four hundred dollars in one item of jewelry and not to exceed two 20334
hundred dollars in every other item of jewelry; 20335

(d) Divisions (A)(4)(b) and (c) of this section do not 20336
include items of personal property listed in division (A)(3) of 20337
this section. 20338

If the person does not claim an exemption under division 20339
(A)(1) of this section, the total exemption claimed under division 20340
(A)(4)(b) of this section shall be added to the total exemption 20341
claimed under division (A)(4)(c) of this section, and the total 20342
shall not exceed two thousand dollars. If the person claims an 20343
exemption under division (A)(1) of this section, the total 20344
exemption claimed under division (A)(4)(b) of this section shall 20345
be added to the total exemption claimed under division (A)(4)(c) 20346
of this section, and the total shall not exceed one thousand five 20347
hundred dollars. 20348

(5) The person's interest, not to exceed an aggregate of 20349
seven hundred fifty dollars, in all implements, professional 20350
books, or tools of the person's profession, trade, or business, 20351
including agriculture; 20352

(6)(a) The person's interest in a beneficiary fund set apart, appropriated, or paid by a benevolent association or society, as exempted by section 2329.63 of the Revised Code;	20353 20354 20355
(b) The person's interest in contracts of life or endowment insurance or annuities, as exempted by section 3911.10 of the Revised Code;	20356 20357 20358
(c) The person's interest in a policy of group insurance or the proceeds of a policy of group insurance, as exempted by section 3917.05 of the Revised Code;	20359 20360 20361
(d) The person's interest in money, benefits, charity, relief, or aid to be paid, provided, or rendered by a fraternal benefit society, as exempted by section 3921.18 of the Revised Code;	20362 20363 20364 20365
(e) The person's interest in the portion of benefits under policies of sickness and accident insurance and in lump sum payments for dismemberment and other losses insured under those policies, as exempted by section 3923.19 of the Revised Code.	20366 20367 20368 20369
(7) The person's professionally prescribed or medically necessary health aids;	20370 20371
(8) The person's interest in a burial lot, including, but not limited to, exemptions under section 517.09 or 1721.07 of the Revised Code;	20372 20373 20374
(9) The person's interest in the following:	20375
(a) Moneys paid or payable for living maintenance or rights, as exempted by section 3304.19 of the Revised Code;	20376 20377
(b) Workers' compensation, as exempted by section 4123.67 of the Revised Code;	20378 20379
(c) Unemployment compensation benefits, as exempted by section 4141.32 of the Revised Code;	20380 20381

(d) Cash assistance payments under the Ohio works first program, as exempted by section 5107.75 of the Revised Code;	20382 20383
(e) Benefits and services under the prevention, retention, and contingency program, as exempted by section 5108.08 of the Revised Code;	20384 20385 20386
(f) Disability financial assistance payments, as exempted by section 5115.06 of the Revised Code.	20387 20388
(10)(a) Except in cases in which the person was convicted of or pleaded guilty to a violation of section 2921.41 of the Revised Code and in which an order for the withholding of restitution from payments was issued under division (C)(2)(b) of that section or in cases in which an order for withholding was issued under section 2907.15 of the Revised Code, and only to the extent provided in the order, and except as provided in sections 3105.171, 3105.63, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to a pension, benefit, annuity, retirement allowance, or accumulated contributions, the person's right to a participant account in any deferred compensation program offered by the Ohio public employees deferred compensation board, a government unit, or a municipal corporation, or the person's other accrued or accruing rights, as exempted by section 145.56, 146.13, 148.09, 742.47, 3307.41, 3309.66, or 5505.22 of the Revised Code, and the person's right to benefits from the Ohio public safety officers death benefit fund;	20389 20390 20391 20392 20393 20394 20395 20396 20397 20398 20399 20400 20401 20402 20403 20404 20405
(b) Except as provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code, the person's right to receive a payment under any pension, annuity, or similar plan or contract, not including a payment from a stock bonus or profit-sharing plan or a payment included in division (A)(6)(b) or (10)(a) of this section, on account of illness, disability, death, age, or length of service, to the extent reasonably necessary for	20406 20407 20408 20409 20410 20411 20412

the support of the person and any of the person's dependents, 20413
except if all the following apply: 20414

(i) The plan or contract was established by or under the 20415
auspices of an insider that employed the person at the time the 20416
person's rights under the plan or contract arose. 20417

(ii) The payment is on account of age or length of service. 20418

(iii) The plan or contract is not qualified under the 20419
"Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as 20420
amended. 20421

(c) Except for any portion of the assets that were deposited 20422
for the purpose of evading the payment of any debt and except as 20423
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 20424
3123.06 of the Revised Code, the person's right in the assets held 20425
in, or to receive any payment under, any individual retirement 20426
account, individual retirement annuity, "Roth IRA," or education 20427
individual retirement account that provides benefits by reason of 20428
illness, disability, death, or age, to the extent that the assets, 20429
payments, or benefits described in division (A)(10)(c) of this 20430
section are attributable to any of the following: 20431

(i) Contributions of the person that were less than or equal 20432
to the applicable limits on deductible contributions to an 20433
individual retirement account or individual retirement annuity in 20434
the year that the contributions were made, whether or not the 20435
person was eligible to deduct the contributions on the person's 20436
federal tax return for the year in which the contributions were 20437
made; 20438

(ii) Contributions of the person that were less than or equal 20439
to the applicable limits on contributions to a Roth IRA or 20440
education individual retirement account in the year that the 20441
contributions were made; 20442

(iii) Contributions of the person that are within the 20443
applicable limits on rollover contributions under subsections 219, 20444
402(c), 403(a)(4), 403(b)(8), 408(b), 408(d)(3), 408A(c)(3)(B), 20445
408A(d)(3), and 530(d)(5) of the "Internal Revenue Code of 1986," 20446
100 Stat. 2085, 26 U.S.C.A. 1, as amended. 20447

(d) Except for any portion of the assets that were deposited 20448
for the purpose of evading the payment of any debt and except as 20449
provided in sections 3119.80, 3119.81, 3121.02, 3121.03, and 20450
3123.06 of the Revised Code, the person's right in the assets held 20451
in, or to receive any payment under, any Keogh or "H.R. 10" plan 20452
that provides benefits by reason of illness, disability, death, or 20453
age, to the extent reasonably necessary for the support of the 20454
person and any of the person's dependents. 20455

(11) The person's right to receive spousal support, child 20456
support, an allowance, or other maintenance to the extent 20457
reasonably necessary for the support of the person and any of the 20458
person's dependents; 20459

(12) The person's right to receive, or moneys received during 20460
the preceding twelve calendar months from, any of the following: 20461

(a) An award of reparations under sections 2743.51 to 2743.72 20462
of the Revised Code, to the extent exempted by division (D) of 20463
section 2743.66 of the Revised Code; 20464

(b) A payment on account of the wrongful death of an 20465
individual of whom the person was a dependent on the date of the 20466
individual's death, to the extent reasonably necessary for the 20467
support of the person and any of the person's dependents; 20468

(c) Except in cases in which the person who receives the 20469
payment is an inmate, as defined in section 2969.21 of the Revised 20470
Code, and in which the payment resulted from a civil action or 20471
appeal against a government entity or employee, as defined in 20472
section 2969.21 of the Revised Code, a payment, not to exceed five 20473

thousand dollars, on account of personal bodily injury, not
including pain and suffering or compensation for actual pecuniary
loss, of the person or an individual for whom the person is a
dependent;

(d) A payment in compensation for loss of future earnings of
the person or an individual of whom the person is or was a
dependent, to the extent reasonably necessary for the support of
the debtor and any of the debtor's dependents.

(13) Except as provided in sections 3119.80, 3119.81,
3121.02, 3121.03, and 3123.06 of the Revised Code, personal
earnings of the person owed to the person for services in an
amount equal to the greater of the following amounts:

(a) If paid weekly, thirty times the current federal minimum
hourly wage; if paid biweekly, sixty times the current federal
minimum hourly wage; if paid semimonthly, sixty-five times the
current federal minimum hourly wage; or if paid monthly, one
hundred thirty times the current federal minimum hourly wage that
is in effect at the time the earnings are payable, as prescribed
by the "Fair Labor Standards Act of 1938," 52 Stat. 1060, 29
U.S.C. 206(a)(1), as amended;

(b) Seventy-five per cent of the disposable earnings owed to
the person.

(14) The person's right in specific partnership property, as
exempted by division (B)(3) of section 1775.24 of the Revised
Code;

(15) A seal and official register of a notary public, as
exempted by section 147.04 of the Revised Code;

(16) The person's interest in a tuition ~~credit~~ unit or a
payment under section 3334.09 of the Revised Code pursuant to a
tuition ~~credit~~ payment contract, as exempted by section 3334.15 of

the Revised Code; 20504

(17) Any other property that is specifically exempted from 20505
execution, attachment, garnishment, or sale by federal statutes 20506
other than the "Bankruptcy Reform Act of 1978," 92 Stat. 2549, 11 20507
U.S.C.A. 101, as amended; 20508

(18) The person's interest, not to exceed four hundred 20509
dollars, in any property, except that division (A)(18) of this 20510
section applies only in bankruptcy proceedings. 20511

(B) As used in this section: 20512

(1) "Disposable earnings" means net earnings after the 20513
garnishee has made deductions required by law, excluding the 20514
deductions ordered pursuant to section 3119.80, 3119.81, 3121.02, 20515
3121.03, or 3123.06 of the Revised Code. 20516

(2) "Insider" means: 20517

(a) If the person who claims an exemption is an individual, a 20518
relative of the individual, a relative of a general partner of the 20519
individual, a partnership in which the individual is a general 20520
partner, a general partner of the individual, or a corporation of 20521
which the individual is a director, officer, or in control; 20522

(b) If the person who claims an exemption is a corporation, a 20523
director or officer of the corporation; a person in control of the 20524
corporation; a partnership in which the corporation is a general 20525
partner; a general partner of the corporation; or a relative of a 20526
general partner, director, officer, or person in control of the 20527
corporation; 20528

(c) If the person who claims an exemption is a partnership, a 20529
general partner in the partnership; a general partner of the 20530
partnership; a person in control of the partnership; a partnership 20531
in which the partnership is a general partner; or a relative in, a 20532
general partner of, or a person in control of the partnership; 20533

(d) An entity or person to which or whom any of the following applies:	20534 20535
(i) The entity directly or indirectly owns, controls, or holds with power to vote, twenty per cent or more of the outstanding voting securities of the person who claims an exemption, unless the entity holds the securities in a fiduciary or agency capacity without sole discretionary power to vote the securities or holds the securities solely to secure to debt and the entity has not in fact exercised the power to vote.	20536 20537 20538 20539 20540 20541 20542
(ii) The entity is a corporation, twenty per cent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the person who claims an exemption or by an entity to which division (B)(2)(d)(i) of this section applies.	20543 20544 20545 20546 20547
(iii) A person whose business is operated under a lease or operating agreement by the person who claims an exemption, or a person substantially all of whose business is operated under an operating agreement with the person who claims an exemption.	20548 20549 20550 20551
(iv) The entity operates the business or all or substantially all of the property of the person who claims an exemption under a lease or operating agreement.	20552 20553 20554
(e) An insider, as otherwise defined in this section, of a person or entity to which division (B)(2)(d)(i), (ii), (iii), or (iv) of this section applies, as if the person or entity were a person who claims an exemption;	20555 20556 20557 20558
(f) A managing agent of the person who claims an exemption.	20559
(3) "Participant account" has the same meaning as in section 148.01 of the Revised Code.	20560 20561
(4) "Government unit" has the same meaning as in section 148.06 of the Revised Code.	20562 20563

(C) For purposes of this section, "interest" shall be determined as follows:

(1) In bankruptcy proceedings, as of the date a petition is filed with the bankruptcy court commencing a case under Title 11 of the United States Code;

(2) In all cases other than bankruptcy proceedings, as of the date of an appraisal, if necessary under section 2329.68 of the Revised Code, or the issuance of a writ of execution.

An interest, as determined under division (C)(1) or (2) of this section, shall not include the amount of any lien otherwise valid pursuant to section 2329.661 of the Revised Code.

Sec. 2743.191. (A)(1) There is hereby created in the state treasury the reparations fund, which shall be used only for the following purposes:

(a) The payment of awards of reparations that are granted by the attorney general;

(b) The compensation of any personnel needed by the attorney general to administer sections 2743.51 to 2743.72 of the Revised Code;

(c) The compensation of witnesses as provided in division (J) of section 2743.65 of the Revised Code;

(d) Other administrative costs of hearing and determining claims for an award of reparations by the attorney general;

(e) The costs of administering sections 2907.28 and 2969.01 to 2969.06 of the Revised Code;

(f) The costs of investigation and decision-making as certified by the attorney general;

(g) The provision of state financial assistance to victim assistance programs in accordance with sections 109.91 and 109.92

of the Revised Code;	20593
(h) The costs of paying the expenses of sex offense-related examinations and antibiotics pursuant to section 2907.28 of the Revised Code;	20594 20595 20596
(i) The cost of printing and distributing the pamphlet prepared by the attorney general pursuant to section 109.42 of the Revised Code;	20597 20598 20599
(j) Subject to division (D) of section 2743.71 of the Revised Code, the costs associated with the printing and providing of information cards or other printed materials to law enforcement agencies and prosecuting authorities and with publicizing the availability of awards of reparations pursuant to section 2743.71 of the Revised Code;	20600 20601 20602 20603 20604 20605
(k) The payment of costs of administering a DNA specimen collection procedure pursuant to sections 2152.74 and 2901.07 of the Revised Code, of performing DNA analysis of those DNA specimens, and of entering the resulting DNA records regarding those analyses into the DNA database pursuant to section 109.573 of the Revised Code;	20606 20607 20608 20609 20610 20611
(l) The payment of actual costs associated with initiatives by the attorney general for the apprehension, prosecution, and accountability of offenders, and the enhancing of services to crime victims. The amount of payments made pursuant to division (A)(1)(l) of this section during any given fiscal year shall not exceed five per cent of the balance of the reparations fund at the close of the immediately previous fiscal year;	20612 20613 20614 20615 20616 20617 20618
<u>(m) The costs of administering the adult parole authority's supervision of sexually violent predators with an active global positioning system device pursuant to section 2971.05 of the Revised Code.</u>	20619 20620 20621 20622

(2) All costs paid pursuant to section 2743.70 of the Revised Code, the portions of license reinstatement fees mandated by division (F)(2)(b) of section 4511.191 of the Revised Code to be credited to the fund, the portions of the proceeds of the sale of a forfeited vehicle specified in division (C)(2) of section 4503.234 of the Revised Code, payments collected by the department of rehabilitation and correction from prisoners who voluntarily participate in an approved work and training program pursuant to division (C)(8)(b)(ii) of section 5145.16 of the Revised Code, and all moneys collected by the state pursuant to its right of subrogation provided in section 2743.72 of the Revised Code shall be deposited in the fund.

(B) In making an award of reparations, the attorney general shall render the award against the state. The award shall be accomplished only through the following procedure, and the following procedure may be enforced by writ of mandamus directed to the appropriate official:

(1) The attorney general shall provide for payment of the claimant or providers in the amount of the award only if the amount of the award is fifty dollars or more.

(2) The expense shall be charged against all available unencumbered moneys in the fund.

(3) If sufficient unencumbered moneys do not exist in the fund, the attorney general shall make application for payment of the award out of the emergency purposes account or any other appropriation for emergencies or contingencies, and payment out of this account or other appropriation shall be authorized if there are sufficient moneys greater than the sum total of then pending emergency purposes account requests or requests for releases from the other appropriations.

(4) If sufficient moneys do not exist in the account or any

other appropriation for emergencies or contingencies to pay the
award, the attorney general shall request the general assembly to
make an appropriation sufficient to pay the award, and no payment
shall be made until the appropriation has been made. The attorney
general shall make this appropriation request during the current
biennium and during each succeeding biennium until a sufficient
appropriation is made. If, prior to the time that an appropriation
is made by the general assembly pursuant to this division, the
fund has sufficient unencumbered funds to pay the award or part of
the award, the available funds shall be used to pay the award or
part of the award, and the appropriation request shall be amended
to request only sufficient funds to pay that part of the award
that is unpaid.

(C) The attorney general shall not make payment on a decision
or order granting an award until all appeals have been determined
and all rights to appeal exhausted, except as otherwise provided
in this section. If any party to a claim for an award of
reparations appeals from only a portion of an award, and a
remaining portion provides for the payment of money by the state,
that part of the award calling for the payment of money by the
state and not a subject of the appeal shall be processed for
payment as described in this section.

(D) The attorney general shall prepare itemized bills for the
costs of printing and distributing the pamphlet the attorney
general prepares pursuant to section 109.42 of the Revised Code.
The itemized bills shall set forth the name and address of the
persons owed the amounts set forth in them.

(E) As used in this section, "DNA analysis" and "DNA
specimen" have the same meanings as in section 109.573 of the
Revised Code.

Sec. 2744.05. Notwithstanding any other provisions of the

Revised Code or rules of a court to the contrary, in an action 20685
against a political subdivision to recover damages for injury, 20686
death, or loss to person or property caused by an act or omission 20687
in connection with a governmental or proprietary function: 20688

(A) Punitive or exemplary damages shall not be awarded. 20689

(B)(1) If a claimant receives or is entitled to receive 20690
benefits for injuries or loss allegedly incurred from a policy or 20691
policies of insurance or any other source, the benefits shall be 20692
disclosed to the court, and the amount of the benefits shall be 20693
deducted from any award against a political subdivision recovered 20694
by that claimant. No insurer or other person is entitled to bring 20695
an action under a subrogation provision in an insurance or other 20696
contract against a political subdivision with respect to those 20697
benefits. 20698

The amount of the benefits shall be deducted from an award 20699
against a political subdivision under division (B)(1) of this 20700
section regardless of whether the claimant may be under an 20701
obligation to pay back the benefits upon recovery, in whole or in 20702
part, for the claim. A claimant whose benefits have been deducted 20703
from an award under division (B)(1) of this section is not 20704
considered fully compensated and shall not be required to 20705
reimburse a subrogated claim for benefits deducted from an award 20706
pursuant to division (B)(1) of this section. 20707

(2) Nothing in division (B)(1) of this section shall be 20708
construed to do either of the following: 20709

(a) Limit the rights of a beneficiary under a life insurance 20710
policy or the rights of sureties under fidelity or surety bonds; 20711

(b) Prohibit the department of job and family services from 20712
recovering from the political subdivision, pursuant to section 20713
5101.58 of the Revised Code, the cost of medical assistance 20714
benefits provided under Chapter 5107.7, or 5111.7, ~~or 5115.~~ of the 20715

Revised Code. 20716

(C)(1) There shall not be any limitation on compensatory 20717
damages that represent the actual loss of the person who is 20718
awarded the damages. However, except in wrongful death actions 20719
brought pursuant to Chapter 2125. of the Revised Code, damages 20720
that arise from the same cause of action, transaction or 20721
occurrence, or series of transactions or occurrences and that do 20722
not represent the actual loss of the person who is awarded the 20723
damages shall not exceed two hundred fifty thousand dollars in 20724
favor of any one person. The limitation on damages that do not 20725
represent the actual loss of the person who is awarded the damages 20726
provided in this division does not apply to court costs that are 20727
awarded to a plaintiff, or to interest on a judgment rendered in 20728
favor of a plaintiff, in an action against a political 20729
subdivision. 20730

(2) As used in this division, "the actual loss of the person 20731
who is awarded the damages" includes all of the following: 20732

(a) All wages, salaries, or other compensation lost by the 20733
person injured as a result of the injury, including wages, 20734
salaries, or other compensation lost as of the date of a judgment 20735
and future expected lost earnings of the person injured; 20736

(b) All expenditures of the person injured or another person 20737
on behalf of the person injured for medical care or treatment, for 20738
rehabilitation services, or for other care, treatment, services, 20739
products, or accommodations that were necessary because of the 20740
injury; 20741

(c) All expenditures to be incurred in the future, as 20742
determined by the court, by the person injured or another person 20743
on behalf of the person injured for medical care or treatment, for 20744
rehabilitation services, or for other care, treatment, services, 20745
products, or accommodations that will be necessary because of the 20746

injury;	20747
(d) All expenditures of a person whose property was injured	20748
or destroyed or of another person on behalf of the person whose	20749
property was injured or destroyed in order to repair or replace	20750
the property that was injured or destroyed;	20751
(e) All expenditures of the person injured or of the person	20752
whose property was injured or destroyed or of another person on	20753
behalf of the person injured or of the person whose property was	20754
injured or destroyed in relation to the actual preparation or	20755
presentation of the claim involved;	20756
(f) Any other expenditures of the person injured or of the	20757
person whose property was injured or destroyed or of another	20758
person on behalf of the person injured or of the person whose	20759
property was injured or destroyed that the court determines	20760
represent an actual loss experienced because of the personal or	20761
property injury or property loss.	20762
"The actual loss of the person who is awarded the damages"	20763
does not include any fees paid or owed to an attorney for any	20764
services rendered in relation to a personal or property injury or	20765
property loss, and does not include any damages awarded for pain	20766
and suffering, for the loss of society, consortium, companionship,	20767
care, assistance, attention, protection, advice, guidance,	20768
counsel, instruction, training, or education of the person	20769
injured, for mental anguish, or for any other intangible loss.	20770
Sec. 2744.08. (A)(1) A political subdivision may use public	20771
funds to secure insurance with respect to its and its employees'	20772
potential liability in damages in civil actions for injury, death,	20773
or loss to persons or property allegedly caused by an act or	20774
omission of the political subdivision or any of its employees in	20775
connection with a governmental or proprietary function. The	20776

insurance may be at the limits, for the circumstances, and subject 20777
to the terms and conditions, that are determined by the political 20778
subdivision in its discretion. 20779

The insurance may be for the period of time that is set forth 20780
in specifications for competitive bids or, when competitive 20781
bidding is not required, for the period of time that is mutually 20782
agreed upon by the political subdivision and insurance company. 20783
The period of time does not have to be, but can be, limited to the 20784
fiscal cycle under which the political subdivision is funded and 20785
operates. 20786

(2)(a) Regardless of whether a political subdivision procures 20787
a policy or policies of liability insurance pursuant to division 20788
(A)(1) of this section or otherwise, the political subdivision may 20789
establish and maintain a self-insurance program relative to its 20790
and its employees' potential liability in damages in civil actions 20791
for injury, death, or loss to persons or property allegedly caused 20792
by an act or omission of the political subdivision or any of its 20793
employees in connection with a governmental or proprietary 20794
function. The political subdivision may reserve such funds as it 20795
deems appropriate in a special fund that may be established 20796
pursuant to an ordinance or resolution of the political 20797
subdivision and not subject to section 5705.12 of the Revised 20798
Code. The political subdivision may allocate the costs of 20799
insurance or a self-insurance program, or both, among the funds or 20800
accounts in the subdivision's treasury on the basis of relative 20801
exposure and loss experience. The political subdivision may 20802
require any deductibles under an insurance or self-insurance 20803
program, or both, to be paid from funds or accounts in the 20804
subdivision's treasury from which a loss was directly 20805
attributable. If it so chooses, the political subdivision may 20806
contract with any person, other political subdivision, or regional 20807
council of governments for purposes of the administration of such 20808

a program. 20809

(b) Political subdivisions that have established 20810
self-insurance programs relative to their and their employees' 20811
potential liability as described in division (A)(2)(a) of this 20812
section may mutually agree that their self-insurance programs will 20813
be jointly administered in a specified manner. 20814

(B) The purchase of liability insurance, or the establishment 20815
and maintenance of a self-insurance program, by a political 20816
subdivision does not constitute a waiver of any immunity or 20817
defense of the political subdivision or its employees, except that 20818
the political subdivision may specifically waive any immunity or 20819
defense to which it or its employees may be entitled if a 20820
provision to that effect is specifically included in the policy of 20821
insurance or in a written plan of operation of the self-insurance 20822
program, or, if any, the legislative enactment of the political 20823
subdivision authorizing the purchase of the insurance or the 20824
establishment and maintenance of the self-insurance program. Such 20825
a specific waiver shall be only to the extent of the insurance or 20826
self-insurance program coverage. 20827

(C) The authorizations for political subdivisions to secure 20828
insurance and to establish and maintain self-insurance programs in 20829
this section are in addition to any other authority to secure 20830
insurance or to establish and maintain self-insurance programs 20831
that is granted pursuant to the Revised Code or the constitution 20832
of this state, and they are not in derogation of any other 20833
authorization. 20834

Sec. 2744.082. (A) If a political subdivision, pursuant to 20835
division (A)(2)(a) of section 2744.08 of the Revised Code, has 20836
allocated costs to, or required the payment of deductibles from, 20837
funds or accounts in the subdivision's treasury, the subdivision's 20838
fiscal officer, pursuant to an ordinance or resolution of the 20839

<u>subdivision's legislative authority, shall transfer amounts equal</u>	20840
<u>to those costs or deductibles from the funds or accounts to the</u>	20841
<u>subdivision's general fund if both of the following occur:</u>	20842
<u>(1) The subdivision requests payment from the employee</u>	20843
<u>responsible for the funds or accounts for those costs or</u>	20844
<u>deductibles;</u>	20845
<u>(2) The employee receiving the request fails to remit payment</u>	20846
<u>within forty-five days after the date of receipt of the request.</u>	20847
<u>(B) Sections 5705.14, 5705.15, and 5705.16 of the Revised</u>	20848
<u>Code do not apply to transfers made pursuant to this section.</u>	20849
Sec. 2901.07. (A) As used in this section:	20850
(1) "DNA analysis" and "DNA specimen" have the same meanings	20851
as in section 109.573 of the Revised Code.	20852
(2) "Jail" and "community-based correctional facility" have	20853
the same meanings as in section 2929.01 of the Revised Code.	20854
(3) "Post-release control" has the same meaning as in section	20855
2967.01 of the Revised Code.	20856
(B)(1) A person who is convicted of or pleads guilty to a	20857
felony offense listed in division (D) of this section and who is	20858
sentenced to a prison term or to a community residential sanction	20859
in a jail or community-based correctional facility pursuant to	20860
section 2929.16 of the Revised Code, and a person who is convicted	20861
of or pleads guilty to a misdemeanor offense listed in division	20862
(D) of this section and who is sentenced to a term of imprisonment	20863
shall submit to a DNA specimen collection procedure administered	20864
by the director of rehabilitation and correction or the chief	20865
administrative officer of the jail or other detention facility in	20866
which the person is serving the term of imprisonment. If the	20867
person serves the prison term in a state correctional institution,	20868
the director of rehabilitation and correction shall cause the DNA	20869

specimen to be collected from the person during the intake process 20870
at the reception facility designated by the director. If the 20871
person serves the community residential sanction or term of 20872
imprisonment in a jail, a community-based correctional facility, 20873
or another county, multicounty, municipal, municipal-county, or 20874
multicounty-municipal detention facility, the chief administrative 20875
officer of the jail, community-based correctional facility, or 20876
detention facility shall cause the DNA specimen to be collected 20877
from the person during the intake process at the jail, 20878
community-based correctional facility, or detention facility. In 20879
accordance with division (C) of this section, the director or the 20880
chief administrative officer shall cause the DNA specimen to be 20881
forwarded to the bureau of criminal identification and 20882
investigation no later than fifteen days after the date of the 20883
collection of the DNA specimen. The DNA specimen shall be 20884
collected in accordance with division (C) of this section. 20885

(2) If a person is convicted of or pleads guilty to an 20886
offense listed in division (D) of this section, is serving a 20887
prison term, community residential sanction, or term of 20888
imprisonment for that offense, and does not provide a DNA specimen 20889
pursuant to division (B)(1) of this section, prior to the person's 20890
release from the prison term, community residential sanction, or 20891
imprisonment, the person shall submit to, and the director of 20892
rehabilitation and correction or the chief administrative officer 20893
of the jail, community-based correctional facility, or detention 20894
facility in which the person is serving the prison term, community 20895
residential sanction, or term of imprisonment shall administer, a 20896
DNA specimen collection procedure at the state correctional 20897
institution, jail, community-based correctional facility, or 20898
detention facility in which the person is serving the prison term, 20899
community residential sanction, or term of imprisonment. In 20900
accordance with division (C) of this section, the director or the 20901

chief administrative officer shall cause the DNA specimen to be 20902
forwarded to the bureau of criminal identification and 20903
investigation no later than fifteen days after the date of the 20904
collection of the DNA specimen. The DNA specimen shall be 20905
collected in accordance with division (C) of this section. 20906

(3) If a person sentenced to a term of imprisonment or 20907
serving a prison term or community residential sanction for 20908
committing an offense listed in division (D) of this section is on 20909
probation, is released on parole, under transitional control, or 20910
on another type of release, or is on post-release control, if the 20911
person is under the supervision of a probation department or the 20912
adult parole authority, if the person is sent to jail or is 20913
returned to a jail, community-based correctional facility, or 20914
state correctional institution for a violation of the terms and 20915
conditions of the probation, parole, transitional control, other 20916
release, or post-release control, if the person was or will be 20917
serving a term of imprisonment, prison term, or community 20918
residential sanction for committing an offense listed in division 20919
(D) of this section, and if the person did not provide a DNA 20920
specimen pursuant to division (B)(1) or (2) of this section, the 20921
person shall submit to, and the director of rehabilitation and 20922
correction or the chief administrative officer of the jail or 20923
community-based correctional facility shall administer, a DNA 20924
specimen collection procedure at the jail, community-based 20925
correctional facility, or state correctional institution in which 20926
the person is serving the term of imprisonment, prison term, or 20927
community residential sanction. In accordance with division (C) of 20928
this section, the director or the chief administrative officer 20929
shall cause the DNA specimen to be forwarded to the bureau of 20930
criminal identification and investigation no later than fifteen 20931
days after the date of the collection of the DNA specimen. The DNA 20932
specimen shall be collected from the person in accordance with 20933

division (C) of this section.

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(C) If the DNA specimen is collected by withdrawing blood from the person or a similarly invasive procedure, a physician, registered nurse, licensed practical nurse, duly licensed clinical laboratory technician, or other qualified medical practitioner shall collect in a medically approved manner the DNA specimen required to be collected pursuant to division (B) of this section. If the DNA specimen is collected by swabbing for buccal cells or a similarly noninvasive procedure, this section does not require that the DNA specimen be collected by a qualified medical practitioner of that nature. No later than fifteen days after the date of the collection of the DNA specimen, the director of rehabilitation and correction or the chief administrative officer of the jail, community-based correctional facility, or other county, multicounty, municipal, municipal-county, or multicounty-municipal detention facility, in which the person is serving the prison term, community residential sanction, or term of imprisonment shall cause the DNA specimen to be forwarded to the bureau of criminal identification and investigation in accordance with procedures established by the superintendent of the bureau under division (H) of section 109.573 of the Revised Code. The bureau shall provide the specimen vials, mailing tubes, labels, postage, and instructions needed for the collection and forwarding of the DNA specimen to the bureau.

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(D) The director of rehabilitation and correction and the chief administrative officer of the jail, community-based correctional facility, or other county, multicounty, municipal, municipal-county, or multicounty-municipal detention facility shall cause a DNA specimen to be collected in accordance with divisions (B) and (C) of this section from a person in its custody who is convicted of or pleads guilty to any of the following offenses:

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- (1) A violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code; 20966
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- (2) A violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996; 20969
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- (3) An attempt to commit a violation of section 2903.01, 2903.02, 2907.02, 2907.03, 2907.04, or 2907.05 of the Revised Code or to commit a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996; 20971
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- (4) A violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.01, 2903.02, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, or 2911.11 of the Revised Code that previously was dismissed or amended or as did a charge against the person of a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996, that previously was dismissed or amended; 20975
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- (5) A violation of section 2905.02 or 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had it been committed prior to that date; 20983
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- (6) A sexually oriented offense or a child-victim oriented offense, both as defined in section 2950.01 of the Revised Code, if, in relation to that offense, the offender has been adjudicated a sexual predator or a child-victim predator, both as defined in section 2950.01 of the Revised Code; 20987
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- (7) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended; 20992
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(8) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(9) Complicity in committing a violation of section 2903.01, 2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a violation of section 2907.12 of the Revised Code as it existed prior to September 3, 1996.

(E) The director of rehabilitation and correction or a chief administrative officer of a jail, community-based correctional facility, or other detention facility described in division (B) of this section in relation to the following offenses is not required to comply with this section until the superintendent of the bureau of criminal identification and investigation gives agencies in the criminal justice system, as defined in section ~~181.51~~ 5502.61 of the Revised Code, in the state official notification that the state DNA laboratory is prepared to accept DNA specimens of that nature:

(1) A violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code;

(2) An attempt to commit a violation of section 2903.01 or 2903.02 of the Revised Code;

(3) A felony violation of any law that arose out of the same facts and circumstances and same act as did a charge against the person of a violation of section 2903.11, 2911.01, 2911.02, or 2911.12 of the Revised Code that previously was dismissed or amended;

(4) A conspiracy to commit a violation of section 2903.01, 2903.02, 2905.01, 2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code;

(5) Complicity in committing a violation of section 2903.01, 21027
2903.02, 2903.11, 2905.01, 2907.02, 2907.03, 2907.04, 2907.05, 21028
2911.01, 2911.02, 2911.11, or 2911.12 of the Revised Code or a 21029
violation of section 2907.12 of the Revised Code as it existed 21030
prior to September 3, 1996. 21031

Sec. 2913.40. (A) As used in this section: 21032

(1) "Statement or representation" means any oral, written, 21033
electronic, electronic impulse, or magnetic communication that is 21034
used to identify an item of goods or a service for which 21035
reimbursement may be made under the medical assistance program or 21036
that states income and expense and is or may be used to determine 21037
a rate of reimbursement under the medical assistance program. 21038

(2) "Medical assistance program" means the program 21039
established by the department of job and family services to 21040
provide medical assistance under section 5111.01 of the Revised 21041
Code and the medicaid program of Title XIX of the "Social Security 21042
Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. 21043

(3) "Provider" means any person who has signed a provider 21044
agreement with the department of job and family services to 21045
provide goods or services pursuant to the medical assistance 21046
program or any person who has signed an agreement with a party to 21047
such a provider agreement under which the person agrees to provide 21048
goods or services that are reimbursable under the medical 21049
assistance program. 21050

(4) "Provider agreement" means an oral or written agreement 21051
between the department of job and family services and a person in 21052
which the person agrees to provide goods or services under the 21053
medical assistance program. 21054

(5) "Recipient" means any individual who receives goods or 21055
services from a provider under the medical assistance program. 21056

(6) "Records" means any medical, professional, financial, or business records relating to the treatment or care of any recipient, to goods or services provided to any recipient, or to rates paid for goods or services provided to any recipient and any records that are required by the rules of the director of job and family services to be kept for the medical assistance program.

(B) No person shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from the medical assistance program.

(C) No person, with purpose to commit fraud or knowing that the person is facilitating a fraud, shall do either of the following:

(1) Contrary to the terms of the person's provider agreement, charge, solicit, accept, or receive for goods or services that the person provides under the medical assistance program any property, money, or other consideration in addition to the amount of reimbursement under the medical assistance program and the person's provider agreement for the goods or services and any deductibles or co-payments authorized by ~~rules adopted under section 5111.0112 of the Revised Code or by any rules adopted pursuant to that section~~ section 5111.01, 5111.011, or 5111.02 of the Revised Code.

(2) Solicit, offer, or receive any remuneration, other than any deductibles or co-payments authorized by section 5111.0112 of the Revised Code or rules adopted under section 5111.01, 5111.011, or 5111.02 of the Revised Code ~~or by any rules adopted pursuant to that section~~, in cash or in kind, including, but not limited to, a kickback or rebate, in connection with the furnishing of goods or services for which whole or partial reimbursement is or may be made under the medical assistance program.

(D) No person, having submitted a claim for or provided goods 21088
or services under the medical assistance program, shall do either 21089
of the following for a period of at least six years after a 21090
reimbursement pursuant to that claim, or a reimbursement for those 21091
goods or services, is received under the medical assistance 21092
program: 21093

(1) Knowingly alter, falsify, destroy, conceal, or remove any 21094
records that are necessary to fully disclose the nature of all 21095
goods or services for which the claim was submitted, or for which 21096
reimbursement was received, by the person; 21097

(2) Knowingly alter, falsify, destroy, conceal, or remove any 21098
records that are necessary to disclose fully all income and 21099
expenditures upon which rates of reimbursements were based for the 21100
person. 21101

(E) Whoever violates this section is guilty of medicaid 21102
fraud. Except as otherwise provided in this division, medicaid 21103
fraud is a misdemeanor of the first degree. If the value of 21104
property, services, or funds obtained in violation of this section 21105
is five hundred dollars or more and is less than five thousand 21106
dollars, medicaid fraud is a felony of the fifth degree. If the 21107
value of property, services, or funds obtained in violation of 21108
this section is five thousand dollars or more and is less than one 21109
hundred thousand dollars, medicaid fraud is a felony of the fourth 21110
degree. If the value of the property, services, or funds obtained 21111
in violation of this section is one hundred thousand dollars or 21112
more, medicaid fraud is a felony of the third degree. 21113

(F) Upon application of the governmental agency, office, or 21114
other entity that conducted the investigation and prosecution in a 21115
case under this section, the court shall order any person who is 21116
convicted of a violation of this section for receiving any 21117
reimbursement for furnishing goods or services under the medical 21118

assistance program to which the person is not entitled to pay to 21119
the applicant its cost of investigating and prosecuting the case. 21120
The costs of investigation and prosecution that a defendant is 21121
ordered to pay pursuant to this division shall be in addition to 21122
any other penalties for the receipt of that reimbursement that are 21123
provided in this section, section 5111.03 of the Revised Code, or 21124
any other provision of law. 21125

(G) The provisions of this section are not intended to be 21126
exclusive remedies and do not preclude the use of any other 21127
criminal or civil remedy for any act that is in violation of this 21128
section. 21129

Sec. 2913.401. (A) As used in this section: 21130

(1) "Medicaid benefits" means benefits under the medical 21131
assistance program established under Chapter 5111. of the Revised 21132
Code. 21133

(2) "Property" means any real or personal property or other 21134
asset in which a person has any legal title or interest. 21135

(B) No person shall knowingly do any of the following in an 21136
application for medicaid benefits or in a document that requires a 21137
disclosure of assets for the purpose of determining eligibility to 21138
receive medicaid benefits: 21139

(1) Make or cause to be made a false or misleading statement; 21140

(2) Conceal an interest in property; 21141

(3)(a) Except as provided in division (B)(3)(b) of this 21142
section, fail to disclose a transfer of property that occurred 21143
during the period beginning thirty-six months before submission of 21144
the application or document and ending on the date the application 21145
or document was submitted; 21146

(b) Fail to disclose a transfer of property that occurred 21147

during the period beginning sixty months before submission of the 21148
application or document and ending on the date the application or 21149
document was submitted and that was made to an irrevocable trust a 21150
portion of which is not distributable to the applicant for 21151
medicaid benefits or the recipient of medicaid benefits or to a 21152
revocable trust. 21153

(C)(1) Whoever violates this section is guilty of medicaid 21154
eligibility fraud. Except as otherwise provided in this division, 21155
a violation of this section is a misdemeanor of the first degree. 21156
If the value of the medicaid benefits paid as a result of the 21157
violation is five hundred dollars or more and is less than five 21158
thousand dollars, a violation of this section is a felony of the 21159
fifth degree. If the value of the medicaid benefits paid as a 21160
result of the violation is five thousand dollars or more and is 21161
less than one hundred thousand dollars, a violation of this 21162
section is a felony of the fourth degree. If the value of the 21163
medicaid benefits paid as a result of the violation is one hundred 21164
thousand dollars or more, a violation of this section is a felony 21165
of the third degree. 21166

(2) In addition to imposing a sentence under division (C)(1) 21167
of this section, the court shall order that a person who is guilty 21168
of medicaid eligibility fraud make restitution in the full amount 21169
of any medicaid benefits paid on behalf of an applicant for or 21170
recipient of medicaid benefits for which the applicant or 21171
recipient was not eligible, plus interest at the rate applicable 21172
to judgments on unreimbursed amounts from the date on which the 21173
benefits were paid to the date on which restitution is made. 21174

(3) The remedies and penalties provided in this section are 21175
not exclusive and do not preclude the use of any other criminal or 21176
civil remedy for any act that is in violation of this section. 21177

(D) This section does not apply to a person who fully 21178

disclosed in an application for medicaid benefits or in a document 21179
that requires a disclosure of assets for the purpose of 21180
determining eligibility to receive medicaid benefits all of the 21181
interests in property of the applicant for or recipient of 21182
medicaid benefits, all transfers of property by the applicant for 21183
or recipient of medicaid benefits, and the circumstances of all 21184
those transfers. 21185

(E) Any amounts of medicaid benefits recovered as restitution 21186
under this section and any interest on those amounts shall be 21187
credited to the general revenue fund, and any applicable federal 21188
share shall be returned to the appropriate agency or department of 21189
the United States. 21190

Sec. 2921.13. (A) No person shall knowingly make a false 21191
statement, or knowingly swear or affirm the truth of a false 21192
statement previously made, when any of the following applies: 21193

(1) The statement is made in any official proceeding. 21194

(2) The statement is made with purpose to incriminate 21195
another. 21196

(3) The statement is made with purpose to mislead a public 21197
official in performing the public official's official function. 21198

(4) The statement is made with purpose to secure the payment 21199
of unemployment compensation; Ohio works first; prevention, 21200
retention, and contingency benefits and services; disability 21201
financial assistance; retirement benefits; economic development 21202
assistance, as defined in section 9.66 of the Revised Code; or 21203
other benefits administered by a governmental agency or paid out 21204
of a public treasury. 21205

(5) The statement is made with purpose to secure the issuance 21206
by a governmental agency of a license, permit, authorization, 21207
certificate, registration, release, or provider agreement. 21208

(6) The statement is sworn or affirmed before a notary public	21209
or another person empowered to administer oaths.	21210
(7) The statement is in writing on or in connection with a	21211
report or return that is required or authorized by law.	21212
(8) The statement is in writing and is made with purpose to	21213
induce another to extend credit to or employ the offender, to	21214
confer any degree, diploma, certificate of attainment, award of	21215
excellence, or honor on the offender, or to extend to or bestow	21216
upon the offender any other valuable benefit or distinction, when	21217
the person to whom the statement is directed relies upon it to	21218
that person's detriment.	21219
(9) The statement is made with purpose to commit or	21220
facilitate the commission of a theft offense.	21221
(10) The statement is knowingly made to a probate court in	21222
connection with any action, proceeding, or other matter within its	21223
jurisdiction, either orally or in a written document, including,	21224
but not limited to, an application, petition, complaint, or other	21225
pleading, or an inventory, account, or report.	21226
(11) The statement is made on an account, form, record,	21227
stamp, label, or other writing that is required by law.	21228
(12) The statement is made in connection with the purchase of	21229
a firearm, as defined in section 2923.11 of the Revised Code, and	21230
in conjunction with the furnishing to the seller of the firearm of	21231
a fictitious or altered driver's or commercial driver's license or	21232
permit, a fictitious or altered identification card, or any other	21233
document that contains false information about the purchaser's	21234
identity.	21235
(13) The statement is made in a document or instrument of	21236
writing that purports to be a judgment, lien, or claim of	21237
indebtedness and is filed or recorded with the secretary of state,	21238

a county recorder, or the clerk of a court of record. 21239

(14) The statement is made with purpose to obtain an Ohio's 21240
best Rx program enrollment card under section 5110.09 of the 21241
Revised Code or a payment from the department of job and family 21242
services under section 5110.17 of the Revised Code. 21243

~~(14)~~(15) The statement is made in an application filed with a 21244
county sheriff pursuant to section 2923.125 of the Revised Code in 21245
order to obtain or renew a license to carry a concealed handgun or 21246
is made in an affidavit submitted to a county sheriff to obtain a 21247
temporary emergency license to carry a concealed handgun under 21248
section 2923.1213 of the Revised Code. 21249

(16) The statement is required under section 5743.72 of the 21250
Revised Code in connection with the person's purchase of 21251
cigarettes or tobacco products in a delivery sale. 21252

(B) No person, in connection with the purchase of a firearm, 21253
as defined in section 2923.11 of the Revised Code, shall knowingly 21254
furnish to the seller of the firearm a fictitious or altered 21255
driver's or commercial driver's license or permit, a fictitious or 21256
altered identification card, or any other document that contains 21257
false information about the purchaser's identity. 21258

(C) No person, in an attempt to obtain a license to carry a 21259
concealed handgun under section 2923.125 of the Revised Code, 21260
shall knowingly present to a sheriff a fictitious or altered 21261
document that purports to be certification of the person's 21262
competence in handling a handgun as described in division (B)(3) 21263
of section 2923.125 of the Revised Code. 21264

(D) It is no defense to a charge under division (A)(6) of 21265
this section that the oath or affirmation was administered or 21266
taken in an irregular manner. 21267

(E) If contradictory statements relating to the same fact are 21268

made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false but only that one or the other was false.

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), ~~or (14)~~, or (16) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is guilty of falsification in a theft offense. Except as otherwise provided in this division, falsification in a theft offense is a misdemeanor of the first degree. If the value of the property or services stolen is five hundred dollars or more and is less than five thousand dollars, falsification in a theft offense is a felony of the fifth degree. If the value of the property or services stolen is five thousand dollars or more and is less than one hundred thousand dollars, falsification in a theft offense is a felony of the fourth degree. If the value of the property or services stolen is one hundred thousand dollars or more, falsification in a theft offense is a felony of the third degree.

(3) Whoever violates division (A)(12) or (B) of this section is guilty of falsification to purchase a firearm, a felony of the fifth degree.

(4) Whoever violates division (A)~~(14)~~(15) or (C) of this section is guilty of falsification to obtain a concealed handgun license, a felony of the fourth degree.

(G) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division. A civil action under this

division is not the exclusive remedy of a person who incurs 21300
injury, death, or loss to person or property as a result of a 21301
violation of this section. 21302

Sec. 2923.25. Each federally licensed firearms dealer who 21303
sells any firearm, at the time of the sale of the firearm, shall 21304
offer for sale to the purchaser of the firearm a trigger lock, gun 21305
lock, or gun locking device that is appropriate for that firearm. 21306
Each federally licensed firearms dealer shall post in a 21307
conspicuous location in the dealer's place of business the poster 21308
furnished to the dealer pursuant to section ~~181.521~~ 5502.63 of the 21309
Revised Code and shall make available to all purchasers of 21310
firearms from the dealer the brochure furnished to the dealer 21311
pursuant to that section. 21312

As used in this section, "federally licensed firearms dealer" 21313
has the same meaning as in section ~~181.251~~ 5502.63 of the Revised 21314
Code. 21315

Sec. 2927.023. (A) As used in this section "authorized 21316
recipient of tobacco products" means a person who is: 21317

(1) Licensed as a cigarette wholesale dealer under section 21318
5743.15 of the Revised Code; 21319

(2) Licensed as a distributor of tobacco products under 21320
section 5743.61 of the Revised Code; 21321

(3) An export warehouse proprietor as defined in section 5702 21322
of the Internal Revenue Code; 21323

(4) An operator of a customs bonded warehouse under 19 U.S.C. 21324
1311 or 19 U.S.C. 1555; 21325

(5) An officer, employee, or agent of the federal government 21326
or of this state acting in the person's official capacity; 21327

(6) A department, agency, instrumentality, or political 21328

<u>subdivision of the federal government or of this state;</u>	21329
<u>(7) A person having a consent for consumer shipment issued by</u>	21330
<u>the tax commissioner under section 5743.71 of the Revised Code.</u>	21331
<u>The purpose of this section is to prevent the sale of</u>	21332
<u>cigarettes to minors and to ensure compliance with the Master</u>	21333
<u>Settlement Agreement, as defined in section 1346.01 of the Revised</u>	21334
<u>Code.</u>	21335
<u>(B)(1) No person shall cause to be shipped any cigarettes to</u>	21336
<u>any person in this state other than an authorized recipient of</u>	21337
<u>tobacco products.</u>	21338
<u>(2) No common carrier, contract carrier, or other person</u>	21339
<u>shall knowingly transport cigarettes to any person in this state</u>	21340
<u>that the carrier or other person reasonably believes is not an</u>	21341
<u>authorized recipient of tobacco products. If cigarettes are</u>	21342
<u>transported to a home or residence, it shall be presumed that the</u>	21343
<u>common carrier, contract carrier, or other person knew that the</u>	21344
<u>person to whom the cigarettes were delivered was not an authorized</u>	21345
<u>recipient of tobacco products.</u>	21346
<u>(C) No person engaged in the business of selling cigarettes</u>	21347
<u>who ships or causes to be shipped cigarettes to any person in this</u>	21348
<u>state in any container or wrapping other than the original</u>	21349
<u>container or wrapping of the cigarettes shall fail to plainly and</u>	21350
<u>visibly mark the exterior of the container or wrapping in which</u>	21351
<u>the cigarettes are shipped with the words "cigarettes."</u>	21352
<u>(D) A court shall impose a fine of up to one thousand dollars</u>	21353
<u>for each violation of division (B)(1), (B)(2), or (C) of this</u>	21354
<u>section.</u>	21355
Sec. 2971.05. (A)(1) After control over an offender's service	21356
of a prison term imposed pursuant to division (A)(3) of section	21357
2971.03 of the Revised Code has been transferred pursuant to	21358

section 2971.04 of the Revised Code to the court, the court shall 21359
schedule, within thirty days of any of the following, a hearing on 21360
whether to modify in accordance with division (C) of this section 21361
the requirement that the offender serve the entire prison term in 21362
a state correctional institution or to terminate the prison term 21363
in accordance with division (D) of this section: 21364

(a) Control over the offender's service of a prison term is 21365
transferred pursuant to section 2971.04 of the Revised Code to the 21366
court, and no hearing to modify the requirement has been held; 21367

(b) Two years elapse after the most recent prior hearing held 21368
pursuant to division (A)(1) or (2) of this section; 21369

(c) The prosecuting attorney, the department of 21370
rehabilitation and correction, or the adult parole authority 21371
requests the hearing, and recommends that the requirement be 21372
modified or that the offender's prison term be terminated. 21373

(2) After control over the offender's service of a prison 21374
term has been transferred pursuant to section 2971.04 of the 21375
Revised Code to the court, the court, within thirty days of either 21376
of the following, shall conduct a hearing on whether to modify in 21377
accordance with division (C) of this section the requirement that 21378
the offender serve the entire prison term in a state correctional 21379
institution, whether to continue, revise, or revoke an existing 21380
modification of that requirement, or whether to terminate the term 21381
in accordance with division (D) of this section: 21382

(a) The requirement that the offender serve the entire prison 21383
term in a state correctional institution has been modified, and 21384
the offender is taken into custody for any reason. 21385

(b) The department of rehabilitation and correction or the 21386
prosecuting attorney notifies the court pursuant to section 21387
2971.06 of the Revised Code regarding a known or suspected 21388
violation of a term or condition of the modification or a belief 21389

that there is a substantial likelihood that the offender has committed or is about to commit a sexually violent offense. 21390
21391

(3) After control over the offender's service of a prison term has been transferred pursuant to section 2971.04 of the Revised Code to the court, the court, in any of the following circumstances, may conduct a hearing within thirty days to determine whether to modify in accordance with division (C) of this section the requirement that the offender serve the entire prison term in a state correctional institution, whether to continue, revise, or revoke an existing modification of that requirement, or whether to terminate the sentence in accordance with division (D) of this section: 21392
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(a) The offender requests the hearing; 21402

(b) Upon the court's own motion; 21403

(c) One or more examiners who have conducted a psychological examination and assessment of the offender file a statement that states that there no longer is a likelihood that the offender will engage in the future in a sexually violent offense. 21404
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(B)(1) Before a court holds a hearing pursuant to division (A) of this section, the court shall provide notice of the date, time, place, and purpose of the hearing to the offender, the prosecuting attorney, the department of rehabilitation and correction, and the adult parole authority and shall request the department to prepare pursuant to section 5120.61 of the Revised Code an update of the most recent risk assessment and report relative to the offender. The offender has the right to be present at any hearing held under this section. At the hearing, the offender and the prosecuting attorney may make a statement and present evidence as to whether the requirement should or should not be modified, whether the existing modification of the requirement should be continued, revised, or revoked, and whether 21408
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the prison term should or should not be terminated. 21421

(2) At a hearing held pursuant to division (A) of this 21422
section, the court may and, if the hearing is held pursuant to 21423
division (A)(1)(a), (1)(b), or (3)(c) of this section, shall 21424
determine by clear and convincing evidence whether the offender is 21425
unlikely to commit a sexually violent offense in the future. 21426

(3) At the conclusion of the hearing held pursuant to 21427
division (A) of this section, the court may order that the 21428
requirement that the offender serve the entire prison term in a 21429
state correctional institution be continued, that the requirement 21430
be modified pursuant to division (C) of this section, that an 21431
existing modification be continued, revised, or revoked pursuant 21432
to division (C) of this section, or that the prison term be 21433
terminated pursuant to division (D) of this section. 21434

(C)(1) If, at the conclusion of a hearing held pursuant to 21435
division (A) of this section, the court determines by clear and 21436
convincing evidence that the offender will not represent a 21437
substantial risk of physical harm to others, the court may modify 21438
the requirement that the offender serve the entire prison term in 21439
a state correctional institution in a manner that the court 21440
considers appropriate. If the court modifies the requirement, the 21441
offender is subject to supervision under division (E) of this 21442
section. 21443

(2) The modification of the requirement does not terminate 21444
the prison term but serves only to suspend the requirement that 21445
the offender serve the entire term in a state correctional 21446
institution. The prison term shall remain in effect for the 21447
offender's entire life unless the court terminates the prison term 21448
pursuant to division (D) of this section. The offender shall 21449
remain under the jurisdiction of the court for the offender's 21450
entire life unless the court so terminates the prison term. The 21451

modification of the requirement does not terminate the 21452
classification of the offender, as described in division (F) of 21453
section 2971.03 of the Revised Code, as a sexual predator for 21454
purposes of Chapter 2950. of the Revised Code, and the offender is 21455
subject to supervision under division (E) of this section. 21456

(3) If the court revokes the modification under 21457
consideration, the court shall order that the offender be returned 21458
to the custody of the department of rehabilitation and correction 21459
to continue serving the prison term to which the modification 21460
applied, and section 2971.06 of the Revised Code applies regarding 21461
the offender. 21462

(D)(1) If, at the conclusion of a hearing held pursuant to 21463
division (A) of this section, the court determines by clear and 21464
convincing evidence that the offender is unlikely to commit a 21465
sexually violent offense in the future, the court may terminate 21466
the offender's prison term imposed under division (A)(3) of 21467
section 2971.03 of the Revised Code, subject to the offender 21468
satisfactorily completing the period of conditional release 21469
required by this division and compliance with division (E) of this 21470
section. If the court terminates the prison term, the court shall 21471
place the offender on conditional release for five years, require 21472
the offender to comply with division (E) of this section, notify 21473
the adult parole authority of its determination and of the 21474
termination of the prison term, and order the adult parole 21475
authority to supervise the offender during the five-year period of 21476
conditional release and to supervise the offender pursuant to 21477
division (E) of this section. Upon receipt of a notice from a 21478
court pursuant to this division, the adult parole authority shall 21479
supervise the offender who is the subject of the notice during the 21480
five-year period of conditional release, periodically notify the 21481
court of the offender's activities during that five-year period of 21482
conditional release, and file with the court no later than thirty 21483

days prior to the expiration of the five-year period of 21484
conditional release a written recommendation as to whether the 21485
termination of the offender's prison term should be finalized, 21486
whether the period of conditional release should be extended, or 21487
whether another type of action authorized pursuant to this chapter 21488
should be taken. 21489

Upon receipt of a recommendation of the adult parole 21490
authority filed pursuant to this division, the court shall hold a 21491
hearing to determine whether to finalize the termination of the 21492
offender's prison term, to extend the period of conditional 21493
release, or to take another type of action authorized pursuant to 21494
this chapter. The court shall hold the hearing no later than the 21495
date on which the five-year period of conditional release 21496
terminates and shall provide notice of the date, time, place, and 21497
purpose of the hearing to the offender and to the prosecuting 21498
attorney. At the hearing, the offender, the prosecuting attorney, 21499
and the adult parole authority employee who supervised the 21500
offender during the period of conditional release may make a 21501
statement and present evidence. 21502

(2) If the court determines to extend an offender's period of 21503
conditional release, it may do so for additional periods of one 21504
year in the same manner as the original period of conditional 21505
release, and except as otherwise described in this division, all 21506
procedures and requirements that applied to the original period of 21507
conditional release apply to the additional period of extended 21508
conditional release unless the court modifies a procedure or 21509
requirement. If an offender's period of conditional release is 21510
extended as described in this division, all references to a 21511
five-year period of conditional release that are contained in 21512
division (D)(1) of this section shall be construed, in applying 21513
the provisions of that division to the extension, as being 21514
references to the one-year period of the extension of the 21515

conditional release. 21516

If the court determines to take another type of action 21517
authorized pursuant to this chapter, it may do so in the same 21518
manner as if the action had been taken at any other stage of the 21519
proceedings under this chapter. As used in this division, "another 21520
type of action" includes the revocation of the conditional release 21521
and the return of the offender to a state correctional institution 21522
to continue to serve the prison term. 21523

If the court determines to finalize the termination of the 21524
offender's prison term, it shall notify the department of 21525
rehabilitation and correction, the department shall enter into its 21526
records a final release and issue to the offender a certificate of 21527
final release, and the prison term thereafter shall be considered 21528
completed and terminated in every way. 21529

The termination of the offender's prison term pursuant to 21530
division (D)(1) or (2) of this section does not affect the 21531
classification of the offender, as described in division (F) of 21532
section 2971.03 of the Revised Code, as a sexual predator for 21533
purposes of Chapter 2950. of the Revised Code, and does not 21534
terminate the adult parole authority's supervision of a sexually 21535
violent predator with an active global positioning system device, 21536
pursuant to division (E) of this section. The classification of 21537
the offender as a sexual predator is permanent and continues until 21538
the offender's death as described in division (D)(2) of section 21539
2950.09 of the Revised Code. 21540

(E) The adult parole authority shall supervise an offender 21541
whose prison term is modified as provided in division (C) of this 21542
section or whose prison term is terminated as provided in division 21543
(D) of this section with an active global positioning system 21544
device during any time period in which the offender is not 21545
incarcerated in a state correctional institution. Unless the court 21546

removes the offender's classification as a sexually violent predator, an offender is subject to supervision with an active global positioning system pursuant to this division for the offender's entire life. The costs of administering the supervision of sexually violent offenders with an active global positioning system device shall be paid out of funds from the reparations fund, created pursuant to section 2743.191 of the Revised Code. This division shall only apply to a sexually violent predator who is released from the custody of the department of rehabilitation and correction on or after the effective date of this amendment.

Sec. 3107.10. (A) Notwithstanding section 3107.01 of the Revised Code, as used in this section, "agency" does not include a public children services agency.

(B) An agency or attorney, whichever arranges a minor's adoption, shall file with the court a preliminary estimate accounting not later than the time the adoption petition for the minor is filed with the court. The agency or attorney, whichever arranges the adoption, also shall file a final accounting with the court before a final decree of adoption is issued or an interlocutory order of adoption is finalized for the minor. The agency or attorney shall complete and file accountings in a manner acceptable to the court.

An accounting shall specify all disbursements of anything of value the petitioner, a person on the petitioner's behalf, and the agency or attorney made and has agreed to make in connection with the minor's permanent surrender under division (B) of section 5103.15 of the Revised Code, placement under section 5103.16 of the Revised Code, and adoption under this chapter. The agency or attorney shall include in an accounting an itemization of each expense listed in division (C) of this section. The itemization of the expenses specified in divisions (C)(3) and (4) of this section

shall show the amount the agency or attorney charged or is going 21578
to charge for the services and the actual cost to the agency or 21579
attorney of providing the services. An accounting shall indicate 21580
whether any expenses listed in division (C) of this section do not 21581
apply to the adoption proceeding for which the accounting is 21582
filed. 21583

The agency or attorney shall include with a preliminary 21584
estimate accounting and a final accounting a written statement 21585
signed by the petitioner that the petitioner has reviewed the 21586
accounting and attests to its accuracy. 21587

(C) No petitioner, person acting on a petitioner's behalf, or 21588
agency or attorney shall make or agree to make any disbursements 21589
in connection with the minor's permanent surrender, placement, or 21590
adoption other than for the following: 21591

(1) Physician expenses incurred on behalf of the birth mother 21592
or minor in connection with prenatal care, delivery, and 21593
confinement prior to or following the minor's birth; 21594

(2) Hospital or other medical facility expenses incurred on 21595
behalf of the birth mother or minor in connection with the minor's 21596
birth; 21597

(3) Expenses charged by the attorney arranging the adoption 21598
for providing legal services in connection with the placement and 21599
adoption, including expenses incurred by the attorney pursuant to 21600
sections 3107.031, 3107.081, 3107.082, 3107.09, and 3107.12 of the 21601
Revised Code; 21602

(4) Expenses charged by the agency arranging the adoption for 21603
providing services in connection with the permanent surrender and 21604
adoption, including the agency's application fee and the expenses 21605
incurred by the agency pursuant to sections 3107.031, 3107.09, 21606
3107.12, 5103.151, and 5103.152 of the Revised Code; 21607

(5) Temporary costs of routine maintenance and medical care 21608
for a minor required under section 5103.16 of the Revised Code if 21609
the person seeking to adopt the minor refuses to accept placement 21610
of the minor; 21611

(6) Guardian ad litem fees incurred on behalf of the minor in 21612
any court proceedings; 21613

(7) Foster care expenses incurred in connection with any 21614
temporary care and maintenance of the minor; 21615

(8) Court expenses incurred in connection with the minor's 21616
permanent surrender, placement, and adoption. 21617

(D) If a court determines from an accounting that an amount 21618
that is going to be disbursed for an expense listed in division 21619
(C) of this section is unreasonable, the court may order a 21620
reduction in the amount to be disbursed. If a court determines 21621
from an accounting that an unreasonable amount was disbursed for 21622
an expense listed in division (C) of this section, the court may 21623
order the person who received the disbursement to refund to the 21624
person who made the disbursement an amount the court orders. 21625

If a court determines from an accounting that a disbursement 21626
for an expense not permitted by division (C) of this section is 21627
going to be made, the court may issue an injunction prohibiting 21628
the disbursement. If a court determines from an accounting that a 21629
disbursement for an expense not permitted by division (C) of this 21630
section was made, the court may order the person who received the 21631
disbursement to return it to the person who made the disbursement. 21632

If a court determines that a final accounting does not 21633
completely report all the disbursements that are going to be made 21634
or have been made in connection with the minor's permanent 21635
surrender, placement, and adoption, the court shall order the 21636
agency or attorney to file with the court an accounting that 21637
completely reports all such disbursements. 21638

The agency or attorney shall file the final accounting with 21639
the court not later than ten days prior to the date scheduled for 21640
the final hearing on the adoption. The court may not issue a final 21641
decree of adoption or finalize an interlocutory order of adoption 21642
of a minor until at least ten days after the agency or attorney 21643
files the final accounting. 21644

~~(E) At the conclusion of each adoption proceeding, the court 21645
shall prepare a summary of the proceeding, and on or before the 21646
tenth day of each month, send copies of the summaries for all 21647
proceedings concluded during the preceding calendar month to the 21648
department of job and family services. The summary shall contain:~~ 21649

~~(1) A notation of the nature and approximate value or amount 21650
of anything paid in connection with the proceeding, compiled from 21651
the final accounting required by division (B) of this section and 21652
indicating the category of division (C) of this section to which 21653
any payment relates;~~ 21654

~~(2) If the court has not issued a decree because of the 21655
requirements of division (D) of this section, a notation of that 21656
fact and a statement of the reason for refusing to issue the 21657
decree, related to the financial data summarized under division 21658
(E)(1) of this section;~~ 21659

~~(3) If the adoption was arranged by an attorney, a notation 21660
of that fact.~~ 21661

~~The summary shall contain no information identifying by name 21662
any party to the proceeding or any other person, but may contain 21663
additional narrative material that the court considers useful to 21664
an analysis of the summary.~~ 21665

~~(F) This section does not apply to an adoption by a 21666
stepparent whose spouse is a biological or adoptive parent of the 21667
minor.~~ 21668

Sec. 3111.04. (A) An action to determine the existence or 21669
nonexistence of the father and child relationship may be brought 21670
by the child or the child's personal representative, the child's 21671
mother or her personal representative, a man alleged or alleging 21672
himself to be the child's father, the child support enforcement 21673
agency of the county in which the child resides if the child's 21674
mother is a recipient of public assistance or of services under 21675
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 21676
U.S.C.A. 651, as amended, or the alleged father's personal 21677
representative. 21678

(B) An agreement does not bar an action under this section. 21679

(C) If an action under this section is brought before the 21680
birth of the child and if the action is contested, all 21681
proceedings, except service of process and the taking of 21682
depositions to perpetuate testimony, may be stayed until after the 21683
birth. 21684

(D) A recipient of public assistance or of services under 21685
Title IV-D of the "Social Security Act," 88 Stat. 2351 (1975), 42 21686
U.S.C.A. 651, as amended, shall cooperate with the child support 21687
enforcement agency of the county in which a child resides to 21688
obtain an administrative determination pursuant to sections 21689
3111.38 to 3111.54 of the Revised Code, or, if necessary, a court 21690
determination pursuant to sections 3111.01 to 3111.18 of the 21691
Revised Code, of the existence or nonexistence of a parent and 21692
child relationship between the father and the child. If the 21693
recipient fails to cooperate, the agency may commence an action to 21694
determine the existence or nonexistence of a parent and child 21695
relationship between the father and the child pursuant to sections 21696
3111.01 to 3111.18 of the Revised Code. 21697

(E) As used in this section, "public assistance" means 21698
medical assistance under Chapter 5111. of the Revised Code, 21699

assistance under Chapter 5107. of the Revised Code, or disability 21700
financial assistance under Chapter 5115. of the Revised Code, ~~or~~ 21701
~~disability medical assistance under Chapter 5115. of the Revised~~ 21702
~~Code.~~ 21703

Sec. 3119.54. If either party to a child support order issued 21704
in accordance with section 3119.30 of the Revised Code is eligible 21705
for medical assistance under Chapter 5111. ~~or 5115.~~ of the Revised 21706
Code and the other party has obtained health insurance coverage, 21707
the party eligible for medical assistance shall notify any 21708
physician, hospital, or other provider of medical services for 21709
which medical assistance is available of the name and address of 21710
the other party's insurer and of the number of the other party's 21711
health insurance or health care policy, contract, or plan. Any 21712
physician, hospital, or other provider of medical services for 21713
which medical assistance is available under Chapter 5111. ~~or 5115.~~ 21714
of the Revised Code who is notified under this division of the 21715
existence of a health insurance or health care policy, contract, 21716
or plan with coverage for children who are eligible for medical 21717
assistance shall first bill the insurer for any services provided 21718
for those children. If the insurer fails to pay all or any part of 21719
a claim filed under this section and the services for which the 21720
claim is filed are covered by Chapter 5111. ~~or 5115.~~ of the 21721
Revised Code, the physician, hospital, or other medical services 21722
provider shall bill the remaining unpaid costs of the services in 21723
accordance with Chapter 5111. ~~or 5115.~~ of the Revised Code. 21724

Sec. 3121.12. (A) On receipt of a notice that a lump sum 21725
payment of one hundred fifty dollars or more is to be paid to the 21726
obligor, the court, with respect to a court support order, or the 21727
child support enforcement agency, with respect to an 21728
administrative child support order, shall do either of the 21729
following: 21730

(1) If the obligor is in default under the support order or 21731
has any arrearages under the support order, issue an order 21732
requiring the transmittal of the lump sum payment, or any portion 21733
of the lump sum payment sufficient to pay the arrearage in full, 21734
to the office of child support; 21735

(2) If the obligor is not in default under the support order 21736
and does not have any arrearages under the support order, issue an 21737
order directing the person who gave the notice to the court or 21738
agency to immediately pay the full amount of the lump sum payment 21739
to the obligor. 21740

(B) ~~On receipt of any~~ Any moneys received by the office of 21741
child support pursuant to division (A) of this section, ~~the office~~ 21742
~~of child support shall pay the amount of the lump sum payment that~~ 21743
~~is necessary to discharge all of the obligor's arrearages to the~~ 21744
~~obligee and, within two business days after its receipt of the~~ 21745
~~money, any amount that is remaining after the payment of the~~ 21746
~~arrearsages to the obligor~~ be distributed in accordance with rules 21747
adopted under section 3121.71 of the Revised Code. 21748

(C) A court that issued an order prior to January 1, 1998, 21749
requiring an employer to withhold an amount from an obligor's 21750
personal earnings for the payment of support shall issue a 21751
supplemental order that does not change the original order or the 21752
related support order requiring the employer to do all of the 21753
following: 21754

(1) No later than the earlier of forty-five days before a 21755
lump sum payment is to be made or, if the obligor's right to a 21756
lump sum payment is determined less than forty-five days before it 21757
is to be made, the date on which that determination is made, 21758
notify the child support enforcement agency of any lump sum 21759
payment of any kind of one hundred fifty dollars or more that is 21760
to be paid to the obligor; 21761

(2) Hold the lump sum payment for thirty days after the date 21762
on which it would otherwise be paid to the obligor; 21763

(3) On order of the court, pay any specified amount of the 21764
lump sum payment to the office of child support. 21765

(D) An employer that knowingly fails to notify the child 21766
support enforcement agency in accordance with this section or 21767
section 3121.03 of the Revised Code of any lump sum payment to be 21768
made to an obligor is liable for any support payment not made to 21769
the obligee as a result of its knowing failure to give the notice. 21770

Sec. 3121.50. On receipt of any amount forwarded from a payor 21771
or financial institution, the office of child support shall 21772
distribute the amount to the obligee within two business days of 21773
its receipt of the amount forwarded. The Unless otherwise 21774
prohibited from doing so by a law of this state or the United 21775
States, the office may distribute the amount by means of 21776
electronic disbursement, and the obligee shall accept payment by 21777
means of electronic disbursement. The director of job and family 21778
services may adopt, revise, or amend rules under Chapter 119. of 21779
the Revised Code to assist in the implementation of this section. 21780

Sec. 3125.18. A child support enforcement agency shall 21781
administer a Title IV-A program identified under division 21782
(A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised Code that 21783
the department of job and family services provides for the agency 21784
to administer under the department's supervision pursuant to 21785
section 5101.801 of the Revised Code. 21786

Sec. 3125.191. There is hereby created in the state treasury 21787
the child support operating fund, which is a state special revenue 21788
fund. The department of job and family services may deposit into 21789
the fund a portion of the federal incentives described in division 21790

(A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that are received by the department of job and family services from the United States department of health and human services. The department of job and family services may use money in the child support operating fund for program and administrative purposes associated with the program of child support enforcement authorized by section 3125.03 of the Revised Code.

Sec. 3301.079. (A)(1) Not later than December 31, 2001, the state board of education shall adopt statewide academic standards for each of grades kindergarten through twelve in reading, writing, and mathematics. Not later than December 31, 2002, the state board shall adopt statewide academic standards for each of grades kindergarten through twelve in science and social studies. The standards shall specify the academic content and skills that students are expected to know and be able to do at each grade level.

(2) When academic standards have been completed for any subject area required by this division, the state board shall inform all school districts of the content of those standards.

(B) Not later than eighteen months after the completion of academic standards for any subject area required by division (A) of this section, the state board shall adopt a model curriculum for instruction in that subject area for each of grades kindergarten through twelve that is sufficient to meet the needs of students in every community. The model curriculum shall be aligned with the standards to ensure that the academic content and skills specified for each grade level are taught to students. When any model curriculum has been completed, the state board shall inform all school districts of the content of that model curriculum.

All school districts may utilize the state standards and the model curriculum established by the state board, together with other relevant resources, examples, or models to ensure that students have the opportunity to attain the academic standards. Upon request, the department of education shall provide technical assistance to any district in implementing the model curriculum.

Nothing in this section requires any school district to utilize all or any part of a model curriculum developed under this division.

(C) The state board shall develop achievement tests aligned with the academic standards and model curriculum for each of the subject areas and grade levels required by section 3301.0710 of the Revised Code.

When any achievement test has been completed, the state board shall inform all school districts of its completion, and the department of education shall make the achievement test available to the districts. School districts shall administer the achievement test beginning in the school year indicated in section 3301.0712 of the Revised Code.

~~(D)(1) Not later than July 1, 2008, and except as provided in division (D)(3) of this section, the~~ The state board shall adopt a diagnostic assessment aligned with the academic standards and model curriculum for each of grades kindergarten through two in reading, writing, and mathematics and for each of grades grade three ~~through eight~~ in ~~reading, writing, mathematics, science, and social studies~~. The diagnostic assessment shall be designed to measure student comprehension of academic content and mastery of related skills for the relevant subject area and grade level. Any diagnostic assessment shall not include components to identify gifted students. Blank copies of diagnostic tests shall be public records.

(2) When each diagnostic assessment has been completed, the state board shall inform all school districts of its completion and the department of education shall make the diagnostic assessment available to the districts at no cost to the district. School districts shall administer the diagnostic assessment pursuant to section 3301.0715 of the Revised Code beginning the first school year following the development of the assessment.

~~(3) The state board shall not adopt a diagnostic assessment for any subject area and grade level for which the state board develops an achievement test under division (C) of this section.~~

(E) Whenever the state board or the department of education consults with persons for the purpose of drafting or reviewing any standards, diagnostic assessments, achievement tests, or model curriculum required under this section, the state board or the department shall first consult with parents of students in kindergarten through twelfth grade and with active Ohio classroom teachers, other school personnel, and administrators with expertise in the appropriate subject area. Whenever practicable, the state board and department shall consult with teachers recognized as outstanding in their fields.

If the department contracts with more than one outside entity for the development of the achievement tests required by this section, the department shall ensure the interchangeability of those tests.

(F) The fairness sensitivity review committee, established by rule of the state board of education, shall not allow any question on any achievement test or diagnostic assessment developed under this section or any proficiency test prescribed by former section 3301.0710 of the Revised Code, as it existed prior to September 11, 2001, to include, be written to promote, or inquire as to individual moral or social values or beliefs. The decision of the

committee shall be final. This section does not create a private
cause of action. 21883
21884

Sec. 3301.0710. The state board of education shall adopt 21885
rules establishing a statewide program to test student 21886
achievement. The state board shall ensure that all tests 21887
administered under the testing program are aligned with the 21888
academic standards and model curricula adopted by the state board 21889
and are created with input from Ohio parents, Ohio classroom 21890
teachers, Ohio school administrators, and other Ohio school 21891
personnel pursuant to section 3301.079 of the Revised Code. 21892

The testing program shall be designed to ensure that students 21893
who receive a high school diploma demonstrate at least high school 21894
levels of achievement in reading, writing, mathematics, science, 21895
and social studies. 21896

(A)(1) The state board shall prescribe all of the following: 21897

(a) Two statewide achievement tests, one each designed to 21898
measure the level of reading and mathematics skill expected at the 21899
end of third grade; 21900

(b) Three statewide achievement tests, one each designed to 21901
measure the level of reading, writing, and mathematics skill 21902
expected at the end of fourth grade; 21903

(c) Four statewide achievement tests, one each designed to 21904
measure the level of reading, mathematics, science, and social 21905
studies skill expected at the end of fifth grade; 21906

(d) Two statewide achievement tests, one each designed to 21907
measure the level of reading and mathematics skill expected at the 21908
end of sixth grade; 21909

(e) Three statewide achievement tests, one each designed to 21910
measure the level of reading, writing, and mathematics skill 21911
expected at the end of seventh grade; 21912

(f) Four statewide achievement tests, one each designed to 21913
measure the level of reading, mathematics, science, and social 21914
studies skill expected at the end of eighth grade. 21915

(2) The state board shall determine and designate at least 21916
five ranges of scores on each of the achievement tests described 21917
in divisions (A)(1) and (B) of this section. Each range of scores 21918
shall be deemed to demonstrate a level of achievement so that any 21919
student attaining a score within such range has achieved one of 21920
the following: 21921

(a) An advanced level of skill; 21922

(b) An accelerated level of skill; 21923

(c) A proficient level of skill; 21924

(d) A basic level of skill; 21925

(e) A limited level of skill. 21926

(B) The tests prescribed under this division shall 21927
collectively be known as the Ohio graduation tests. The state 21928
board shall prescribe five statewide high school achievement 21929
tests, one each designed to measure the level of reading, writing, 21930
mathematics, science, and social studies skill expected at the end 21931
of tenth grade. The state board shall designate a score in at 21932
least the range designated under division (A)(2)(c) of this 21933
section on each such test that shall be deemed to be a passing 21934
score on the test as a condition toward granting high school 21935
diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 21936
of the Revised Code. 21937

The state board may enter into a reciprocal agreement with 21938
the appropriate body or agency of any other state that has similar 21939
statewide achievement testing requirements for receiving high 21940
school diplomas, under which any student who has met an 21941
achievement testing requirement of one state is recognized as 21942

having met the similar achievement testing requirement of the 21943
other state for purposes of receiving a high school diploma. For 21944
purposes of this section and sections 3301.0711 and 3313.61 of the 21945
Revised Code, any student enrolled in any public high school in 21946
this state who has met an achievement testing requirement 21947
specified in a reciprocal agreement entered into under this 21948
division shall be deemed to have attained at least the applicable 21949
score designated under this division on each test required by this 21950
division that is specified in the agreement. 21951

(C) The Except as provided in division (H) of this section, 21952
the state board shall annually designate as follows the dates on 21953
which the tests prescribed under this section shall be 21954
administered: 21955

(1) For the reading test prescribed under division (A)(1)(a) 21956
of this section, as follows: 21957

(a) One date prior to the thirty-first day of December each 21958
school year; 21959

(b) At least one date of each school year that is not earlier 21960
than Monday of the week containing the ~~eight~~ first day of ~~March~~ 21961
May; 21962

(c) One date during the summer that is not earlier than the 21963
tenth day of June nor later than the fifteenth day of July for 21964
students receiving summer remediation services under section 21965
3313.608 of the Revised Code. 21966

(2) For the mathematics test prescribed under division 21967
(A)(1)(a) of this section and the tests prescribed under divisions 21968
(A)(1)(b), (c), (d), (e), and (f) of this section, at least one 21969
date of each school year that is not earlier than Monday of the 21970
week containing the ~~eight~~ first day of ~~March~~ May; 21971

(3) For the tests prescribed under division (B) of this 21972

section, at least one date in each school year that is not earlier than Monday of the week containing the fifteenth day of March for all tenth grade students and at least one date prior to the thirty-first day of December and at least one date subsequent to that date but prior to the thirty-first day of March of each school year for eleventh and twelfth grade students.

(D) In prescribing test dates pursuant to division (C)(3) of this section, the state board shall, to the greatest extent practicable, provide options to school districts in the case of tests administered under that division to eleventh and twelfth grade students and in the case of tests administered to students pursuant to division (C)(2) of section 3301.0711 of the Revised Code. Such options shall include at least an opportunity for school districts to give such tests outside of regular school hours.

(E) In prescribing test dates pursuant to this section, the state board of education shall designate the dates in such a way as to allow a reasonable length of time between the administration of tests prescribed under this section and any administration of the National Assessment of Education Progress Test given to students in the same grade level pursuant to section 3301.27 of the Revised Code or federal law.

(F) The state board shall prescribe a practice version of each Ohio graduation test described in division (B) of this section that is of comparable length to the actual test.

(G) Any committee established by the department of education for the purpose of making recommendations to the state board regarding the state board's designation of scores on the tests described by this section shall inform the state board of the probable percentage of students who would score in each of the ranges established under division (A)(2) of this section on the

tests if the committee's recommendations are adopted by the state board. To the extent possible, these percentages shall be disaggregated by gender, major racial and ethnic groups, limited English proficient students, economically disadvantaged students, students with disabilities, and migrant students.

If the state board intends to make any change to the committee's recommendations, the state board shall explain the intended change to the Ohio accountability task force established by section 3302.021 of the Revised Code. The task force shall recommend whether the state board should proceed to adopt the intended change. Nothing in this division shall require the state board to designate test scores based upon the recommendations of the task force.

(H)(1) The state board shall require any alternate assessment administered to a student under division (C)(1) of section 3301.0711 of the Revised Code to be completed and submitted to the entity with which the department contracts for the scoring of the test not later than the first day of April of the school year in which the test is administered.

(2) For any test prescribed by this section, the state board may designate a date one week earlier than the applicable date designated under division (C) of this section for the administration of the test to limited English proficient students.

(3) In designating days for the administration of the tests prescribed by division (A) of this section, the state board shall require the tests for each grade level to be administered on consecutive days.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all tests required by section 3301.0710 of the Revised Code to be administered by

city, local, exempted village, and joint vocational school 22034
districts, except that each district shall score any test 22035
administered pursuant to division (B)(10) of this section. Each 22036
test so furnished shall include the data verification code of the 22037
student to whom the test will be administered, as assigned 22038
pursuant to division (D)(2) of section 3301.0714 of the Revised 22039
Code. In furnishing the practice versions of Ohio graduation tests 22040
prescribed by division (F) of section 3301.0710 of the Revised 22041
Code, the department shall make the tests available on its web 22042
site for reproduction by districts. In awarding contracts for 22043
grading tests, the department shall give preference to Ohio-based 22044
entities employing Ohio residents. 22045

(2) Adopt rules for the ethical use of tests and prescribing 22046
the manner in which the tests prescribed by section 3301.0710 of 22047
the Revised Code shall be administered to students. 22048

(B) Except as provided in divisions (C) and (J) of this 22049
section, the board of education of each city, local, and exempted 22050
village school district shall, in accordance with rules adopted 22051
under division (A) of this section: 22052

(1) Administer the reading test prescribed under division 22053
(A)(1)(a) of section 3301.0710 of the Revised Code twice annually 22054
to all students in the third grade who have not attained the score 22055
designated for that test under division (A)(2)(c) of section 22056
3301.0710 of the Revised Code and once each summer to students 22057
receiving summer remediation services under section 3313.608 of 22058
the Revised Code. 22059

(2) Administer the mathematics test prescribed under division 22060
(A)(1)(a) of section 3301.0710 of the Revised Code at least once 22061
annually to all students in the third grade. 22062

(3) Administer the tests prescribed under division (A)(1)(b) 22063
of section 3301.0710 of the Revised Code at least once annually to 22064

all students in the fourth grade. 22065

(4) Administer the tests prescribed under division (A)(1)(c) 22066
of section 3301.0710 of the Revised Code at least once annually to 22067
all students in the fifth grade. 22068

(5) Administer the tests prescribed under division (A)(1)(d) 22069
of section 3301.0710 of the Revised Code at least once annually to 22070
all students in the sixth grade. 22071

(6) Administer the tests prescribed under division (A)(1)(e) 22072
of section 3301.0710 of the Revised Code at least once annually to 22073
all students in the seventh grade. 22074

(7) Administer the tests prescribed under division (A)(1)(f) 22075
of section 3301.0710 of the Revised Code at least once annually to 22076
all students in the eighth grade. 22077

(8) Except as provided in division (B)(9) of this section, 22078
administer any test prescribed under division (B) of section 22079
3301.0710 of the Revised Code as follows: 22080

(a) At least once annually to all tenth grade students and at 22081
least twice annually to all students in eleventh or twelfth grade 22082
who have not yet attained the score on that test designated under 22083
that division; 22084

(b) To any person who has successfully completed the 22085
curriculum in any high school or the individualized education 22086
program developed for the person by any high school pursuant to 22087
section 3323.08 of the Revised Code but has not received a high 22088
school diploma and who requests to take such test, at any time 22089
such test is administered in the district. 22090

(9) In lieu of the board of education of any city, local, or 22091
exempted village school district in which the student is also 22092
enrolled, the board of a joint vocational school district shall 22093
administer any test prescribed under division (B) of section 22094

3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that test designated under that division. A board of a joint vocational school district may also administer such a test to any student described in division (B)(8)(b) of this section.

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(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each test prescribed by division (F) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

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

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(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the tests which the alternate assessments are replacing in order to allow for the student's assessment results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

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(c) Any student enrolled in a chartered nonpublic school who 22127
has been identified, based on an evaluation conducted in 22128
accordance with section 3323.03 of the Revised Code or section 504 22129
of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 22130
794, as amended, as a child with a disability shall be excused 22131
from taking any particular test required to be administered under 22132
this section if a plan developed for the student pursuant to rules 22133
adopted by the state board excuses the student from taking that 22134
test. In the case of any student so excused from taking a test, 22135
the chartered nonpublic school shall not prohibit the student from 22136
taking the test. 22137

(2) A district board may, for medical reasons or other good 22138
cause, excuse a student from taking a test administered under this 22139
section on the date scheduled, but any such test shall be 22140
administered to such excused student not later than nine days 22141
following the scheduled date. The board shall annually report the 22142
number of students who have not taken one or more of the tests 22143
required by this section to the state board of education not later 22144
than the thirtieth day of June. 22145

(3) As used in this division, "limited English proficient 22146
student" has the same meaning as in 20 U.S.C. 7801. 22147

No school district board shall excuse any limited English 22148
proficient student from taking any particular test required to be 22149
administered under this section, except that any limited English 22150
proficient student who has been enrolled in United States schools 22151
for less than one full school year shall not be required to take 22152
any such reading or writing test. However, no board shall prohibit 22153
a limited English proficient student who is not required to take a 22154
test under this division from taking the test. A board may permit 22155
any limited English proficient student to take any test required 22156
to be administered under this section with appropriate 22157
accommodations, as determined by the department. For each limited 22158

English proficient student, each school district shall annually
assess that student's progress in learning English, in accordance
with procedures approved by the department.

The governing authority of a chartered nonpublic school may
excuse a limited English proficient student from taking any test
administered under this section. However, no governing authority
shall prohibit a limited English proficient student from taking
the test.

(D)(1) In the school year next succeeding the school year in
which the tests prescribed by division (A)(1) or (B) of section
3301.0710 of the Revised Code or former division (A)(1), (A)(2),
or (B) of section 3301.0710 of the Revised Code as it existed
prior to September 11, 2001, are administered to any student, the
board of education of any school district in which the student is
enrolled in that year shall provide to the student intervention
services commensurate with the student's test performance,
including any intensive intervention required under section
3313.608 of the Revised Code, in any skill in which the student
failed to demonstrate at least a score at the proficient level on
the test.

(2) Following any administration of the tests prescribed by
division (F) of section 3301.0710 of the Revised Code to ninth
grade students, each school district that has a three-year average
graduation rate of not more than seventy-five per cent shall
determine for each high school in the district whether the school
shall be required to provide intervention services to any students
who took the tests. In determining which high schools shall
provide intervention services based on the resources available,
the district shall consider each school's graduation rate and
scores on the practice tests. The district also shall consider the
scores received by ninth grade students on the reading and
mathematics tests prescribed under division (A)(1)(f) of section

3301.0710 of the Revised Code in the eighth grade in determining 22191
which high schools shall provide intervention services. 22192

Each high school selected to provide intervention services 22193
under this division shall provide intervention services to any 22194
student whose test results indicate that the student is failing to 22195
make satisfactory progress toward being able to attain scores at 22196
the proficient level on the Ohio graduation tests. Intervention 22197
services shall be provided in any skill in which a student 22198
demonstrates unsatisfactory progress and shall be commensurate 22199
with the student's test performance. Schools shall provide the 22200
intervention services prior to the end of the school year, during 22201
the summer following the ninth grade, in the next succeeding 22202
school year, or at any combination of those times. 22203

(E) Except as provided in section 3313.608 of the Revised 22204
Code and division (M) of this section, no school district board of 22205
education shall utilize any student's failure to attain a 22206
specified score on any test administered under this section as a 22207
factor in any decision to deny the student promotion to a higher 22208
grade level. However, a district board may choose not to promote 22209
to the next grade level any student who does not take any test 22210
administered under this section or make up such test as provided 22211
by division (C)(2) of this section and who is not exempt from the 22212
requirement to take the test under division (C)(3) of this 22213
section. 22214

(F) No person shall be charged a fee for taking any test 22215
administered under this section. 22216

(G) ~~Not later than sixty days after any administration of any~~ 22217
~~test prescribed by division (A)(1) or (B) of section 3301.0710 of~~ 22218
~~the Revised Code, the~~ (1) Each school district board shall submit 22219
the tests administered in the spring under division (B)(1) of this 22220
section and the tests administered under divisions (B)(2) to (7) 22221

of this section to the entity with which the department contracts 22222
for the scoring of the tests not later than the Friday after the 22223
tests are administered, except that any such test that a student 22224
takes during the make-up period described in division (C)(2) of 22225
this section shall be submitted not later than the Friday 22226
following the day the student takes the test. 22227

(2) The department or an entity with which the department 22228
contracts for the scoring of the test shall send to each school 22229
district board a list of the individual test scores of all persons 22230
taking ~~the~~ any test prescribed by division (A)(1) or (B) of 22231
section 3301.0710 of the Revised Code within sixty days after its 22232
administration, but in no case shall the scores be returned later 22233
than the fifteenth day of June following the administration. For 22234
any tests administered under this section by a joint vocational 22235
school district, the department or entity shall also send to each 22236
city, local, or exempted village school district a list of the 22237
individual test scores of any students of such city, local, or 22238
exempted village school district who are attending school in the 22239
joint vocational school district. 22240

(H) Individual test scores on any tests administered under 22241
this section shall be released by a district board only in 22242
accordance with section 3319.321 of the Revised Code and the rules 22243
adopted under division (A) of this section. No district board or 22244
its employees shall utilize individual or aggregate test results 22245
in any manner that conflicts with rules for the ethical use of 22246
tests adopted pursuant to division (A) of this section. 22247

(I) Except as provided in division (G) of this section, the 22248
department or an entity with which the department contracts for 22249
the scoring of the test shall not release any individual test 22250
scores on any test administered under this section and. The state 22251
board of education shall adopt rules to ensure the protection of 22252
student confidentiality at all times. The rules may require the 22253

use of the data verification codes assigned to students pursuant 22254
to division (D)(2) of section 3301.0714 of the Revised Code to 22255
protect the confidentiality of student test scores. 22256

(J) Notwithstanding division (D) of section 3311.52 of the 22257
Revised Code, this section does not apply to the board of 22258
education of any cooperative education school district except as 22259
provided under rules adopted pursuant to this division. 22260

(1) In accordance with rules that the state board of 22261
education shall adopt, the board of education of any city, 22262
exempted village, or local school district with territory in a 22263
cooperative education school district established pursuant to 22264
divisions (A) to (C) of section 3311.52 of the Revised Code may 22265
enter into an agreement with the board of education of the 22266
cooperative education school district for administering any test 22267
prescribed under this section to students of the city, exempted 22268
village, or local school district who are attending school in the 22269
cooperative education school district. 22270

(2) In accordance with rules that the state board of 22271
education shall adopt, the board of education of any city, 22272
exempted village, or local school district with territory in a 22273
cooperative education school district established pursuant to 22274
section 3311.521 of the Revised Code shall enter into an agreement 22275
with the cooperative district that provides for the administration 22276
of any test prescribed under this section to both of the 22277
following: 22278

(a) Students who are attending school in the cooperative 22279
district and who, if the cooperative district were not 22280
established, would be entitled to attend school in the city, 22281
local, or exempted village school district pursuant to section 22282
3313.64 or 3313.65 of the Revised Code; 22283

(b) Persons described in division (B)(8)(b) of this section. 22284

Any testing of students pursuant to such an agreement shall 22285
be in lieu of any testing of such students or persons pursuant to 22286
this section. 22287

(K)(1) Any chartered nonpublic school may participate in the 22288
testing program by administering any of the tests prescribed by 22289
section 3301.0710 or 3301.0712 of the Revised Code if the chief 22290
administrator of the school specifies which tests the school 22291
wishes to administer. Such specification shall be made in writing 22292
to the superintendent of public instruction prior to the first day 22293
of August of any school year in which tests are administered and 22294
shall include a pledge that the nonpublic school will administer 22295
the specified tests in the same manner as public schools are 22296
required to do under this section and rules adopted by the 22297
department. 22298

(2) The department of education shall furnish the tests 22299
prescribed by section 3301.0710 or 3301.0712 of the Revised Code 22300
to any chartered nonpublic school electing to participate under 22301
this division. 22302

(L)(1) The superintendent of the state school for the blind 22303
and the superintendent of the state school for the deaf shall 22304
administer the tests described by section 3301.0710 of the Revised 22305
Code. Each superintendent shall administer the tests in the same 22306
manner as district boards are required to do under this section 22307
and rules adopted by the department of education and in conformity 22308
with division (C)(1)(a) of this section. 22309

(2) The department of education shall furnish the tests 22310
described by section 3301.0710 of the Revised Code to each 22311
superintendent. 22312

(M) Notwithstanding division (E) of this section, a school 22313
district may use a student's failure to attain a score in at least 22314
the basic range on the mathematics test described by division 22315

(A)(1)(a) of section 3301.0710 of the Revised Code or on any of 22316
the tests described by division (A)(1)(b), (c), (d), (e), or (f) 22317
of section 3301.0710 of the Revised Code as a factor in retaining 22318
that student in the current grade level. 22319

(N)(1) The In the manner specified in divisions (N)(3) to (5) 22320
of this section, the tests required by section 3301.0710 of the 22321
Revised Code shall become public records pursuant to section 22322
149.43 of the Revised Code on the first day of July following the 22323
school year that the test was administered, except that the 22324
reading test prescribed under division (A)(1)(a) of section 22325
3301.0710 of the Revised Code shall become a public record on the 22326
sixteenth day of July following the school year that the test was 22327
administered. 22328

(2) The department may field test proposed test questions 22329
with samples of students to determine the validity, reliability, 22330
or appropriateness of test questions for possible inclusion in a 22331
future year's test. The department also may use anchor questions 22332
on tests to ensure that different versions of the same test are of 22333
comparable difficulty. 22334

Field test questions and anchor questions shall not be 22335
considered in computing test scores for individual students. Field 22336
test questions and anchor questions may be included as part of the 22337
administration of any test required by section 3301.0710 of the 22338
Revised Code. 22339

(3) Any field test question or anchor question administered 22340
under division (N)(2) of this section shall not be a public 22341
record. Such field test questions and anchor questions shall be 22342
redacted from any tests which are released as a public record 22343
pursuant to division (N)(1) of this section. 22344

(4) This division applies to the tests prescribed by division 22345
(A) of section 3301.0710 of the Revised Code. 22346

(a) The first administration of each test, as specified in section 3301.0712 of the Revised Code, shall be a public record. 22347
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(b) For subsequent administrations of each test, not less than forty per cent of the questions on the test that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future test and those questions shall not be public records and shall be redacted from the test prior to its release as a public record. 22349
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(5) Each test prescribed by division (B) of section 3301.0710 of the Revised Code that is administered in the spring shall be a public record. Each test prescribed by that division that is administered in the fall or summer shall not be a public record. 22356
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(0) As used in this section: 22360

(1) "Three-year average" means the average of the most recent consecutive three school years of data. 22361
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(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has departed the country. 22363
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(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins. 22368
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Sec. 3301.0714. (A) The state board of education shall adopt 22378
rules for a statewide education management information system. The 22379
rules shall require the state board to establish guidelines for 22380
the establishment and maintenance of the system in accordance with 22381
this section and the rules adopted under this section. The 22382
guidelines shall include: 22383

(1) Standards identifying and defining the types of data in 22384
the system in accordance with divisions (B) and (C) of this 22385
section; 22386

(2) Procedures for annually collecting and reporting the data 22387
to the state board in accordance with division (D) of this 22388
section; 22389

(3) Procedures for annually compiling the data in accordance 22390
with division (G) of this section; 22391

(4) Procedures for annually reporting the data to the public 22392
in accordance with division (H) of this section. 22393

(B) The guidelines adopted under this section shall require 22394
the data maintained in the education management information system 22395
to include at least the following: 22396

(1) Student participation and performance data, for each 22397
grade in each school district as a whole and for each grade in 22398
each school building in each school district, that includes: 22399

(a) The numbers of students receiving each category of 22400
instructional service offered by the school district, such as 22401
regular education instruction, vocational education instruction, 22402
specialized instruction programs or enrichment instruction that is 22403
part of the educational curriculum, instruction for gifted 22404
students, instruction for handicapped students, and remedial 22405
instruction. The guidelines shall require instructional services 22406
under this division to be divided into discrete categories if an 22407

instructional service is limited to a specific subject, a specific
type of student, or both, such as regular instructional services
in mathematics, remedial reading instructional services,
instructional services specifically for students gifted in
mathematics or some other subject area, or instructional services
for students with a specific type of handicap. The categories of
instructional services required by the guidelines under this
division shall be the same as the categories of instructional
services used in determining cost units pursuant to division
(C)(3) of this section.

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

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

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

(e) The number of students designated as having a
handicapping condition pursuant to division (C)(1) of section
3301.0711 of the Revised Code;

(f) The numbers of students reported to the state board
pursuant to division (C)(2) of section 3301.0711 of the Revised
Code;

(g) Attendance rates and the average daily attendance for the
year. For purposes of this division, a student shall be counted as

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present for any field trip that is approved by the school	22439
administration.	22440
(h) Expulsion rates;	22441
(i) Suspension rates;	22442
(j) The percentage of students receiving corporal punishment;	22443
(k) Dropout rates;	22444
(l) Rates of retention in grade;	22445
(m) For pupils in grades nine through twelve, the average	22446
number of carnegie units, as calculated in accordance with state	22447
board of education rules;	22448
(n) Graduation rates, to be calculated in a manner specified	22449
by the department of education that reflects the rate at which	22450
students who were in the ninth grade three years prior to the	22451
current year complete school and that is consistent with	22452
nationally accepted reporting requirements;	22453
(o) Results of diagnostic assessments administered to	22454
kindergarten students as required under section 3301.0715 of the	22455
Revised Code to permit a comparison of the academic readiness of	22456
kindergarten students. However, no district shall be required to	22457
report to the department the results of any diagnostic assessment	22458
administered to a kindergarten student if the parent of that	22459
student requests the district not to report those results.	22460
(2) Personnel and classroom enrollment data for each school	22461
district, including:	22462
(a) The total numbers of licensed employees and nonlicensed	22463
employees and the numbers of full-time equivalent licensed	22464
employees and nonlicensed employees providing each category of	22465
instructional service, instructional support service, and	22466
administrative support service used pursuant to division (C)(3) of	22467
this section. The guidelines adopted under this section shall	22468

require these categories of data to be maintained for the school 22469
district as a whole and, wherever applicable, for each grade in 22470
the school district as a whole, for each school building as a 22471
whole, and for each grade in each school building. 22472

(b) The total number of employees and the number of full-time 22473
equivalent employees providing each category of service used 22474
pursuant to divisions (C)(4)(a) and (b) of this section, and the 22475
total numbers of licensed employees and nonlicensed employees and 22476
the numbers of full-time equivalent licensed employees and 22477
nonlicensed employees providing each category used pursuant to 22478
division (C)(4)(c) of this section. The guidelines adopted under 22479
this section shall require these categories of data to be 22480
maintained for the school district as a whole and, wherever 22481
applicable, for each grade in the school district as a whole, for 22482
each school building as a whole, and for each grade in each school 22483
building. 22484

(c) The total number of regular classroom teachers teaching 22485
classes of regular education and the average number of pupils 22486
enrolled in each such class, in each of grades kindergarten 22487
through five in the district as a whole and in each school 22488
building in the school district. 22489

(d) The number of master teachers employed by each school 22490
district and each school building, once a definition of master 22491
teacher has been developed by the educator standards board 22492
pursuant to section 3319.61 of the Revised Code. 22493

(3)(a) Student demographic data for each school district, 22494
including information regarding the gender ratio of the school 22495
district's pupils, the racial make-up of the school district's 22496
pupils, the number of limited English proficient students in the 22497
district, and an appropriate measure of the number of the school 22498
district's pupils who reside in economically disadvantaged 22499

households. The demographic data shall be collected in a manner to 22500
allow correlation with data collected under division (B)(1) of 22501
this section. Categories for data collected pursuant to division 22502
(B)(3) of this section shall conform, where appropriate, to 22503
standard practices of agencies of the federal government. 22504

(b) With respect to each student entering kindergarten, 22505
whether the student previously participated in a public preschool 22506
program, a private preschool program, or a head start program, and 22507
the number of years the student participated in each of these 22508
programs. 22509

(4) Any data required to be collected pursuant to federal 22510
law. 22511

(C) The education management information system shall include 22512
cost accounting data for each district as a whole and for each 22513
school building in each school district. The guidelines adopted 22514
under this section shall require the cost data for each school 22515
district to be maintained in a system of mutually exclusive cost 22516
units and shall require all of the costs of each school district 22517
to be divided among the cost units. The guidelines shall require 22518
the system of mutually exclusive cost units to include at least 22519
the following: 22520

(1) Administrative costs for the school district as a whole. 22521
The guidelines shall require the cost units under this division 22522
(C)(1) to be designed so that each of them may be compiled and 22523
reported in terms of average expenditure per pupil in formula ADM 22524
in the school district, as determined pursuant to section 3317.03 22525
of the Revised Code. 22526

(2) Administrative costs for each school building in the 22527
school district. The guidelines shall require the cost units under 22528
this division (C)(2) to be designed so that each of them may be 22529
compiled and reported in terms of average expenditure per 22530

full-time equivalent pupil receiving instructional or support 22531
services in each building. 22532

(3) Instructional services costs for each category of 22533
instructional service provided directly to students and required 22534
by guidelines adopted pursuant to division (B)(1)(a) of this 22535
section. The guidelines shall require the cost units under 22536
division (C)(3) of this section to be designed so that each of 22537
them may be compiled and reported in terms of average expenditure 22538
per pupil receiving the service in the school district as a whole 22539
and average expenditure per pupil receiving the service in each 22540
building in the school district and in terms of a total cost for 22541
each category of service and, as a breakdown of the total cost, a 22542
cost for each of the following components: 22543

(a) The cost of each instructional services category required 22544
by guidelines adopted under division (B)(1)(a) of this section 22545
that is provided directly to students by a classroom teacher; 22546

(b) The cost of the instructional support services, such as 22547
services provided by a speech-language pathologist, classroom 22548
aide, multimedia aide, or librarian, provided directly to students 22549
in conjunction with each instructional services category; 22550

(c) The cost of the administrative support services related 22551
to each instructional services category, such as the cost of 22552
personnel that develop the curriculum for the instructional 22553
services category and the cost of personnel supervising or 22554
coordinating the delivery of the instructional services category. 22555

(4) Support or extracurricular services costs for each 22556
category of service directly provided to students and required by 22557
guidelines adopted pursuant to division (B)(1)(b) of this section. 22558
The guidelines shall require the cost units under division (C)(4) 22559
of this section to be designed so that each of them may be 22560
compiled and reported in terms of average expenditure per pupil 22561

receiving the service in the school district as a whole and 22562
average expenditure per pupil receiving the service in each 22563
building in the school district and in terms of a total cost for 22564
each category of service and, as a breakdown of the total cost, a 22565
cost for each of the following components: 22566

(a) The cost of each support or extracurricular services 22567
category required by guidelines adopted under division (B)(1)(b) 22568
of this section that is provided directly to students by a 22569
licensed employee, such as services provided by a guidance 22570
counselor or any services provided by a licensed employee under a 22571
supplemental contract; 22572

(b) The cost of each such services category provided directly 22573
to students by a nonlicensed employee, such as janitorial 22574
services, cafeteria services, or services of a sports trainer; 22575

(c) The cost of the administrative services related to each 22576
services category in division (C)(4)(a) or (b) of this section, 22577
such as the cost of any licensed or nonlicensed employees that 22578
develop, supervise, coordinate, or otherwise are involved in 22579
administering or aiding the delivery of each services category. 22580

(D)(1) The guidelines adopted under this section shall 22581
require school districts to collect information about individual 22582
students, staff members, or both in connection with any data 22583
required by division (B) or (C) of this section or other reporting 22584
requirements established in the Revised Code. The guidelines may 22585
also require school districts to report information about 22586
individual staff members in connection with any data required by 22587
division (B) or (C) of this section or other reporting 22588
requirements established in the Revised Code. The guidelines shall 22589
not authorize school districts to request social security numbers 22590
of individual students. The guidelines shall prohibit the 22591
reporting under this section of a student's name, address, and 22592

social security number to the state board of education or the
department of education. The guidelines shall also prohibit the
reporting under this section of any personally identifiable
information about any student, except for the purpose of assigning
the data verification code required by division (D)(2) of this
section, to any other person unless such person is employed by the
school district or the data acquisition site operated under
section 3301.075 of the Revised Code and is authorized by the
district or acquisition site to have access to such information or
is employed by an entity with which the department contracts for
the scoring of tests administered under section 3301.0711 or
3301.0712 of the Revised Code. The guidelines may require school
districts to provide the social security numbers of individual
staff members.

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

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

Each school district shall ensure that the data verification
code is included in the student's records reported to any
subsequent school district or community school in which the
student enrolls. Any such subsequent district or school shall

utilize the same identifier in its reporting of data under this section. 22625
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(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section. 22627
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(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.358 or 3319.321 of the Revised Code. 22637
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(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats. These profile formats shall: 22643
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(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district; 22650
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(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section. 22653
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(H)(1) The state board shall, in accordance with the 22656
procedures it adopts, annually prepare a statewide report for all 22657
school districts and the general public that includes the profile 22658
of each of the school districts developed pursuant to division (G) 22659
of this section. Copies of the report shall be sent to each school 22660
district. 22661

(2) The state board shall, in accordance with the procedures 22662
it adopts, annually prepare an individual report for each school 22663
district and the general public that includes the profiles of each 22664
of the school buildings in that school district developed pursuant 22665
to division (G) of this section. Copies of the report shall be 22666
sent to the superintendent of the district and to each member of 22667
the district board of education. 22668

(3) Copies of the reports received from the state board under 22669
divisions (H)(1) and (2) of this section shall be made available 22670
to the general public at each school district's offices. Each 22671
district board of education shall make copies of each report 22672
available to any person upon request and payment of a reasonable 22673
fee for the cost of reproducing the report. The board shall 22674
annually publish in a newspaper of general circulation in the 22675
school district, at least twice during the two weeks prior to the 22676
week in which the reports will first be available, a notice 22677
containing the address where the reports are available and the 22678
date on which the reports will be available. 22679

(I) Any data that is collected or maintained pursuant to this 22680
section and that identifies an individual pupil is not a public 22681
record for the purposes of section 149.43 of the Revised Code. 22682

(J) As used in this section: 22683

(1) "School district" means any city, local, exempted 22684
village, or joint vocational school district. 22685

(2) "Cost" means any expenditure for operating expenses made 22686

by a school district excluding any expenditures for debt 22687
retirement except for payments made to any commercial lending 22688
institution for any loan approved pursuant to section 3313.483 of 22689
the Revised Code. 22690

(K) Any person who removes data from the information system 22691
established under this section for the purpose of releasing it to 22692
any person not entitled under law to have access to such 22693
information is subject to section 2913.42 of the Revised Code 22694
prohibiting tampering with data. 22695

(L) Any time the department of education determines that a 22696
school district has taken any of the actions described under 22697
division (L)(1), (2), or (3) of this section, it shall make a 22698
report of the actions of the district, send a copy of the report 22699
to the superintendent of such school district, and maintain a copy 22700
of the report in its files: 22701

(1) The school district fails to meet any deadline 22702
established pursuant to this section for the reporting of any data 22703
to the education management information system; 22704

(2) The school district fails to meet any deadline 22705
established pursuant to this section for the correction of any 22706
data reported to the education management information system; 22707

(3) The school district reports data to the education 22708
management information system in a condition, as determined by the 22709
department, that indicates that the district did not make a good 22710
faith effort in reporting the data to the system. 22711

Any report made under this division shall include 22712
recommendations for corrective action by the school district. 22713

Upon making a report for the first time in a fiscal year, the 22714
department shall withhold ten per cent of the total amount due 22715
during that fiscal year under Chapter 3317. of the Revised Code to 22716

the school district to which the report applies. Upon making a
second report in a fiscal year, the department shall withhold an
additional twenty per cent of such total amount due during that
fiscal year to the school district to which the report applies.
The department shall not release such funds unless it determines
that the district has taken corrective action. However, no such
release of funds shall occur if the district fails to take
corrective action within forty-five days of the date upon which
the report was made by the department.

(M) No data acquisition site or school district shall
acquire, change, or update its student administration software
package to manage and report data required to be reported to the
department unless it converts to a student software package that
is certified by the department.

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

(O) No person shall release or maintain any information about
any student in violation of this section. Whoever violates this
division is guilty of a misdemeanor of the fourth degree.

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

(Q) If the department cannot compile any of the information
required by division (C)(5) of section 3302.03 of the Revised Code
based upon the data collected under this section, the department

shall develop a plan and a reasonable timeline for the collection 22748
of any data necessary to comply with that division. 22749

Sec. 3301.0715. (A) Except as provided in division (E) of 22750
this section, the board of education of each city, local, and 22751
exempted village school district shall administer each applicable 22752
diagnostic assessment developed and provided to the district in 22753
accordance with section 3301.079 of the Revised Code to the 22754
following: 22755

(1) Each student enrolled in a building subject to division 22756
(E) of section 3302.04 of the Revised Code; 22757

(2) Any student who transfers into the district or to a 22758
different school within the district if each applicable diagnostic 22759
assessment was not administered by the district or school the 22760
student previously attended in the current school year, within 22761
thirty days after the date of transfer. If the district or school 22762
into which the student transfers cannot determine whether the 22763
student has taken any applicable diagnostic assessment in the 22764
current school year, the district or school may administer the 22765
diagnostic assessment to the student. 22766

(3) Each kindergarten student, not later than six weeks after 22767
the first day of school. For the purpose of division (A)(3) of 22768
this section, the district shall administer the kindergarten 22769
readiness assessment provided by the department of education. The 22770
district may administer the readiness assessment to a student 22771
prior to the student's enrollment in kindergarten, but in no case 22772
shall the results of the readiness assessment be used to prohibit 22773
the student from enrolling in kindergarten. 22774

(4) Each student enrolled in first or second grade. 22775

(B) Each district board shall administer each diagnostic 22776
assessment as the board deems appropriate. However, the board 22777

shall administer any diagnostic assessment at least once annually 22778
to all students in the appropriate grade level. A district board 22779
may administer any diagnostic assessment in the fall and spring of 22780
a school year to measure the amount of academic growth 22781
attributable to the instruction received by students during that 22782
school year. 22783

(C) Each district board shall utilize and score any 22784
diagnostic assessment administered under division (A) of this 22785
section in accordance with rules established by the department. 22786
Except as required by division (B)(1)(o) of section 3301.0714 of 22787
the Revised Code, neither the state board of education nor the 22788
department shall require school districts to report the results of 22789
diagnostic assessments for any students to the department or to 22790
make any such results available in any form to the public. After 22791
the administration of any diagnostic assessment, each district 22792
shall provide a student's completed diagnostic assessment, the 22793
results of such assessment, and any other accompanying documents 22794
used during the administration of the assessment to the parent of 22795
that student upon the parent's request. 22796

(D) Each district board shall provide intervention services 22797
to students whose diagnostic assessments show that they are 22798
failing to make satisfactory progress toward attaining the 22799
academic standards for their grade level. 22800

(E) Any district that made adequate yearly progress, as 22801
defined in section 3302.01 of the Revised Code, in the immediately 22802
preceding school year may assess student progress in grades one 22803
through ~~eight~~ three using a diagnostic assessment other than the 22804
diagnostic assessment required by division (A) of this section. 22805

(F) A district board may administer ~~any~~ the third grade 22806
writing diagnostic assessment provided to the district in 22807
accordance with section 3301.079 of the Revised Code to any 22808

student enrolled in a building that is not subject to division 22809
(A)(1) of this section. Any district electing to administer the 22810
diagnostic ~~assessments~~ assessment to students under this division 22811
shall provide intervention services to any such student whose 22812
diagnostic assessment shows unsatisfactory progress toward 22813
attaining the academic standards for the student's grade level. 22814

Sec. 3301.12. (A) The superintendent of public instruction in 22815
addition to the authority otherwise imposed on ~~him~~ the 22816
superintendent, shall perform the following duties: 22817

(1) ~~He~~ The superintendent shall provide technical and 22818
professional assistance and advice to all school districts in 22819
reference to all aspects of education, including finance, 22820
buildings and equipment, administration, organization of school 22821
districts, curriculum and instruction, transportation of pupils, 22822
personnel problems, and the interpretation of school laws and 22823
state regulations. 22824

(2) ~~He~~ The superintendent shall prescribe and require the 22825
preparation and filing of such financial and other reports from 22826
school districts, officers, and employees as are necessary or 22827
proper. ~~He~~ The superintendent shall prescribe and require the 22828
installation by school districts of such standardized reporting 22829
forms and accounting procedures as are essential to the 22830
businesslike operations of the public schools of the state. 22831

(3) ~~He~~ The superintendent shall conduct such studies and 22832
research projects as are necessary or desirable for the 22833
improvement of public school education in Ohio, and such as may be 22834
assigned to ~~him~~ the superintendent by the state board of 22835
education. Such studies and projects may include analysis of data 22836
contained in the education management information system 22837
established under section 3301.0714 of the Revised Code. For any 22838
study or project that requires the analysis of individual student 22839

data, the department of education or any entity with which the 22840
superintendent or department contracts to conduct the study or 22841
project shall maintain the confidentiality of student data at all 22842
times. For this purpose, the department or contracting entity 22843
shall use the data verification code assigned pursuant to division 22844
(D)(2) of section 3301.0714 of the Revised Code for each student 22845
whose data is analyzed. Except as otherwise provided in division 22846
(D)(1) of section 3301.0714 of the Revised Code, at no time shall 22847
the superintendent, the department, the state board of education, 22848
or any entity conducting a study or research project on the 22849
superintendent's behalf have access to a student's name, address, 22850
or social security number while analyzing individual student data. 22851

(4) ~~He~~ The superintendent shall prepare and submit annually 22852
to the state board of education a report of the activities of the 22853
department of education and the status, problems, and needs of 22854
education in the state of Ohio. 22855

(5) ~~He~~ The superintendent shall supervise all agencies over 22856
which the board exercises administrative control, including 22857
schools for education of handicapped persons. 22858

(B) The superintendent of public instruction may annually 22859
inspect and analyze the expenditures of each school district and 22860
make a determination as to the efficiency of each district's 22861
costs, relative to other school districts in the state, for 22862
instructional, administrative, and student support services. The 22863
superintendent shall notify each school district as to the nature 22864
of, and reasons for, ~~his~~ the determination. The state board of 22865
education shall adopt rules in accordance with Chapter 119. of the 22866
Revised Code setting forth the procedures and standards for the 22867
performance of the inspection and analysis. 22868

Sec. 3301.16. Pursuant to standards prescribed by the state 22869
board of education as provided in division (D) of section 3301.07 22870

of the Revised Code, the state board shall classify and charter 22871
school districts and individual schools within each district 22872
except that no charter shall be granted to a nonpublic school 22873
unless pursuant to division (K) of section 3301.0711 of the 22874
Revised Code the school elects to administer the tests prescribed 22875
by division (B) of section 3301.0710 of the Revised Code beginning 22876
July 1, 1995. ~~The~~ 22877

In the course of considering the charter of a new school 22878
district created under section 3311.26 or 3311.38 of the Revised 22879
Code, the state board shall require the party proposing creation 22880
of the district to submit to the board a map, certified by the 22881
county auditor of the county in which the proposed new district is 22882
located, showing the boundaries of the proposed new district. In 22883
the case of a proposed new district located in more than one 22884
county, the map shall be certified by the county auditor of each 22885
county in which the proposed district is located. 22886

The state board shall revoke the charter of any school 22887
district or school which fails to meet the standards for 22888
elementary and high schools as prescribed by the board. The state 22889
board shall also revoke the charter of any nonpublic school that 22890
does not comply with section 3313.612 of the Revised Code or, on 22891
or after July 1, 1995, does not participate in the testing program 22892
prescribed by division (B) of section 3301.0710 of the Revised 22893
Code. ~~In~~ 22894

In the issuance and revocation of school district or school 22895
charters, the state board shall be governed by the provisions of 22896
Chapter 119. of the Revised Code. 22897

No school district, or individual school operated by a school 22898
district, shall operate without a charter issued by the state 22899
board under this section. 22900

In case a school district charter is revoked pursuant to this 22901

section, the state board may dissolve the school district and 22902
transfer its territory to one or more adjacent districts. An 22903
equitable division of the funds, property, and indebtedness of the 22904
school district shall be made by the state board among the 22905
receiving districts. The board of education of a receiving 22906
district shall accept such territory pursuant to the order of the 22907
state board. Prior to dissolving the school district, the state 22908
board shall notify the appropriate educational service center 22909
governing board and all adjacent school district boards of 22910
education of its intention to do so. Boards so notified may make 22911
recommendations to the state board regarding the proposed 22912
dissolution and subsequent transfer of territory. Except as 22913
provided in section 3301.161 of the Revised Code, the transfer 22914
ordered by the state board shall become effective on the date 22915
specified by the state board, but the date shall be at least 22916
thirty days following the date of issuance of the order. 22917

A high school is one of higher grade than an elementary 22918
school, in which instruction and training are given in accordance 22919
with sections 3301.07 and 3313.60 of the Revised Code and which 22920
also offers other subjects of study more advanced than those 22921
taught in the elementary schools and such other subjects as may be 22922
approved by the state board of education. 22923

An elementary school is one in which instruction and training 22924
are given in accordance with sections 3301.07 and 3313.60 of the 22925
Revised Code and which offers such other subjects as may be 22926
approved by the state board of education. In districts wherein a 22927
junior high school is maintained, the elementary schools in that 22928
district may be considered to include only the work of the first 22929
six school years inclusive, plus the kindergarten year. 22930

Sec. 3301.311. (A) As used in this section, "preschool 22931
program" has the same meaning as in section 3301.52 of the Revised 22932

Code. 22933

~~After June 30, 2001 (B)(1) Subject to division (B)(2) of this~~ 22934
~~section, after July 1, 2005, no head start preschool program, and~~ 22935
~~no early childhood education program or early learning program as~~ 22936
~~defined by the department of education shall receive any funds~~ 22937
from the state unless fifty per cent of the staff members employed 22938
by that program as teachers are working toward an associate degree 22939
of a type approved by the department of education. ~~After June 30,~~ 22940
~~2003, no head start program shall receive any funds from the state~~ 22941
~~unless each staff member employed by that program as a teacher is~~ 22942
~~working toward an associate degree of a type approved by the~~ 22943
~~department of education. Beginning~~ Subject to division (B)(2) of 22944
this section, beginning in fiscal year 2008, no head start 22945
preschool program, early childhood education program, or early 22946
learning program, shall receive any funds from the state unless 22947
every staff member employed by that program as a teacher has 22948
attained such a degree. 22949

(2) After July 1, 2010, no preschool program, and no early 22950
childhood education program or early learning program as defined 22951
by the department of education, shall receive any funds from the 22952
state unless fifty per cent of the staff members employed by the 22953
program as teachers have attained a bachelor's degree of a type 22954
approved by the department. 22955

Sec. 3301.32. (A)(1) The chief administrator of any head 22956
start agency shall request the superintendent of the bureau of 22957
criminal identification and investigation to conduct a criminal 22958
records check with respect to any applicant who has applied to the 22959
head start agency for employment as a person responsible for the 22960
care, custody, or control of a child. If the applicant does not 22961
present proof that the applicant has been a resident of this state 22962
for the five-year period immediately prior to the date upon which 22963

the criminal records check is requested or does not provide 22964
evidence that within that five-year period the superintendent has 22965
requested information about the applicant from the federal bureau 22966
of investigation in a criminal records check, the chief 22967
administrator shall request that the superintendent obtain 22968
information from the federal bureau of investigation as a part of 22969
the criminal records check for the applicant. If the applicant 22970
presents proof that the applicant has been a resident of this 22971
state for that five-year period, the chief administrator may 22972
request that the superintendent include information from the 22973
federal bureau of investigation in the criminal records check. 22974

(2) Any person required by division (A)(1) of this section to 22975
request a criminal records check shall provide to each applicant a 22976
copy of the form prescribed pursuant to division (C)(1) of section 22977
109.572 of the Revised Code, provide to each applicant a standard 22978
impression sheet to obtain fingerprint impressions prescribed 22979
pursuant to division (C)(2) of section 109.572 of the Revised 22980
Code, obtain the completed form and impression sheet from each 22981
applicant, and forward the completed form and impression sheet to 22982
the superintendent of the bureau of criminal identification and 22983
investigation at the time the chief administrator requests a 22984
criminal records check pursuant to division (A)(1) of this 22985
section. 22986

(3) Any applicant who receives pursuant to division (A)(2) of 22987
this section a copy of the form prescribed pursuant to division 22988
(C)(1) of section 109.572 of the Revised Code and a copy of an 22989
impression sheet prescribed pursuant to division (C)(2) of that 22990
section and who is requested to complete the form and provide a 22991
set of fingerprint impressions shall complete the form or provide 22992
all the information necessary to complete the form and shall 22993
provide the impression sheets with the impressions of the 22994
applicant's fingerprints. If an applicant, upon request, fails to 22995

provide the information necessary to complete the form or fails to 22996
provide impressions of the applicant's fingerprints, the head 22997
start agency shall not employ that applicant for any position for 22998
which a criminal records check is required by division (A)(1) of 22999
this section. 23000

(B)(1) Except as provided in rules adopted by the director of 23001
job and family services in accordance with division (E) of this 23002
section, no head start agency shall employ a person as a person 23003
responsible for the care, custody, or control of a child if the 23004
person previously has been convicted of or pleaded guilty to any 23005
of the following: 23006

(a) A violation of section 2903.01, 2903.02, 2903.03, 23007
2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 23008
2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 23009
2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 23010
2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 23011
2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 23012
2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 23013
2925.06, or 3716.11 of the Revised Code, a violation of section 23014
2905.04 of the Revised Code as it existed prior to July 1, 1996, a 23015
violation of section 2919.23 of the Revised Code that would have 23016
been a violation of section 2905.04 of the Revised Code as it 23017
existed prior to July 1, 1996, had the violation occurred prior to 23018
that date, a violation of section 2925.11 of the Revised Code that 23019
is not a minor drug possession offense, or felonious sexual 23020
penetration in violation of former section 2907.12 of the Revised 23021
Code; 23022

(b) A violation of an existing or former law of this state, 23023
any other state, or the United States that is substantially 23024
equivalent to any of the offenses or violations described in 23025
division (B)(1)(a) of this section. 23026

(2) A head start agency may employ an applicant conditionally until the criminal records check required by this section is completed and the agency receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the agency shall release the applicant from employment.

(C)(1) Each head start agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the chief administrator of the head start agency.

(2) A head start agency may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not exceed the amount of fees the agency pays under division (C)(1) of this section. If a fee is charged under this division, the agency shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the head start agency will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the head start agency requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing

with the denial of employment to the applicant. 23059

(E) The director of job and family services shall adopt rules 23060
pursuant to Chapter 119. of the Revised Code to implement this 23061
section, including rules specifying circumstances under which a 23062
head start agency may hire a person who has been convicted of an 23063
offense listed in division (B)(1) of this section but who meets 23064
standards in regard to rehabilitation set by the director. 23065

(F) Any person required by division (A)(1) of this section to 23066
request a criminal records check shall inform each person, at the 23067
time of the person's initial application for employment, that the 23068
person is required to provide a set of impressions of the person's 23069
fingerprints and that a criminal records check is required to be 23070
conducted and satisfactorily completed in accordance with section 23071
109.572 of the Revised Code if the person comes under final 23072
consideration for appointment or employment as a precondition to 23073
employment for that position. 23074

(G) As used in this section: 23075

(1) "Applicant" means a person who is under final 23076
consideration for appointment or employment in a position with a 23077
head start agency as a person responsible for the care, custody, 23078
or control of a child. 23079

(2) "Head start agency" ~~has the same meaning as in section~~ 23080
~~3301.31 of the Revised Code~~ means an entity in this state that has 23081
been approved to be an agency for purposes of the "Head Start 23082
Act," 95 State 489 (1981), 42 U.S.C. 9831, as amended. 23083

(3) "Criminal records check" has the same meaning as in 23084
section 109.572 of the Revised Code. 23085

(4) "Minor drug possession offense" has the same meaning as 23086
in section 2925.01 of the Revised Code. 23087

Sec. 3301.56. (A) The director of each preschool program 23088

shall be responsible for the following:	23089
(1) Ensuring that the health and safety of the children are safeguarded by an organized program of school health services designed to identify child health problems and to coordinate school and community health resources for children, as evidenced by but not limited to:	23090
(a) Requiring immunization and compliance with emergency medical authorization requirements in accordance with rules adopted by the state board of education under section 3301.53 of the Revised Code;	23091
(b) Providing procedures for emergency situations, including fire drills, rapid dismissals, and tornado drills in accordance with section 3737.73 of the Revised Code, and keeping records of such drills or dismissals;	23092
(c) Posting emergency procedures in preschool rooms and making them available to school personnel, children, and parents;	23093
(d) Posting emergency numbers by each telephone;	23094
(e) Supervising grounds, play areas, and other facilities when scheduled for use by children;	23095
(f) Providing first-aid facilities and materials.	23096
(2) Maintaining cumulative records for each child;	23097
(3) Supervising each child's admission, placement, and withdrawal according to established procedures;	23098
(4) Preparing at least once annually for each group of children in the program a roster of names and telephone numbers of parents, guardians, and custodians of children in the group and, on request, furnishing the roster for each group to the parents, guardians, and custodians of children in that group. The director may prepare a similar roster of all children in the program and, on request, make it available to the parents, guardians, and	23099
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custodians, of children in the program. The director shall not
include in either roster the name or telephone number of any
parent, guardian, or custodian who requests that the parent's,
guardian's, or custodian's name or number not be included, and
shall not furnish any roster to any person other than a parent,
guardian, or custodian of a child in the program.

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(5) Ensuring that clerical and custodial services are
provided for the program;

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(6) Supervising the instructional program and the daily
operation of the program;

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(7) Supervising and evaluating preschool staff members
according to a planned sequence of observations and evaluation
conferences, and supervising nonteaching employees.

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(B)(1) In each program the maximum number of children per
preschool staff member and the maximum group size by age category
of children shall be as follows:

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	Maximum		
Age Group	Group	Staff Member/ Child Ratio	
Birth to less than 12 months	12	1:5, or 2:12 if two preschool staff members are in the room	23135 23136 23137 23138 23139 23140 23141
12 months to less than 18 months	12	1:6	23142
18 months to less than 30 months	14	1:7	23143
30 months to less than 3 years	16	1:8	23144
3-year-olds	24	1:12	23145
4- and 5-year-olds not in school	28	1:14	23146

(2) When age groups are combined, the maximum number of
children per preschool staff member shall be determined by the age
of the youngest child in the group, except that when no more than

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one child thirty months of age or older receives child care in a 23150
group in which all the other children are in the next older age 23151
group, the maximum number of children per child-care staff member 23152
and maximum group size requirements of the older age group 23153
established under division (B)(1) of this section shall apply. 23154

(3) In a room where children are napping, if all the children 23155
are at least eighteen months of age, the maximum number of 23156
children per preschool staff member shall, for a period not to 23157
exceed one and one-half hours in any twenty-four hour day, be 23158
twice the maximum number of children per preschool staff member 23159
established under division (B)(1) of this section if all the 23160
following criteria are met: 23161

(a) At least one preschool staff member is present in the 23162
room; 23163

(b) Sufficient preschool staff members are present on the 23164
preschool program premises to comply with division (B)(1) of this 23165
section; 23166

(c) Naptime preparations have been completed and the children 23167
are resting or napping. 23168

(4) Any accredited program that uses the Montessori method 23169
endorsed by the American Montessori society or the association 23170
Montessori internationale as its primary method of instruction and 23171
is licensed as a preschool program under section 3301.58 of the 23172
Revised Code may combine preschool children of ages three to five 23173
years old with children enrolled in kindergarten. Notwithstanding 23174
anything to the contrary in division (B)(2) of this section, when 23175
such age groups are combined, the maximum number of children per 23176
preschool staff member shall be twelve and the maximum group size 23177
shall be twenty-four children. 23178

(C) In each building in which a preschool program is operated 23179
there shall be on the premises, and readily available at all 23180

times, at least one employee who has completed a course in first 23181
aid and in the prevention, recognition, and management of 23182
communicable diseases which is approved by the state department of 23183
health, and an employee who has completed a course in child abuse 23184
recognition and prevention. 23185

(D) Any parent, guardian, or custodian of a child enrolled in 23186
a preschool program shall be permitted unlimited access to the 23187
school during its hours of operation to contact the parent's, 23188
guardian's, or custodian's child, evaluate the care provided by 23189
the program, or evaluate the premises, or for other purposes 23190
approved by the director. Upon entering the premises, the parent, 23191
guardian, or custodian shall report to the school office. 23192

Sec. 3301.86. ~~The OhioReads classroom reading improvement~~ 23193
~~grants program is hereby established. The OhioReads council shall~~ 23194
~~award grants under the program in accordance with the standards it~~ 23195
~~establishes under section 3301.91 of the Revised Code. The~~ 23196
~~OhioReads office is the fiscal agent for the program and shall pay~~ 23197
~~the grants awarded by the council~~ Under the program, the 23198
department of education shall award reading intervention grants to 23199
public schools and classrooms operated by city, local, and 23200
exempted village school districts, by community schools, and by 23201
educational service centers. The grants shall be used to fund the 23202
engagement of volunteers to assist struggling students in grades 23203
kindergarten through twelve improve their reading skills, to 23204
improve reading outcomes in low-performing schools, and to 23205
facilitate closing the achievement gap between students of 23206
different subgroups. 23207

Sec. 3301.88. (A) A recipient of a grant under section 23208
3301.86 ~~or 3301.87~~ of the Revised Code ~~or an entity approved by~~ 23209
~~the OhioReads council~~ may request from the bureau of criminal 23210

identification and investigation a criminal records check on any 23211
individual, other than an individual described in division (B) of 23212
this section, who applies to participate in providing directly to 23213
children any program or service ~~through an entity approved by the~~ 23214
~~OhioReads council or~~ funded in whole or in part by the grant. If a 23215
recipient ~~or an entity approved by the OhioReads council~~ elects to 23216
request a criminal records check, the request shall consist of a 23217
request for the information a school district board of education 23218
may request under division (F)(2)(a) of section 109.57 of the 23219
Revised Code and shall be accompanied by one of the following 23220
identification options: 23221

(1) The form and standard impression sheet prescribed by the 23222
bureau under division (C) of section 109.572 of the Revised Code; 23223

(2) A form prescribed by the bureau on which is specified the 23224
individual's name, social security number, and date of birth. 23225

(B) A grant recipient ~~or an entity approved by the OhioReads~~ 23226
~~council~~ shall not request a criminal records check under division 23227
(A) of this section with respect to any individual who furnishes 23228
the grant recipient ~~or an entity approved by the OhioReads council~~ 23229
with a certified copy of a report of a criminal records check 23230
completed by the bureau within one year prior to applying to 23231
participate in providing programs or services ~~through an entity~~ 23232
~~approved by the OhioReads council or~~ under an OhioReads the grant. 23233

(C) Except as provided in rules adopted under division (G)(2) 23234
of this section, a grant recipient ~~or an entity approved by the~~ 23235
~~OhioReads council~~ shall not allow an individual to participate in 23236
providing directly to children any program or service ~~through an~~ 23237
~~entity approved by the OhioReads council or~~ funded in whole or in 23238
part by the grant if the information requested under this section 23239
from the bureau indicates that the individual has ever pleaded 23240
guilty to or been found guilty by a jury or court of any of the 23241
following: 23242

(1) A felony;	23243
(2) A violation of section 2903.16, 2903.34, 2905.05,	23244
2907.04, 2907.06, 2907.07, 2907.08, 2907.09, 2907.23, 2907.25,	23245
2907.31, 2919.12, 2919.22, 2919.24, 2925.04, or 3716.11 of the	23246
Revised Code; a violation of section 2905.04 of the Revised Code	23247
as it existed prior to July 1, 1996; or a violation of section	23248
2919.23 of the Revised Code that would have been a violation of	23249
section 2905.04 of the Revised Code as it existed prior to July 1,	23250
1996, had it been committed prior to that date;	23251
(3) An offense of violence;	23252
(4) A theft offense, as defined in section 2913.01 of the	23253
Revised Code;	23254
(5) A drug abuse offense, as defined in section 2925.01 of	23255
the Revised Code;	23256
(6) A violation of an existing or former ordinance of a	23257
municipal corporation or law of the United States or another state	23258
that is substantively comparable to an offense listed in divisions	23259
(C)(1) to (5) of this section.	23260
(D) A grant recipient or an entity approved by the OhioReads	23261
council that elects to request criminal records checks may	23262
conditionally allow an individual to participate in providing	23263
programs or services directly to children until the criminal	23264
records check is completed and the grant recipient or an entity	23265
approved by the OhioReads council receives the results. If the	23266
results of the criminal records check indicate that the individual	23267
has been convicted of or pleaded guilty to an offense listed in	23268
division (C) of this section, the grant recipient or an entity	23269
approved by the OhioReads council shall not allow the individual	23270
to further participate in providing directly to children any	23271
program or service through an entity approved by the OhioReads	23272
council or funded in whole or in part by the grant, except as	23273

provided in the rules adopted under division (G)(2) of this section. 23274
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(E) The report of any criminal records check conducted in accordance with division (F)(5) of section 109.57 of the Revised Code pursuant to a request under this section is not a public record for purposes of section 149.43 of the Revised Code. The report shall not be made available to any person other than the individual who is the subject of the criminal records check or the individual's representative, the grant recipient or the grant recipient's representative ~~or an entity approved by the OhioReads council~~, and any court, hearing officer, or other necessary individual in a case dealing with the denial of the individual's participation in a program or service ~~through an entity approved by the OhioReads council or~~ funded by ~~an OhioReads~~ a grant awarded under section 3301.86 of the Revised Code. 23276
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(F) The ~~OhioReads office~~ department of education shall reimburse each grant recipient ~~or an entity approved by the OhioReads council~~ for each criminal records check the actual amount paid by the grant recipient ~~or an entity approved by the OhioReads council~~ for the portion of the criminal records check conducted by the bureau of criminal identification and investigation. Reimbursement shall be paid under this division only for criminal records checks on individuals who apply to participate in providing directly to children any program or service ~~through an entity approved by the OhioReads council or~~ funded in whole or in part by the grant. To receive it, the grant recipient ~~or an entity approved by the OhioReads council~~ must submit information to the ~~office~~ department in the form and manner required by the ~~office~~ department. The reimbursement is in addition to the grant awarded to the recipient under section 3301.86 ~~or 3301.87~~ of the Revised Code. 23289
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(G) The ~~department~~ state board of education shall adopt rules 23305

in accordance with Chapter 119. of the Revised Code: 23306

(1) Prescribing the form and manner in which grant recipients 23307
~~or an entity approved by the OhioReads council~~ must submit 23308
information to the ~~OhioReads office~~ department to receive 23309
reimbursement under division (F) of this section; 23310

(2) Specifying circumstances under which a grant recipient ~~or~~ 23311
~~an entity approved by the OhioReads council~~ may allow an 23312
individual whose criminal records check report indicates that the 23313
individual has been convicted of or pleaded guilty to an offense 23314
listed in division (C) of this section, but who meets standards in 23315
regard to rehabilitation set forth in the rules, to participate in 23316
providing directly to children any program or service ~~through an~~ 23317
~~entity approved by the OhioReads council or~~ funded in whole or in 23318
part by the grant. 23319

Sec. 3302.03. (A) Annually the department of education shall 23320
report for each school district and each school building in a 23321
district all of the following: 23322

(1) The extent to which the school district or building meets 23323
each of the applicable performance indicators created by the state 23324
board of education under section 3302.02 of the Revised Code and 23325
the number of applicable performance indicators that have been 23326
achieved; 23327

(2) The performance index score of the school district or 23328
building; 23329

(3) Whether the school district or building has made adequate 23330
yearly progress; 23331

(4) Whether the school district or building is excellent, 23332
effective, needs continuous improvement, is under an academic 23333
watch, or is in a state of academic emergency. 23334

(B)(1) A school district or building shall be declared 23335

excellent if it fulfills one of the following requirements:	23336
(a) It makes adequate yearly progress and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.	23337 23338 23339 23340
(b) It has failed to make adequate yearly progress for not more than two consecutive years and either meets at least ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.	23341 23342 23343 23344 23345
(2) A school district or building shall be declared effective if it fulfills one of the following requirements:	23346 23347
(a) It makes adequate yearly progress and either meets at least seventy-five per cent but less than ninety-four per cent of the applicable state performance indicators or has a performance index score established by the department.	23348 23349 23350 23351
(b) It does not make adequate yearly progress and either meets at least seventy-five per cent of the applicable state performance indicators or has a performance index score established by the department, except that if it does not make adequate yearly progress for three consecutive years, it shall be declared in need of continuous improvement.	23352 23353 23354 23355 23356 23357
(3) A school district or building shall be declared to be in need of continuous improvement if it fulfills one of the following requirements:	23358 23359 23360
(a) It makes adequate yearly progress, meets less than seventy-five per cent of the applicable state performance indicators, and has a performance index score established by the department.	23361 23362 23363 23364
(b) It does not make adequate yearly progress and either	23365

meets at least fifty per cent but less than seventy-five per cent 23366
of the applicable state performance indicators or has a 23367
performance index score established by the department. 23368

(4) A school district or building shall be declared to be 23369
under an academic watch if it does not make adequate yearly 23370
progress and either meets at least thirty-one per cent but less 23371
than fifty per cent of the applicable state performance indicators 23372
or has a performance index score established by the department. 23373

(5) A school district or building shall be declared to be in 23374
a state of academic emergency if it does not make adequate yearly 23375
progress, does not meet at least thirty-one per cent of the 23376
applicable state performance indicators, and has a performance 23377
index score established by the department. 23378

(C)(1) The department shall issue annual report cards for 23379
each school district, each building within each district, and for 23380
the state as a whole reflecting performance on the indicators 23381
created by the state board under section 3302.02 of the Revised 23382
Code, the performance index score, and adequate yearly progress. 23383

(2) The department shall include on the report card for each 23384
district information pertaining to any change from the previous 23385
year made by the school district or school buildings within the 23386
district on any performance indicator. 23387

(3) When reporting data on student performance, the 23388
department shall disaggregate that data according to the following 23389
categories: 23390

(a) Performance of students by age group; 23391

(b) Performance of students by race and ethnic group; 23392

(c) Performance of students by gender; 23393

(d) Performance of students grouped by those who have been 23394
enrolled in a district or school for three or more years; 23395

(e) Performance of students grouped by those who have been enrolled in a district or school for more than one year and less than three years;	23396 23397 23398
(f) Performance of students grouped by those who have been enrolled in a district or school for one year or less;	23399 23400
(g) Performance of students grouped by those who are economically disadvantaged;	23401 23402
(h) Performance of students grouped by those who are enrolled in a conversion community school established under Chapter 3314. of the Revised Code;	23403 23404 23405
(i) Performance of students grouped by those who are classified as limited English proficient;	23406 23407
(j) Performance of students grouped by those who have disabilities;	23408 23409
(k) Performance of students grouped by those who are classified as migrants;	23410 23411
(l) Performance of students grouped by those who are identified as gifted pursuant to Chapter 3324. of the Revised Code.	23412 23413 23414
The department may disaggregate data on student performance according to other categories that the department determines are appropriate. To the extent possible, the department shall disaggregate data on student performance according to any combinations of two or more of the categories listed in divisions (C)(3)(a) to (l) of this section that it deems relevant.	23415 23416 23417 23418 23419 23420
In reporting data pursuant to division (C)(3) of this section, the department shall not include in the report cards any data statistical in nature that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report student	23421 23422 23423 23424 23425

performance data for any group identified in division (C)(3) of
this section that contains less than ten students. 23426
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(4) The department may include with the report cards any
additional education and fiscal performance data it deems
valuable. 23428
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(5) The department shall include on each report card a list
of additional information collected by the department that is
available regarding the district or building for which the report
card is issued. When available, such additional information shall
include student mobility data disaggregated by race and
socioeconomic status, college enrollment data, and the reports
prepared under section 3302.031 of the Revised Code. 23431
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The department shall maintain a site on the world wide web.
The report card shall include the address of the site and shall
specify that such additional information is available to the
public at that site. The department shall also provide a copy of
each item on the list to the superintendent of each school
district. The district superintendent shall provide a copy of any
item on the list to anyone who requests it. 23438
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(6) ~~For~~ This division does not apply to conversion community
schools that primarily enroll students between sixteen and
twenty-two years of age who dropped out of high school or are at
risk of dropping out of high school due to poor attendance,
disciplinary problems, or suspensions. 23445
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For any district that sponsors a conversion community school
under Chapter 3314. of the Revised Code, the department shall
combine data regarding the academic performance of students
enrolled in the community school with comparable data from the
schools of the district for the purpose of calculating the
performance of the district as a whole on the report card issued
for the district. 23450
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(7) The department shall include on each report card the percentage of teachers in the district or building who are highly qualified, as defined by the "No Child Left Behind Act of 2001," and a comparison of that percentage with the percentages of such teachers in similar districts and buildings.

(8) The department shall include on the report card the number of master teachers employed by each district and each building once the data is available from the education management information system established under section 3301.0714 of the Revised Code.

(D)(1) In calculating reading, writing, mathematics, social studies, or science proficiency or achievement test passage rates used to determine school district or building performance under this section, the department shall include all students taking a test with accommodation or to whom an alternate assessment is administered pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code.

(2) In calculating performance index scores, rates of achievement on the performance indicators established by the state board under section 3302.02 of the Revised Code, and adequate yearly progress for school districts and buildings under this section, the department shall do all of the following:

(a) Include for each district or building only those students who are included in the ADM certified for the first full school week of October and are continuously enrolled in the district or building through the time of the spring administration of any test prescribed by section 3301.0710 of the Revised Code that is administered to the student's grade level;

(b) Include cumulative totals from both the fall and spring administrations of the third grade reading achievement test;

(c) Except as required by the "No Child Left Behind Act of

2001" for the calculation of adequate yearly progress, exclude for 23488
each district or building any limited English proficient student 23489
who has been enrolled in United States schools for less than one 23490
full school year. 23491

Sec. 3302.10. (A) Beginning July 1, 2007, the superintendent 23492
of public instruction shall establish an academic distress 23493
commission for each school district that has been declared to be 23494
in a state of academic emergency pursuant to section 3302.03 of 23495
the Revised Code and has failed to make adequate yearly progress 23496
for four or more consecutive school years. Each commission shall 23497
assist the district for which it was established in improving the 23498
district's academic performance. 23499

(B) Each academic distress commission shall consist of five 23500
voting members, three of whom shall be appointed by the 23501
superintendent of public instruction and two of whom shall be 23502
appointed by the president of the board of education of the 23503
applicable school district. 23504

(C) Each academic distress commission shall seek input from 23505
the district board of education regarding ways to improve the 23506
district's academic performance, but any decision of the 23507
commission related to any authority granted to the commission 23508
under this section shall be final. 23509

The commission may do any of the following: 23510

(1) Appoint school building administrators and reassign 23511
administrative personnel; 23512

(2) Terminate the contracts of administrators or 23513
administrative personnel. The commission shall not be required to 23514
comply with section 3319.16 of the Revised Code with respect to 23515
any contract terminated under this division. 23516

(3) Contract with a private entity to perform school or 23517

district management functions; 23518

(4) Establish a budget for the district and approve district 23519
expenditures, unless a financial planning and supervision 23520
commission has been established for the district pursuant to 23521
section 3316.05 of the Revised Code. 23522

(D) If the board of education of a district for which an 23523
academic distress commission has been established under this 23524
section renews any collective bargaining agreement under Chapter 23525
4117. of the Revised Code during the existence of the commission, 23526
the district board shall not enter into any agreement that would 23527
render any decision of the commission unenforceable. Section 23528
3302.08 of the Revised Code does not apply to this division. 23529

Notwithstanding any provision to the contrary in Chapter 23530
4117. of the Revised Code, if the board of education has entered 23531
into a collective bargaining agreement after the effective date of 23532
this section that contains stipulations relinquishing one or more 23533
of the rights or responsibilities listed in division (C) of 23534
section 4117.08 of the Revised Code, those stipulations are not 23535
enforceable and the district board shall resume holding those 23536
rights or responsibilities as if it had not relinquished them in 23537
that agreement until such time as both the academic distress 23538
commission ceases to exist and the district board agrees to 23539
relinquish those rights or responsibilities in a new collective 23540
bargaining agreement. The provisions of this paragraph apply to a 23541
collective bargaining agreement entered into after the effective 23542
date of this section and those provisions are deemed to be part of 23543
that agreement regardless of whether the district satisfied the 23544
conditions prescribed in division (A) of this section at the time 23545
the district entered into that agreement. 23546

(E) An academic distress commission shall cease to exist when 23547
the district for which it was established receives a performance 23548

rating under section 3302.03 of the Revised Code of in need of 23549
continuous improvement or better for two out of three school 23550
years; however, the superintendent of public instruction may 23551
dissolve the commission earlier if the superintendent determines 23552
that the district can perform adequately without the supervision 23553
of the commission. 23554

Sec. 3310.01. As used in sections 3310.01 to 3310.17 of the 23555
Revised Code: 23556

(A) An "eligible student" is a student who satisfies the 23557
conditions specified in section 3310.03 of the Revised Code. 23558

(B) "Parent" has the same meaning as in section 3313.98 of 23559
the Revised Code. 23560

(C) "Resident district" means the school district in which a 23561
student is entitled to attend school under section 3313.64 or 23562
3313.65 of the Revised Code. 23563

(D) "School year" has the same meaning as in section 3313.62 23564
of the Revised Code. 23565

Sec. 3310.02. The educational choice scholarship pilot 23566
program is hereby established. Under the program, the department 23567
of education annually shall pay scholarships to attend chartered 23568
nonpublic schools in accordance with section 3310.08 of the 23569
Revised Code for up to the number of eligible students prescribed 23570
by the general assembly. If the number of students who apply for a 23571
scholarship exceeds the number prescribed by the general assembly, 23572
the department first shall award scholarships to eligible students 23573
who received scholarships in the prior school year, and then shall 23574
give priority to eligible students with family incomes at or below 23575
two hundred per cent of the federal poverty guidelines, as defined 23576
in section 5101.46 of the Revised Code. After awarding 23577
scholarships to previous recipients and to low-income eligible 23578

students, the department shall select students by lot to receive 23579
any remaining scholarships. 23580

Sec. 3310.03. (A) A student is an "eligible student" for 23581
purposes of the educational choice scholarship pilot program if 23582
the student satisfies both of the following conditions: 23583

(1) The student either: 23584

(a) Is enrolled in a school building that is operated by the 23585
student's resident district and that the department of education 23586
declared, in the most recent rating of school buildings published 23587
prior to the first day of July of the school year for which a 23588
scholarship is sought and in the two preceding school years, to be 23589
in a state of academic emergency under section 3302.03 of the 23590
Revised Code; 23591

(b) Is eligible to enroll in kindergarten in the school year 23592
for which a scholarship is sought and otherwise would be assigned 23593
under section 3319.01 of the Revised Code to a school building 23594
described in division (A)(1)(a) of this section; 23595

(c) Is enrolled in a community school established under 23596
Chapter 3314. of the Revised Code but otherwise would be assigned 23597
under section 3319.01 of the Revised Code to a building described 23598
in division (A)(1)(a) of this section. 23599

(2) The student's resident district is not a school district 23600
in which the pilot project scholarship program is operating under 23601
sections 3313.974 to 3313.979 of the Revised Code. 23602

(B) A student who receives a scholarship under the 23603
educational choice scholarship pilot program remains an eligible 23604
student and may continue to receive scholarships in subsequent 23605
school years until the student completes grade twelve, so long as 23606
both of the following apply: 23607

(1) The student takes each state test prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school;

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(2) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including absences due to illness or injury confirmed in writing by a physician.

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(C) The superintendent shall cease awarding first-time scholarships with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to be in a state of academic emergency. However, students who have received scholarships in the prior school year remain eligible students pursuant to division (B) of this section.

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Sec. 3310.04. Any eligible student who is enrolled in a chartered nonpublic school and for whom a scholarship under the educational choice scholarship pilot program has been awarded shall be entitled to transportation to and from the chartered nonpublic school by the student's resident district in the manner prescribed in section 3327.01 of the Revised Code.

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Sec. 3310.05. A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. The two pilot programs are separate and distinct. The general assembly has prescribed separate scholarship amounts for the two pilot programs in recognition of their differing eligibility criteria. The pilot project scholarship program operating under sections 3313.974 to 3313.979

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of the Revised Code is a district-wide program that may award 23638
scholarships to students who do not attend district schools that 23639
face academic challenges, whereas the educational choice 23640
scholarship pilot program established under sections 3310.01 to 23641
3310.17 of the Revised Code is limited to students of individual 23642
district school buildings that face academic challenges. 23643

Sec. 3310.06. It is the policy adopted by the general 23644
assembly that the educational choice scholarship pilot program 23645
shall be construed as one of several educational options available 23646
for students enrolled in academic emergency school buildings. 23647
Students may be enrolled in the schools of the student's resident 23648
district, in a community school established under Chapter 3314. of 23649
the Revised Code, in the schools of another school district 23650
pursuant to an open enrollment policy adopted under section 23651
3313.98 of the Revised Code, in a chartered nonpublic school with 23652
or without a scholarship under the educational choice scholarship 23653
pilot program, or in other schools as the law may provide. 23654

Sec. 3310.07. Any parent, or any student who is at least 23655
eighteen years of age, who is seeking a scholarship under the 23656
educational choice scholarship pilot program shall notify the 23657
department of education of the student's and parent's names and 23658
address, the chartered nonpublic school in which the student has 23659
been accepted for enrollment, and the tuition charged by the 23660
school. 23661

Sec. 3310.08. (A) The amount paid for an eligible student 23662
under the educational choice scholarship pilot program shall be 23663
the lesser of the tuition of the chartered nonpublic school in 23664
which the student is enrolled or the maximum amount prescribed in 23665
section 3310.09 of the Revised Code. 23666

(B)(1) The department shall pay to the parent of each eligible student for whom a scholarship is awarded under the program, or to the student if at least eighteen years of age, periodic partial payments of the scholarship. 23667
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(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a chartered nonpublic school prior to the end of the school year. 23671
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(C)(1) The department shall deduct from the payments made to each school district under Chapter 3317. and, if necessary, sections 321.24 and 323.156 of the Revised Code the amount of five thousand two hundred dollars for each eligible student awarded a scholarship under the educational choice scholarship pilot program who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district. The amount deducted under this division funds scholarships for students under both the educational choice scholarship pilot program and the pilot project scholarship program under sections 3313.974 to 3313.979 of the Revised Code. 23674
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(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, and the student re-enrolls in the schools of the student's resident district before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this section. 23685
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(D) In the case of any school district from which a deduction is made under division (C) of this section, the department shall disclose on the district's SF-3 form, or any successor to that form used to calculate a district's state funding for operating expenses, a comparison of the following: 23692
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(1) The district's state base-cost payment, as calculated 23697

under division (A)(1) of section 3317.022 of the Revised Code 23698
prior to making the adjustments under divisions (A)(2) and (3) of 23699
that section, with the scholarship students included in the 23700
district's formula ADM; 23701

(2) What the district's state base-cost payment would have 23702
been, as calculated under division (A)(1) of that section prior to 23703
making the adjustments under divisions (A)(2) and (3) of that 23704
section, if the scholarship students were not included in the 23705
district's formula ADM. 23706

This comparison shall display both the aggregate difference 23707
between the amounts described in divisions (D)(1) and (2) of this 23708
section, and the quotient of that aggregate difference divided by 23709
the number of eligible students for whom deductions are made under 23710
division (C) of this section. 23711

Sec. 3310.09. (A) The maximum amount awarded to an eligible 23712
student in fiscal year 2007 under the educational choice 23713
scholarship pilot program shall be as follows: 23714

(1) For grades kindergarten through eight, four thousand two 23715
hundred fifty dollars; 23716
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(2) For grades nine through twelve, five thousand dollars. 23718

(B) In fiscal year 2008 and in each fiscal year thereafter, 23719
the maximum amount awarded under the program shall be the 23720
applicable maximum amount awarded in the previous fiscal year 23721
increased by the same percentage by which the general assembly 23722
increased the formula amount, as defined in section 3317.02 of the 23723
Revised Code, from the previous fiscal year. 23724

Sec. 3310.10. A scholarship awarded under section 3310.08 of 23725
the Revised Code may be used only to pay tuition to any chartered 23726

nonpublic school.

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Sec. 3310.13. (A) No chartered nonpublic school shall charge any student whose family income is at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, a tuition fee that is greater than the total amount paid for that student under section 3310.08 of the Revised Code.

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(B) A chartered nonpublic school may charge any other student who is paid a scholarship under that section the difference between the amount of the scholarship and the regular tuition charge of the school. Each chartered nonpublic school shall permit such an eligible student's family, at the family's option, to provide volunteer services in lieu of cash payment to pay all or part of the amount of the school's tuition not covered by the scholarship paid under section 3310.08 of the Revised Code.

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Sec. 3310.14. Notwithstanding division (K) of section 3301.0711 of the Revised Code, each chartered nonpublic school that enrolls students awarded scholarships under sections 3310.01 to 3310.17 of the Revised Code annually shall administer the tests prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each scholarship student in accordance with section 3301.0711 of the Revised Code. Each chartered nonpublic school shall report to the department of education the results of each test administered to each scholarship student under this section.

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Nothing in this section requires a chartered nonpublic school to administer any achievement test, except for an Ohio graduation test prescribed by division (B) of section 3301.0710 of the Revised Code, as required by section 3313.612 of the Revised Code, to any student enrolled in the school who is not a scholarship student.

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Sec. 3310.16. (A) The state board of education shall adopt 23757
rules in accordance with Chapter 119. of the Revised Code 23758
prescribing procedures for the administration of the educational 23759
choice scholarship pilot program. 23760

(B) The state board and the department of education shall not 23761
require chartered nonpublic schools to comply with any education 23762
laws or rules or other requirements that are not specified in 23763
sections 3310.01 to 3310.17 of the Revised Code and that otherwise 23764
would not apply to a chartered nonpublic school. 23765

Sec. 3310.17. The general assembly shall prescribe the number 23766
of students that may be selected each fiscal year for scholarships 23767
under the educational choice scholarship pilot program. 23768

Sec. 3311.059. The procedure prescribed in this section may 23769
be used in lieu of a transfer prescribed under section 3311.231 of 23770
the Revised Code. 23771

(A) Subject to divisions (B) and (C) of this section, a board 23772
of education of a local school district may by a resolution 23773
approved by a majority of all its members propose to sever that 23774
local school district from the territory of the educational 23775
service center in which the local school district is currently 23776
included and to instead annex the local school district to the 23777
territory of another educational service center, the current 23778
territory of which is adjacent to the territory of the educational 23779
service center in which the local school district is currently 23780
included. The resolution shall promptly be filed with the 23781
governing board of each educational service center affected by the 23782
resolution and with the superintendent of public instruction. 23783

~~(B) The resolution adopted under division (A) of this section~~ 23784
~~shall not be effective unless it is approved by the state board of~~ 23785

~~education. In deciding whether to approve the resolution, the~~ 23786
~~state board shall consider the impact of an annexation on both the~~ 23787
~~school district and the educational service center to which the~~ 23788
~~district is proposed to be annexed, including the ability of that~~ 23789
~~service center to deliver services in a cost effective and~~ 23790
~~efficient manner.~~ The severance of the local school district from 23791
one educational service center and its annexation to another 23792
educational service center under this section shall not be 23793
effective until one year after the first day of July following the 23794
later of the date that the ~~state board of education approves the~~ 23795
resolution is filed pursuant to division (A) of this section or 23796
the date the board of elections certifies the results of the 23797
referendum election as provided in division (C) of this section. 23798

(C) Within sixty days following the date of the adoption of 23799
the resolution under division (A) of this section, the electors of 23800
the local school district may petition for a referendum vote on 23801
the resolution. The question whether to approve or disapprove the 23802
resolution shall be submitted to the electors of such school 23803
district if a number of qualified electors equal to twenty per 23804
cent of the number of electors in the school district who voted 23805
for the office of governor at the most recent general election for 23806
that office sign a petition asking that the question of whether 23807
the resolution shall be disapproved be submitted to the electors. 23808
The petition shall be filed with the board of elections of the 23809
county in which the school district is located. If the school 23810
district is located in more than one county, the petition shall be 23811
filed with the board of elections of the county in which the 23812
majority of the territory of the school district is located. The 23813
board shall certify the validity and sufficiency of the signatures 23814
on the petition. 23815

The board of elections shall immediately notify the board of 23816
education of the local school district and the governing board of 23817

each educational service center affected by the resolution that 23818
the petition has been filed. 23819

The effect of the resolution shall be stayed until the board 23820
of elections certifies the validity and sufficiency of the 23821
signatures on the petition. If the board of elections determines 23822
that the petition does not contain a sufficient number of valid 23823
signatures and sixty days have passed since the adoption of the 23824
resolution, the resolution shall become effective as provided in 23825
division (B) of this section. 23826

If the board of elections certifies that the petition 23827
contains a sufficient number of valid signatures, the board shall 23828
submit the question to the qualified electors of the school 23829
district on the day of the next general or primary election held 23830
at least seventy-five days after the board of elections certifies 23831
the validity and sufficiency of signatures on the petition. The 23832
election shall be conducted and canvassed and the results shall be 23833
certified in the same manner as in regular elections for the 23834
election of members of a board of education. 23835

If a majority of the electors voting on the question 23836
disapprove the resolution, the resolution shall not become 23837
effective. If a majority of the electors voting on the question 23838
approve the resolution, the resolution shall become effective as 23839
provided in division (B) of this section. 23840

(D) Upon the effective date of the severance of the local 23841
school district from one educational service center and its 23842
annexation to another educational service center as provided in 23843
division (B) of this section, the governing board of each 23844
educational service center shall take such steps for the election 23845
of members of the governing board and for organization of the 23846
governing board as prescribed in Chapter 3313. of the Revised 23847
Code. 23848

(E) If a school district is severed from one educational service center and annexed to another service center under this section, the board of education of that school district shall not propose a subsequent severance and annexation action under this section that would be effective sooner than five years after the effective date of the next previous severance and annexation action under this section.

Sec. 3311.11. If the state board of education adopts a resolution under this chapter proposing the creation of a new city or local school district that was not in operation during the 2004-2005 school year, the district shall not be created unless both houses of the general assembly approve the creation of the district through passage of a concurrent resolution.

Sec. 3313.207. As used in sections 3313.207 to 3313.209 of the Revised Code:

(A) "Children" means children who are enrolled in kindergarten or who are of compulsory school age.

(B) "Latchkey program" means a program under which children are provided with child care during a fiscal year at any time outside of regular school hours. A program that contains any religious content, that uses any religious materials, or that in any way promotes or furthers any religious beliefs is not a latchkey program.

~~(C) "School district" means a city, local, or exempted village school district.~~

~~(D)~~ "Program provider" means any agency, organization, or individual, licensed under Chapter 5104. of the Revised Code or exempted from the licensing requirements of that chapter.

~~(E)~~(D) "Ancillary services" means any of the following:

(1) Space in a building that is owned or controlled by a school district and that is used for other school district purposes in addition to latchkey programs;

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(2) Utilities furnished in conjunction with such space;

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(3) Transportation to a latchkey program on regular school buses.

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Sec. 3313.208. A board of education of a school district or the governing board of an educational service center may assess the need for latchkey programs in its district or territory and determine the best and most efficient manner of providing latchkey programs to children residing in the district or territory. Prior to operating any latchkey program, making any payments, or providing any employees or ancillary services under sections 3313.207 to 3313.209 of the Revised Code, a board ~~of education~~ shall provide notification to parents and other interested parties that the board is considering ~~district~~ participation in the provision of latchkey programs and shall adopt a policy ensuring public input on the board's decision whether or not to participate, as well as any decisions concerning the district's or service center's role in the implementation and funding of any latchkey programs if the board does decide to participate. The policy shall also include provision for regular, periodic public input in the evaluation of any school district or service center participation in the provision of latchkey programs.

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A board ~~of education~~ may ~~operate~~ provide a latchkey program, subject to the following limitations:

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(A) The program shall be maintained and operated and pupils shall be admitted pursuant to rules adopted by the board;

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(B) Fees or tuition, in amounts determined by the board, may be charged for participation in the program and shall be deposited

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in a special fund: 23908

~~(C) The board shall not expend any money from the general 23909
fund of the district for the program, except as follows: 23910~~

~~(1) The board may expend any money in the district's general 23911
fund resulting from an appropriation of the general assembly that 23912
specifically permits the expenditure of such appropriated funds 23913
for such a program. 23914~~

~~(2) The board may provide ancillary services for the program 23915
notwithstanding the fact that some portions of such services may 23916
be supported by money from the district's general fund. 23917~~

Sec. 3313.209. (A) A board of education of a school district 23918
that does not ~~operate~~ provide a latchkey program may provide 23919
ancillary services to and may make payments to any program 23920
provider that operates a latchkey program that enrolls one or more 23921
children who are residents of the school district. 23922

(B) A board of education of a school district that does not 23923
~~operate~~ provide a latchkey program and that does not make payments 23924
under division (A) of this section may furnish to any person or 23925
entity that operates a latchkey program ancillary services or 23926
employees for use solely in conjunction with the program's 23927
operation. 23928

~~(C) No board of education shall expend any money from the 23929
general fund of the district pursuant to division (A) or (B) of 23930
this section, except as follows: 23931~~

~~(1) The board may expend any money in the district's general 23932
fund resulting from an appropriation of the general assembly that 23933
specifically permits the expenditure of such appropriated funds 23934
for latchkey programs. 23935~~

~~(2) The board may provide ancillary services pursuant to 23936
division (A) or (B) of this section notwithstanding the fact that 23937~~

~~some portion of such services may be supported by money from the~~ 23938
~~district's general fund.~~ 23939

~~(D)~~ A board of education shall enter into a contract with a 23940
program provider as a condition for making any payments or 23941
furnishing any ancillary services or employees authorized by 23942
division (A) or (B) of this section. 23943

Sec. 3313.489. (A) The superintendent of public instruction 23944
shall examine each ~~spending plan and appropriations measure~~ 23945
five-year projection of revenues and expenditures submitted under 23946
section 5705.391 of the Revised Code and shall determine whether 23947
the information contained therein, together with any other 23948
relevant information, indicates that the district may be 23949
financially unable to operate its instructional program on all 23950
days set forth in its adopted school calendars and pay all 23951
obligated expenses during the current fiscal year. If a board of 23952
education has not adopted a school calendar for the school year 23953
beginning on the first day of July of the current fiscal year at 23954
the time an examination is required under this division, the 23955
superintendent shall examine the ~~spending plan and appropriations~~ 23956
~~measure~~ five-year projection and determine whether the district 23957
may be financially unable to pay all obligated expenses and 23958
operate its instructional program for the number of days on which 23959
instruction was held in the preceding fiscal year. 23960

(B) If the superintendent of public instruction determines 23961
pursuant to division (A) of this section that a school district 23962
may be financially unable to operate its instructional program on 23963
all days required by such division and pay all obligated expenses 23964
during the current fiscal year, the superintendent shall provide 23965
written notification of such determination to the president of the 23966
district's board of education and the auditor of state. 23967

(C) This section does not apply to a school district declared 23968

to be under a fiscal emergency pursuant to division (B) of section 23969
3316.03 of the Revised Code. 23970

Sec. 3313.6410. This section applies to any school that is 23971
operated by a school district and in which the enrolled students 23972
work primarily on assignments in nonclassroom-based learning 23973
opportunities provided via an internet- or other computer-based 23974
instructional method. 23975

(A) Any school to which this section applies shall withdraw 23976
from the school any student who, for two consecutive school years, 23977
has failed to participate in the spring administration of any test 23978
prescribed under section 3301.0710 or 3301.0712 of the Revised 23979
Code for the student's grade level and was not excused from the 23980
test pursuant to division (C)(1) or (3) of section 3301.0711 of 23981
the Revised Code. The school shall report the name of any such 23982
student to the department of education to be added to the list 23983
maintained by the department under section 3314.26 of the Revised 23984
Code. 23985

(B) No school to which this section applies shall enroll any 23986
student on the list maintained by the department under section 23987
3314.26 of the Revised Code. 23988

Sec. 3313.975. As used in this section and in sections 23989
3313.975 to 3313.979 of the Revised Code, "the pilot project 23990
school district" or "the district" means any school district 23991
included in the pilot project scholarship program pursuant to this 23992
section. 23993

(A) The superintendent of public instruction shall establish 23994
a pilot project scholarship program and shall include in such 23995
program any school districts that are or have ever been under 23996
federal court order requiring supervision and operational 23997
management of the district by the state superintendent. The 23998

program shall provide for a number of students residing in any
such district to receive scholarships to attend alternative
schools, and for an equal number of students to receive tutorial
assistance grants while attending public school in any such
district.

(B) The state superintendent shall establish an application
process and deadline for accepting applications from students
residing in the district to participate in the scholarship
program. In the initial year of the program students may only use
a scholarship to attend school in grades kindergarten through
third.

The state superintendent shall award as many scholarships and
tutorial assistance grants as can be funded given the amount
appropriated for the program. In no case, however, shall more than
fifty per cent of all scholarships awarded be used by students who
were enrolled in a nonpublic school during the school year of
application for a scholarship.

(C)(1) The pilot project program shall continue in effect
each year that the general assembly has appropriated sufficient
money to fund scholarships and tutorial assistance grants. In each
year the program continues, no new students may receive
scholarships unless they are enrolled in grade grades
kindergarten, ~~one, two, or three~~ to eight. However, any student
who has received a scholarship the preceding year may continue to
receive one until the student has completed grade ~~eight~~ ten.
Beginning in the ~~2003-2004~~ 2005-2006 academic year, a student who
previously has received a scholarship may receive a scholarship in
grade ~~nine~~ eleven. Beginning in the ~~2004-2005~~ 2006-2007 academic
year, a student who previously has received a scholarship may
receive a scholarship in grade ~~ten~~ twelve.

(2) If the general assembly discontinues the scholarship

program, all students who are attending an alternative school 24030
under the pilot project shall be entitled to continued admittance 24031
to that specific school through all grades ~~up to the tenth grade~~ 24032
that are provided in such school, under the same conditions as 24033
when they were participating in the pilot project. The state 24034
superintendent shall continue to make scholarship payments in 24035
accordance with division (A) or (B) of section 3313.979 of the 24036
Revised Code for students who remain enrolled in an alternative 24037
school under this provision in any year that funds have been 24038
appropriated for this purpose. 24039

If funds are not appropriated, the tuition charged to the 24040
parents of a student who remains enrolled in an alternative school 24041
under this provision shall not be increased beyond the amount 24042
equal to the amount of the scholarship plus any additional amount 24043
charged that student's parent in the most recent year of 24044
attendance as a participant in the pilot project, except that 24045
tuition for all the students enrolled in such school may be 24046
increased by the same percentage. 24047

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of 24048
the Revised Code, if the pilot project school district experiences 24049
a decrease in enrollment due to participation in a state-sponsored 24050
scholarship program pursuant to sections 3313.974 to 3313.979 of 24051
the Revised Code, the district board of education may enter into 24052
an agreement with any teacher it employs to provide to that 24053
teacher severance pay or early retirement incentives, or both, if 24054
the teacher agrees to terminate the employment contract with the 24055
district board, provided any collective bargaining agreement in 24056
force pursuant to Chapter 4117. of the Revised Code does not 24057
prohibit such an agreement for termination of a teacher's 24058
employment contract. 24059

Sec. 3313.976. (A) No private school may receive scholarship 24060

payments from parents pursuant to section 3313.979 of the Revised Code until the chief administrator of the private school registers the school with the superintendent of public instruction. The state superintendent shall register any school that meets the following requirements:

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

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

(3) The school meets all state minimum standards for chartered nonpublic schools in effect on July 1, 1992, except that the state superintendent at the superintendent's discretion may register nonchartered nonpublic schools meeting the other requirements of this division;

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

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

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

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

(8) For students in grades kindergarten through eight, the school agrees not to charge any tuition to low-income families receiving ninety per cent of the scholarship amount through the

scholarship program, pursuant to division (A) of section 3313.978 24091
of the Revised Code, in excess of ten per cent of the scholarship 24092
amount established pursuant to division (C)(1) of section 3313.978 24093
of the Revised Code, excluding any increase described in division 24094
(C)(2) of that section. The school shall permit any such tuition, 24095
at the discretion of the parent, to be satisfied by the low-income 24096
family's provision of in-kind contributions or services. 24097

(9) For students in grades kindergarten through eight, the 24098
school agrees not to charge any tuition to low-income families 24099
receiving a seventy-five per cent scholarship amount through the 24100
scholarship program, pursuant to division (A) of section 3313.978 24101
of the Revised Code, in excess of the difference between the 24102
actual tuition charge of the school and seventy-five per cent of 24103
the scholarship amount established pursuant to division (C)(1) of 24104
section 3313.978 of the Revised Code, excluding any increase 24105
described in division (C)(2) of that section. The school shall 24106
permit such tuition, at the discretion of the parent, to be 24107
satisfied by the low-income family's provision of in-kind 24108
contributions or services. 24109

(10) The school agrees not to charge any tuition to families 24110
of students in grades nine ~~and ten~~ through twelve receiving a 24111
scholarship in excess of the actual tuition charge of the school 24112
less seventy-five or ninety per cent of the scholarship amount 24113
established pursuant to division (C)(1) of section 3313.978 of the 24114
Revised Code, as applicable, excluding any increase described in 24115
division (C)(2) of that section. 24116

(B) The state superintendent shall revoke the registration of 24117
any school if, after a hearing, the superintendent determines that 24118
the school is in violation of any of the provisions of division 24119
(A) of this section. 24120

(C) Any public school located in a school district adjacent 24121

to the pilot project district may receive scholarship payments on 24122
behalf of parents pursuant to section 3313.979 of the Revised Code 24123
if the superintendent of the district in which such public school 24124
is located notifies the state superintendent prior to the first 24125
day of March that the district intends to admit students from the 24126
pilot project district for the ensuing school year pursuant to 24127
section 3327.06 of the Revised Code. 24128

(D) Any parent wishing to purchase tutorial assistance from 24129
any person or governmental entity pursuant to the pilot project 24130
program under sections 3313.974 to 3313.979 of the Revised Code 24131
shall apply to the state superintendent. The state superintendent 24132
shall approve providers who appear to possess the capability of 24133
furnishing the instructional services they are offering to 24134
provide. 24135

Sec. 3313.977. (A)(1) Each registered private school shall 24136
admit students to kindergarten and first, second, and third grades 24137
in accordance with the following priorities: 24138

(a) Students who were enrolled in the school during the 24139
preceding year; 24140

(b) Siblings of students enrolled in the school during the 24141
preceding year, at the discretion of the school; 24142

(c) Children from low-income families attending school or 24143
residing in the school district in which the school is located 24144
until the number of such students in each grade equals the number 24145
that constituted twenty per cent of the total number of students 24146
enrolled in the school during the preceding year in such grade. 24147
Admission of such twenty per cent shall be by lot from among all 24148
low-income family applicants who apply prior to the fifteenth day 24149
of February prior to admission. 24150

(d) All other applicants residing anywhere, provided that all 24151

remaining available spaces shall be filled from among such 24152
applicants by lot. 24153

Children from low-income families not selected by lot under 24154
division (A)(1)(c) of this section shall be included in the 24155
lottery of all remaining applicants pursuant to division (A)(1)(d) 24156
of this section. 24157

(2) Each registered private school shall first admit to 24158
grades four through ~~ten~~ twelve students who were enrolled in the 24159
school during the preceding year. Any remaining spaces for 24160
students in these grades may be filled as determined by the 24161
school. 24162

(B) Notwithstanding division (A) of this section, except 24163
where otherwise prohibited by federal law, a registered private 24164
school may elect to admit students of only one gender and may deny 24165
admission to any separately educated handicapped student. 24166

(C) If a scholarship student who has been accepted in 24167
accordance with this section fails to enroll in the school for any 24168
reason or withdraws from the school during the school year for any 24169
reason, the school may elect to replace such student with another 24170
scholarship student only by first offering the admission to any 24171
low-income scholarship students who filed applications by the 24172
preceding fifteenth day of February and who were not accepted at 24173
that time due to space limitations. 24174

Sec. 3313.978. (A) Annually by the first day of November, the 24175
superintendent of public instruction shall notify the pilot 24176
project school district of the number of initial scholarships that 24177
the state superintendent will be awarding in each of grades 24178
kindergarten through ~~third~~ eight. 24179

The state superintendent shall provide information about the 24180
scholarship program to all students residing in the district, 24181

shall accept applications from any such students until such date 24182
as shall be established by the state superintendent as a deadline 24183
for applications, and shall establish criteria for the selection 24184
of students to receive scholarships from among all those applying 24185
prior to the deadline, which criteria shall give preference to 24186
students from low-income families. For each student selected, the 24187
state superintendent shall also determine whether the student 24188
qualifies for seventy-five or ninety per cent of the scholarship 24189
amount. Students whose family income is at or above two hundred 24190
per cent of the maximum income level established by the state 24191
superintendent for low-income families shall qualify for 24192
seventy-five per cent of the scholarship amount and students whose 24193
family income is below two hundred per cent of that maximum income 24194
level shall qualify for ninety per cent of the scholarship amount. 24195
The state superintendent shall notify students of their selection 24196
prior to the fifteenth day of January and whether they qualify for 24197
seventy-five or ninety per cent of the scholarship amount. 24198

(1) A student receiving a pilot project scholarship may 24199
utilize it at an alternative public school by notifying the 24200
district superintendent, at any time before the beginning of the 24201
school year, of the name of the public school in an adjacent 24202
school district to which the student has been accepted pursuant to 24203
section 3327.06 of the Revised Code. 24204

(2) A student may decide to utilize a pilot project 24205
scholarship at a registered private school in the district if all 24206
of the following conditions are met: 24207

(a) By the fifteenth day of February of the preceding school 24208
year, or at any time prior to the start of the school year, the 24209
parent makes an application on behalf of the student to a 24210
registered private school. 24211

(b) The registered private school notifies the parent and the 24212

state superintendent as follows that the student has been 24213
admitted: 24214

(i) By the fifteenth day of March of the preceding school 24215
year if the student filed an application by the fifteenth day of 24216
February and was admitted by the school pursuant to division (A) 24217
of section 3313.977 of the Revised Code; 24218

(ii) Within one week of the decision to admit the student if 24219
the student is admitted pursuant to division (C) of section 24220
3313.977 of the Revised Code. 24221

(c) The student actually enrolls in the registered private 24222
school to which the student was first admitted or in another 24223
registered private school in the district or in a public school in 24224
an adjacent school district. 24225

(B) The state superintendent shall also award in any school 24226
year tutorial assistance grants to a number of students equal to 24227
the number of students who receive scholarships under division (A) 24228
of this section. Tutorial assistance grants shall be awarded 24229
solely to students who are enrolled in the public schools of the 24230
district in a grade level covered by the pilot project. Tutorial 24231
assistance grants may be used solely to obtain tutorial assistance 24232
from a provider approved pursuant to division (D) of section 24233
3313.976 of the Revised Code. 24234

All students wishing to obtain tutorial assistance grants 24235
shall make application to the state superintendent by the first 24236
day of the school year in which the assistance will be used. The 24237
state superintendent shall award assistance grants in accordance 24238
with criteria the superintendent shall establish. For each student 24239
awarded a grant, the state superintendent shall also determine 24240
whether the student qualifies for seventy-five or ninety per cent 24241
of the grant amount and so notify the student. Students whose 24242
family income is at or above two hundred per cent of the maximum 24243

income level established by the state superintendent for 24244
low-income families shall qualify for seventy-five per cent of the 24245
grant amount and students whose family income is below two hundred 24246
per cent of that maximum income level shall qualify for ninety per 24247
cent of the grant amount. 24248

(C)(1) In the case of basic scholarships for students in 24249
grades kindergarten through eight, the scholarship amount shall 24250
not exceed the lesser of the tuition charges of the alternative 24251
school the scholarship recipient attends or ~~an amount established~~ 24252
~~by the state superintendent not in excess of~~ three thousand 24253
dollars before fiscal year 2007 and three thousand four hundred 24254
fifty dollars in fiscal year 2007 and thereafter. 24255

In the case of basic scholarships for students in grades nine 24256
~~and ten~~ through twelve, the scholarship amount shall not exceed 24257
the lesser of the tuition charges of the alternative school the 24258
scholarship recipient attends or ~~an amount established by the~~ 24259
~~state superintendent not in excess of~~ two thousand seven hundred 24260
dollars before fiscal year 2007 and three thousand four hundred 24261
fifty dollars in fiscal year 2007 and thereafter. 24262

(2) The state superintendent shall provide for an increase in 24263
the basic scholarship amount in the case of any student who is a 24264
mainstreamed handicapped student and shall further increase such 24265
amount in the case of any separately educated handicapped child. 24266
Such increases shall take into account the instruction, related 24267
services, and transportation costs of educating such students. 24268

(3) In the case of tutorial assistance grants, the grant 24269
amount shall not exceed the lesser of the provider's actual 24270
charges for such assistance or ~~a~~: 24271

(a) Before fiscal year 2007, a percentage established by the 24272
state superintendent, not to exceed twenty per cent, of the amount 24273
of the pilot project school district's average basic scholarship 24274

amount;	24275
<u>(b) In fiscal year 2007 and thereafter, four hundred dollars.</u>	24276
(4) No scholarship or tutorial assistance grant shall be	24277
awarded unless the state superintendent determines that	24278
twenty-five or ten per cent, as applicable, of the amount	24279
specified for such scholarship or grant pursuant to division	24280
(C)(1), (2), or (3) of this section will be furnished by a	24281
political subdivision, a private nonprofit or for profit entity,	24282
or another person. Only seventy-five or ninety per cent of such	24283
amounts, as applicable, shall be paid from state funds pursuant to	24284
section 3313.979 of the Revised Code.	24285
(D)(1) Annually by the first day of November, the state	24286
superintendent shall estimate the maximum per-pupil scholarship	24287
amounts for the ensuing school year. The state superintendent	24288
shall make this estimate available to the general public at the	24289
offices of the district board of education together with the forms	24290
required by division (D)(2) of this section.	24291
(2) Annually by the fifteenth day of January, the chief	24292
administrator of each registered private school located in the	24293
pilot project district and the principal of each public school in	24294
such district shall complete a parental information form and	24295
forward it to the president of the board of education. The	24296
parental information form shall be prescribed by the department of	24297
education and shall provide information about the grade levels	24298
offered, the numbers of students, tuition amounts, achievement	24299
test results, and any sectarian or other organizational	24300
affiliations.	24301
Sec. 3313.98. Notwithstanding division (D) of section 3311.19	24302
and division (D) of section 3311.52 of the Revised Code, the	24303
provisions of this section and sections 3313.981 to 3313.983 of	24304
the Revised Code that apply to a city school district do not apply	24305

to a joint vocational or cooperative education school district 24306
unless expressly specified. 24307

(A) As used in this section and sections 3313.981 to 3313.983 24308
of the Revised Code: 24309

(1) "Parent" means either of the natural or adoptive parents 24310
of a student, except under the following conditions: 24311

(a) When the marriage of the natural or adoptive parents of 24312
the student has been terminated by a divorce, dissolution of 24313
marriage, or annulment or the natural or adoptive parents of the 24314
student are living separate and apart under a legal separation 24315
decree and the court has issued an order allocating the parental 24316
rights and responsibilities with respect to the student, "parent" 24317
means the residential parent as designated by the court except 24318
that "parent" means either parent when the court issues a shared 24319
parenting decree. 24320

(b) When a court has granted temporary or permanent custody 24321
of the student to an individual or agency other than either of the 24322
natural or adoptive parents of the student, "parent" means the 24323
legal custodian of the child. 24324

(c) When a court has appointed a guardian for the student, 24325
"parent" means the guardian of the student. 24326

(2) "Native student" means a student entitled under section 24327
3313.64 or 3313.65 of the Revised Code to attend school in a 24328
district adopting a resolution under this section. 24329

(3) "Adjacent district" means a city, exempted village, or 24330
local school district having territory that abuts the territory of 24331
a district adopting a resolution under this section. 24332

(4) "Adjacent district student" means a student entitled 24333
under section 3313.64 or 3313.65 of the Revised Code to attend 24334
school in an adjacent district. 24335

(5) "Adjacent district joint vocational student" means an adjacent district student who enrolls in a city, exempted village, or local school district pursuant to this section and who also enrolls in a joint vocational school district that does not contain the territory of the district for which that student is a native student and does contain the territory of the city, exempted village, or local district in which the student enrolls.

(6) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(7) "Adjusted formula amount" means the greater of the following:

(a) The fiscal year 2005 formula amount multiplied by the fiscal year 2005 cost-of-doing-business factor for a district defined in the version of section 3317.02 of the Revised Code in effect that year;

(b) The sum of (the current formula amount times the current cost-of-doing-business factor as defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.

(8) "Poverty line" means the poverty line established by the director of the United States office of management and budget as revised by the director of the office of community services in accordance with section 673(2) of the "Community Services Block Grant Act," 95 Stat. 1609, 42 U.S.C.A. 9902, as amended.

(9) "IEP" means an individualized education program defined by division (E) of section 3323.01 of the Revised Code.

(10) "Other district" means a city, exempted village, or local school district having territory outside of the territory of a district adopting a resolution under this section.

(11) "Other district student" means a student entitled under 24366
section 3313.64 or 3313.65 of the Revised Code to attend school in 24367
an other district. 24368

(12) "Other district joint vocational student" means a 24369
student who is enrolled in any city, exempted village, or local 24370
school district and who also enrolls in a joint vocational school 24371
district that does not contain the territory of the district for 24372
which that student is a native student in accordance with a policy 24373
adopted under section 3313.983 of the Revised Code. 24374

(B)(1) The board of education of each city, local, and 24375
exempted village school district shall adopt a resolution 24376
establishing for the school district one of the following 24377
policies: 24378

(a) A policy that entirely prohibits the enrollment of 24379
students from adjacent districts or other districts, other than 24380
students for whom tuition is paid in accordance with section 24381
3317.08 of the Revised Code; 24382

(b) A policy that permits enrollment of students from all 24383
adjacent districts in accordance with policy statements contained 24384
in the resolution; 24385

(c) A policy that permits enrollment of students from all 24386
other districts in accordance with policy statements contained in 24387
the resolution. 24388

(2) A policy permitting enrollment of students from adjacent 24389
or from other districts, as applicable, shall provide for all of 24390
the following: 24391

(a) Application procedures, including deadlines for 24392
application and for notification of students and the 24393
superintendent of the applicable district whenever an adjacent or 24394
other district student's application is approved. 24395

(b) Procedures for admitting adjacent or other district applicants free of any tuition obligation to the district's schools, including, but not limited to:	24396
	24397
	24398
(i) The establishment of district capacity limits by grade level, school building, and education program;	24399
	24400
(ii) A requirement that all native students wishing to be enrolled in the district will be enrolled and that any adjacent or other district students previously enrolled in the district shall receive preference over first-time applicants;	24401
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	24404
(iii) Procedures to ensure that an appropriate racial balance is maintained in the district schools.	24405
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(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting adjacent or other district students, as applicable, shall not include:	24407
	24408
	24409
(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;	24410
	24411
(2) Limitations on admitting applicants because of handicapping conditions, except that a board may refuse to admit a student receiving services under Chapter 3323. of the Revised Code, if the services described in the student's IEP are not available in the district's schools;	24412
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(3) A requirement that the student be proficient in the English language;	24417
	24418
(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled by the student's district for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant.	24419
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(D)(1) Each school board permitting only enrollment of adjacent district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, to the superintendent and the board of education of each adjacent district and, upon request, to the parent of any adjacent district student.

(2) Each school board permitting enrollment of other district students shall provide information about the policy adopted under this section, including the application procedures and deadlines, upon request, to the board of education of any other school district or to the parent of any student anywhere in the state.

(E) Any school board shall accept all credits toward graduation earned in adjacent or other district schools by an adjacent or other district student or a native student.

(F)(1) No board of education may adopt a policy discouraging or prohibiting its native students from applying to enroll in the schools of an adjacent or any other district that has adopted a policy permitting such enrollment, except that:

(a) A district may object to the enrollment of a native student in an adjacent or other district in order to maintain an appropriate racial balance.

(b) The board of education of a district receiving funds under 64 Stat. 1100 (1950), 20 U.S.C.A. 236 et seq., as amended, may adopt a resolution objecting to the enrollment of its native students in adjacent or other districts if at least ten per cent of its students are included in the determination of the United States secretary of education made under section 20 U.S.C.A. 238(a).

(2) If a board objects to enrollment of native students under this division, any adjacent or other district shall refuse to enroll such native students unless tuition is paid for the

students in accordance with section 3317.08 of the Revised Code. 24457
An adjacent or other district enrolling such students may not 24458
receive funding for those students in accordance with section 24459
3313.981 of the Revised Code. 24460

(G) The state board of education shall monitor school 24461
districts to ensure compliance with this section and the 24462
districts' policies. The board may adopt rules requiring uniform 24463
application procedures, deadlines for application, notification 24464
procedures, and record-keeping requirements for all school boards 24465
that adopt policies permitting the enrollment of adjacent or other 24466
district students, as applicable. If the state board adopts such 24467
rules, no school board shall adopt a policy that conflicts with 24468
those rules. 24469

(H) A resolution adopted by a board of education under this 24470
section that entirely prohibits the enrollment of students from 24471
adjacent and from other school districts does not abrogate any 24472
agreement entered into under section 3313.841 or 3313.92 of the 24473
Revised Code or any contract entered into under section 3313.90 of 24474
the Revised Code between the board of education adopting the 24475
resolution and the board of education of any adjacent or other 24476
district or prohibit these boards of education from entering into 24477
any such agreement or contract. 24478

(I) Nothing in this section shall be construed to permit or 24479
require the board of education of a city, exempted village, or 24480
local school district to exclude any native student of the 24481
district from enrolling in the district. 24482

Sec. 3314.01. (A)(1) A board of education may permit all or 24483
part of any of the schools under its control, upon request of a 24484
proposing person or group and provided the person or group meets 24485
the requirements of this chapter, to become a community school. 24486

(2) Any person or group of individuals may propose the 24487
creation of a community school pursuant to the provisions of this 24488
chapter. No nonpublic chartered or nonchartered school in 24489
existence on January 1, 1997, is eligible to become a community 24490
school under this chapter. 24491

(3) No home, as defined in section 3313.64 of the Revised 24492
Code, or any public benefit corporation affiliated with a home 24493
shall become an internet- or computer-based community school under 24494
this chapter. 24495

(B) A community school created under this chapter is a public 24496
school, independent of any school district, and is part of the 24497
state's program of education. A community school may sue and be 24498
sued, acquire facilities as needed, contract for any services 24499
necessary for the operation of the school, and enter into 24500
contracts with a sponsor pursuant to this chapter. The governing 24501
authority of a community school may carry out any act and ensure 24502
the performance of any function that is in compliance with the 24503
Ohio Constitution, this chapter, other statutes applicable to 24504
community schools, and the contract entered into under this 24505
chapter establishing the school. 24506

Sec. 3314.013. (A)(1) Until July 1, 2000, no more than 24507
seventy-five contracts between start-up schools and the state 24508
board of education may be in effect outside the pilot project area 24509
at any time under this chapter. 24510

(2) After July 1, 2000, and until July 1, 2001, no more than 24511
one hundred twenty-five contracts between start-up schools and the 24512
state board of education may be in effect outside the pilot 24513
project area at any time under this chapter. 24514

(3) This division applies only to contracts between start-up 24515
schools and the state board of education and contracts between 24516

start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code. 24517
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Until July 1, 2005, not more than two hundred twenty-five contracts to which this division applies may be in effect at any time under this chapter. 24519
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(4) This division applies only to contracts between start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code. 24522
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After July 1, 2005, and until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than twenty-five plus the number of such contracts in effect on the effective date of this amendment with schools that were open for operation as of May 1, 2005. However, up to five start-up schools the education program of which, as specified under division (A)(2) of section 3314.03 of the Revised Code, serves dropouts and students at risk of dropping out of school shall not count toward the limit established by this division. 24525
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(5) This division applies only to contracts between a start-up school and the board of education of the school district in which the school is or is proposed to be located. 24535
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Until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than twenty-five plus the number of such contracts in effect on the effective date of this amendment with schools that were open for operation as of May 1, 2005. However, up to five start-up schools the education program of which, as specified under division (A)(2) of section 3314.03 of the Revised Code, serves dropouts and students at risk of dropping out of school shall not count toward the limit established by this division. 24538
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(6) No entity described in division (C)(1) of section 3314.02 24547

of the Revised Code shall enter into a contract with an internet- 24548
or computer-based community school between May 1, 2005, and one 24549
year after the effective date of this amendment, except as 24550
follows: 24551

(a) Any entity described in division (C)(1) of that section 24552
may renew a contract that the entity entered into with an 24553
internet- or computer-based community school prior to the 24554
effective date of this amendment. 24555

(b) Any entity described in divisions (C)(1)(a) to (e) of 24556
that section may assume sponsorship of an existing internet- or 24557
computer-based community school that was formerly sponsored by 24558
another entity and may enter into a contract with that community 24559
school in accordance with section 3314.03 of the Revised Code. 24560

(c) Any entity described in division (C)(1)(f) of that 24561
section may assume sponsorship of an existing internet- or 24562
computer-based community school in accordance with division (A)(7) 24563
of this section and may enter into a contract with that community 24564
school in accordance with section 3314.03 of the Revised Code. 24565

(7) Until July 1, 2005, any entity described in division 24566
(C)(1)(f) of section 3314.02 of the Revised Code may sponsor only 24567
a community school that formerly was sponsored by the state board 24568
of education under division (C)(1)(d) of that section, as it 24569
existed prior to April 8, 2003. After July 1, 2005, any such 24570
entity may assume sponsorship of any existing community school, 24571
and may sponsor any new community school that is not an internet- 24572
or computer-based community school. Beginning one year after the 24573
effective date of this amendment, any such entity may sponsor a 24574
new internet- or computer-based community school. 24575

(8) Nothing in division (A) of this section prohibits a 24576
community school from increasing the number of grade levels it 24577
offers. 24578

(B) Within twenty-four hours of a request by any person, the superintendent of public instruction shall indicate the number of preliminary agreements for start-up schools currently outstanding and the number of contracts for these schools in effect at the time of the request.

(C) It is the intent of the general assembly to consider whether to provide limitations on the number of start-up community schools after July 1, 2001, following its examination of the results of the studies by the legislative office of education oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. No. 770 of the 122nd general assembly.

Sec. 3314.015. (A) The department of education shall be responsible for the oversight of sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools. In carrying out its duties under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;

(2) Approve entities to be sponsors of community schools and monitor the effectiveness of those sponsors in their oversight of the schools with which they have contracted;

(3) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and

senate committees principally responsible for education matters 24609
regarding the effectiveness of academic programs, operations, and 24610
legal compliance and of the financial condition of all community 24611
schools established under this chapter; 24612

(4) From time to time, make legislative recommendations to 24613
the general assembly designed to enhance the operation and 24614
performance of community schools. 24615

(B)(1) No entity listed in division (C)(1) of section 3314.02 24616
of the Revised Code shall enter into a preliminary agreement under 24617
division (C)(2) of section 3314.02 of the Revised Code until it 24618
has received approval from the department of education to sponsor 24619
community schools under this chapter and has entered into a 24620
written agreement with the department regarding the manner in 24621
which the entity will conduct such sponsorship. The department 24622
shall adopt in accordance with Chapter 119. of the Revised Code 24623
rules containing criteria, procedures, and deadlines for 24624
processing applications for such approval, for oversight of 24625
sponsors, for revocation of the approval of sponsors, and for 24626
entering into written agreements with sponsors. The rules shall 24627
require an entity to submit evidence of the entity's ability and 24628
willingness to comply with the provisions of division (D) of 24629
section 3314.03 of the Revised Code. The rules also shall require 24630
entities approved as sponsors on and after the effective date of 24631
this amendment to demonstrate a record of financial responsibility 24632
and successful implementation of educational programs. If an 24633
entity seeking approval on or after the effective date of this 24634
amendment to sponsor community schools in this state sponsors or 24635
operates schools in another state, at least one of the schools 24636
sponsored or operated by the entity must be comparable to or 24637
better than the performance of Ohio schools in a state of academic 24638
watch under section 3302.03 of the Revised Code, as determined by 24639
the department. 24640

An entity that ~~is approved to sponsor~~ sponsors community 24641
schools may enter into ~~any number of~~ preliminary agreements and 24642
sponsor ~~any number of~~ schools as follows, provided each school and 24643
the contract for sponsorship meets the requirements of this 24644
chapter: 24645

(a) An entity approved for sponsorship on or after July 1, 24646
2005, may sponsor not more than fifteen schools, except that if 24647
the department subsequently determines that the schools sponsored 24648
by such an entity have demonstrated satisfactory financial, 24649
administrative, and academic performance, the department may 24650
permit the entity to sponsor up to fifty schools. 24651

(b) An entity approved for sponsorship prior to July 1, 2005, 24652
or an entity not required to be approved for sponsorship under 24653
division (B)(1) of this section, that sponsored thirty-five or 24654
fewer schools that were open for operation as of May 1, 2005, may 24655
sponsor not more than thirty-five schools, except that the 24656
department on a case-by-case basis may permit such an entity to 24657
sponsor up to fifty schools. 24658

(c) An entity approved for sponsorship prior to July 1, 2005, 24659
or an entity not required to be approved for sponsorship under 24660
division (B)(1) of this section, that sponsored more than 24661
thirty-five but not more than fifty schools that were open for 24662
operation as of May 1, 2005, may sponsor not more than the number 24663
of schools the entity sponsored that were open for operation as of 24664
May 1, 2005, except that the department on a case-by-case basis 24665
may permit such an entity to sponsor up to fifty schools. 24666

(d) An entity approved for sponsorship prior to July 1, 2005, 24667
or an entity not required to be approved for sponsorship under 24668
division (B)(1) of this section, that sponsored more than fifty 24669
schools that were open for operation as of May 1, 2005, may 24670
sponsor not more than the number of schools the entity sponsored 24671

that were open for operation as of May 1, 2005. 24672

Upon approval of an entity to be a sponsor under this 24673
division, the department shall notify the entity of the number of 24674
schools the entity may sponsor. The limit imposed on an entity to 24675
which division (B)(1)(a), (b), or (c) of this section applies 24676
shall be decreased by one for each school sponsored by the entity 24677
that permanently closes pursuant to division (C) of section 24678
3314.36 of the Revised Code. The limit imposed on an entity to 24679
which division (B)(1)(d) of this section applies shall be 24680
decreased by one for each school sponsored by the entity that 24681
permanently closes for any reason. 24682

(2) The department of education shall determine, pursuant to 24683
criteria adopted by rule of the department, whether the mission 24684
proposed to be specified in the contract of a community school to 24685
be sponsored by a state university board of trustees or the 24686
board's designee under division (C)(1)(e) of section 3314.02 of 24687
the Revised Code complies with the requirements of that division. 24688
Such determination of the department is final. 24689

(3) The department of education shall determine, pursuant to 24690
criteria adopted by rule of the department, if any tax-exempt 24691
entity under section 501(c)(3) of the Internal Revenue Code that 24692
is proposed to be a sponsor of a community school is an 24693
education-oriented entity for purpose of satisfying the condition 24694
prescribed in division (C)(1)~~(e)~~~~(iv)~~(f)(iii) of section 3314.02 of 24695
the Revised Code. Such determination of the department is final. 24696

(C) If at any time the state board of education finds that a 24697
sponsor is not in compliance or is no longer willing to comply 24698
with its contract with any community school or with the 24699
department's rules for sponsorship, the state board or designee 24700
shall conduct a hearing in accordance with Chapter 119. of the 24701
Revised Code on that matter. If after the hearing, the state board 24702

or designee has confirmed the original finding, the department of
education may revoke the sponsor's approval to sponsor community
schools and may assume the sponsorship of any schools with which
the sponsor has contracted until the earlier of the expiration of
two school years or until a new sponsor as described in division
(C)(1) of section 3314.02 of the Revised Code is secured by the
school's governing authority. The department may extend the term
of the contract in the case of a school for which it has assumed
sponsorship under this division as necessary to accommodate the
term of the department's authorization to sponsor the school
specified in this division.

(D) The decision of the department to disapprove an entity
for sponsorship of a community school or to revoke approval for
such sponsorship, as provided in division (C) of this section, may
be appealed by the entity in accordance with section 119.12 of the
Revised Code.

(E) The department shall adopt procedures for use by a
community school governing authority and sponsor when the school
permanently closes and ceases operation, which shall include at
least procedures for data reporting to the department, handling of
student records, distribution of assets in accordance with section
3314.074 of the Revised Code, and other matters related to ceasing
operation of the school.

(F) In carrying out its duties under this chapter, the
department shall not impose requirements on community schools or
their sponsors that are not permitted by law or duly adopted
rules.

Sec. 3314.016. (A) Not later than July 1, 2006, the
department of education shall select not more than two entities
that have been approved for sponsorship under division (B)(1) of
section 3314.015 of the Revised Code to sponsor any internet- or

computer-based community school established after that date. At 24734
least one entity selected by the department shall be the sponsor 24735
of an existing internet- or computer-based community school. After 24736
July 1, 2006, no new internet- or computer-based community school 24737
shall be established under this chapter unless the school is 24738
sponsored by an entity selected by the department under this 24739
division. 24740

(B) If the department does not select at least one entity 24741
under division (A) of this section, the department shall have sole 24742
authority to sponsor any internet- or computer-based community 24743
school established after July 1, 2006. In that case, 24744
notwithstanding division (C) of section 3314.015 of the Revised 24745
Code, the term of any contract between the department and the 24746
governing authority of an internet- or computer-based community 24747
school may be for any length of time permitted under section 24748
3314.03 of the Revised Code. 24749

(C) Nothing in this section requires an internet- or 24750
computer-based community school established prior to July 1, 2006, 24751
to secure a new sponsor. 24752

Sec. 3314.02. (A) As used in this chapter: 24753

(1) "Sponsor" means an entity listed in division (C)(1) of 24754
this section, which has been approved by the department of 24755
education to sponsor community schools and with which the 24756
governing authority of the proposed community school enters into a 24757
contract pursuant to this section. 24758

(2) "Pilot project area" means the school districts included 24759
in the territory of the former community school pilot project 24760
established by former Section 50.52 of Am. Sub. H.B. No. 215 of 24761
the 122nd general assembly. 24762

(3) "Challenged school district" means any of the following: 24763

(a) A school district that is part of the pilot project area;	24764
(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;	24765 24766 24767
(c) A big eight school district.	24768
(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:	24769 24770
(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;	24771 24772 24773 24774
(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.	24775 24776 24777
(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.	24778 24779 24780 24781
(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.	24782 24783 24784 24785
(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include internet based, other computer based, and noncomputer based learning	24786 24787 24788 24789 24790 24791 24792 24793

opportunities. 24794

(B) Any person or group of individuals may initially propose 24795
under this division the conversion of all or a portion of a public 24796
school to a community school. The proposal shall be made to the 24797
board of education of the city, local, or exempted village school 24798
district in which the public school is proposed to be converted. 24799
Upon receipt of a proposal, a board may enter into a preliminary 24800
agreement with the person or group proposing the conversion of the 24801
public school, indicating the intention of the board of education 24802
to support the conversion to a community school. A proposing 24803
person or group that has a preliminary agreement under this 24804
division may proceed to finalize plans for the school, establish a 24805
governing authority for the school, and negotiate a contract with 24806
the board of education. Provided the proposing person or group 24807
adheres to the preliminary agreement and all provisions of this 24808
chapter, the board of education shall negotiate in good faith to 24809
enter into a contract in accordance with section 3314.03 of the 24810
Revised Code and division (C) of this section. 24811

(C)(1) Any person or group of individuals may propose under 24812
this division the establishment of a new start-up school to be 24813
located in a challenged school district. The proposal may be made 24814
to any of the following entities: 24815

(a) The board of education of the district in which the 24816
school is proposed to be located; 24817

(b) The board of education of any joint vocational school 24818
district with territory in the county in which is located the 24819
majority of the territory of the district in which the school is 24820
proposed to be located; 24821

(c) The board of education of any other city, local, or 24822
exempted village school district having territory in the same 24823
county where the district in which the school is proposed to be 24824

located has the major portion of its territory;	24825
(d) The governing board of any educational service center;	24826
(e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;	24827 24828 24829 24830 24831 24832 24833 24834 24835 24836 24837
(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:	24838 24839 24840
(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.	24841 24842
(ii) The entity has assets of at least five hundred thousand dollars.	24843 24844
(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code.	24845 24846 24847
 Until July 1, 2005, any entity described in division (C)(1)(f) of this section may sponsor only schools that formerly were sponsored by the state board of education under division (C)(1)(d) of this section, as it existed prior to April 8, 2003. After July 1, 2005, such entity may sponsor any new or existing school.	24848 24849 24850 24851 24852 24853
Any entity described in division (C)(1) of this section may	24854

enter into a preliminary agreement pursuant to division (C)(2) of 24855
this section with the proposing person or group. 24856

(2) A preliminary agreement indicates the intention of an 24857
entity described in division (C)(1) of this section to sponsor the 24858
community school. A proposing person or group that has such a 24859
preliminary agreement may proceed to finalize plans for the 24860
school, establish a governing authority as described in division 24861
(E) of this section for the school, and negotiate a contract with 24862
the entity. Provided the proposing person or group adheres to the 24863
preliminary agreement and all provisions of this chapter, the 24864
entity shall negotiate in good faith to enter into a contract in 24865
accordance with section 3314.03 of the Revised Code. 24866

(3) A new start-up school that is established in a school 24867
district while that district is either in a state of academic 24868
emergency or in a state of academic watch under section 3302.03 of 24869
the Revised Code may continue in existence once the school 24870
district is no longer in a state of academic emergency or academic 24871
watch, provided there is a valid contract between the school and a 24872
sponsor. 24873

(4) A copy of every preliminary agreement entered into under 24874
this division shall be filed with the superintendent of public 24875
instruction. 24876

(D) A majority vote of the board of a sponsoring entity and a 24877
majority vote of the members of the governing authority of a 24878
community school shall be required to adopt a contract and convert 24879
the public school to a community school or establish the new 24880
start-up school. Beginning on the effective date of this 24881
amendment, adoption of the contract shall occur not later than the 24882
fifteenth day of March prior to the school year in which the 24883
school will open. Up to the statewide limit prescribed in section 24884
3314.013 of the Revised Code, an unlimited number of community 24885

schools may be established in any school district provided that a 24886
contract is entered into for each community school pursuant to 24887
this chapter. 24888

(E) As used in this division, "immediate relatives" are 24889
limited to spouses, children, parents, grandparents, siblings, and 24890
in-laws. 24891

Each new start-up community school established under this 24892
chapter shall be under the direction of a governing authority 24893
which shall consist of a board of not less than five individuals 24894
who are not owners or employees, or immediate relatives of owners 24895
or employees, of any for-profit firm that operates or manages a 24896
school for the governing authority. 24897

No person shall serve on the governing authority or operate 24898
the community school under contract with the governing authority 24899
so long as the person owes the state any money or is in a dispute 24900
over whether the person owes the state any money concerning the 24901
operation of a community school that has closed. 24902

(F) Nothing in this chapter shall be construed to permit the 24903
establishment of a community school in more than one school 24904
district under the same contract. 24905

(G) A new start-up school that is established prior to ~~the~~ 24906
~~effective date of this amendment~~ August 15, 2003, in an urban 24907
school district that is not also a big-eight school district may 24908
continue to operate after ~~the effective~~ that date ~~of this~~ 24909
~~amendment~~ and the contract between the school's governing 24910
authority and the school's sponsor may be renewed, as provided 24911
under this chapter, after ~~the effective~~ that date ~~of this~~ 24912
~~amendment~~, but no additional new start-up schools may be 24913
established in such a district unless the district is a challenged 24914
school district as defined in this section as it exists on and 24915
after ~~the effective~~ that date ~~of this amendment~~. 24916

Sec. 3314.021. (A) This section applies to any entity that is 24917
exempt from taxation under section 501(c)(3) of the Internal 24918
Revenue Code and that satisfies the conditions specified in 24919
divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the 24920
Revised Code but does not satisfy the condition specified in 24921
division (C)(1)(f)(i) of that section. 24922

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 24923
of the Revised Code, an entity described in division (A) of this 24924
section may do both of the following without obtaining the 24925
department of education's approval of its sponsorship under 24926
division (B)(1) of section 3314.015 of the Revised Code: 24927

(1) Succeed the board of trustees of a state university 24928
located in the pilot project area or that board's designee as the 24929
sponsor of a community school established under this chapter; 24930

(2) Continue to sponsor that school in conformance with the 24931
terms of the contract between the board of trustees or its 24932
designee and the governing authority of the community school and 24933
renew that contract as provided in division (E) of section 3314.03 24934
of the Revised Code. 24935

(C) The entity that succeeds the board of trustees or the 24936
board's designee as sponsor of a community school under division 24937
(B) of this section also may enter into contracts to sponsor other 24938
community schools located in any challenged school district, 24939
without obtaining the department's approval of its sponsorship 24940
under division (B)(1) of section 3314.015 of the Revised Code, and 24941
not subject to the restriction of ~~the paragraph following division~~ 24942
~~(C)(1)(f)(iii)~~ division (A)(7) of section 3314.02 3314.013 of the 24943
Revised Code, as long as the contracts conform with and the entity 24944
complies with all other requirements of this chapter. 24945

Sec. 3314.03. A copy of every contract entered into under 24946

this section shall be filed with the superintendent of public instruction. 24947
24948

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following: 24949
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24951

(1) That the school shall be established as either of the following: 24952
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(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003; 24954
24955

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003; 24956
24957

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum; 24958
24959
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(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests; 24962
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(4) Performance standards by which the success of the school will be evaluated by the sponsor~~r~~. If the sponsor will evaluate the school in accordance with division (D) of section 3314.36 of the Revised Code, the contract shall specify the number of school years that the school will be evaluated under that division. 24965
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(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code; 24970
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(6)(a) Dismissal procedures; 24972

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five 24973
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consecutive hours of the learning opportunities offered to the student. ~~Such a policy shall provide for withdrawing the student by the end of the thirtieth day after the student has failed to participate as required under this division.~~

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) ~~The~~ If established prior to the effective date of this amendment, the school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year; . If established on or after the effective date of this amendment, the school will provide learning opportunities to a minimum of one hundred students for a minimum of nine hundred twenty hours per school year; however, the sponsor may waive the minimum number of students served by the school prescribed in this sentence, subject to the approval of the department of education.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.358, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.50, 3313.608, 3313.6012, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 3319.073, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code;

(e) The school shall comply with Chapter 102. of the Revised Code except that nothing in that chapter shall prohibit a member of the school's governing board from also being an employee of the school and nothing in that chapter or section 2921.42 of the Revised Code shall prohibit a member of the school's governing board from having an interest in a contract into which the governing board enters that is not a contract with a for-profit firm for the operation or management of a school under the auspices of the governing authority;

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person

must successfully complete the curriculum in any high school prior 25039
to receiving a high school diploma may be met by completing the 25040
curriculum adopted by the governing authority of the community 25041
school rather than the curriculum specified in Title XXXVIII of the 25042
Revised Code or any rules of the state board of education; 25043

(g) The school governing authority will submit within four 25044
months after the end of each school year a report of its 25045
activities and progress in meeting the goals and standards of 25046
divisions (A)(3) and (4) of this section and its financial status 25047
to the sponsor, the parents of all students enrolled in the 25048
school, and the legislative office of education oversight. The 25049
school will collect and provide any data that the legislative 25050
office of education oversight requests in furtherance of any study 25051
or research that the general assembly requires the office to 25052
conduct, including the studies required under Section 50.39 of Am. 25053
Sub. H.B. 215 of the 122nd general assembly and Section 50.52.2 of 25054
Am. Sub. H.B. 215 of the 122nd general assembly, as amended. 25055

(12) Arrangements for providing health and other benefits to 25056
employees; 25057

(13) The length of the contract, which shall begin at the 25058
beginning of an academic year. No contract shall exceed five years 25059
unless such contract has been renewed pursuant to division (E) of 25060
this section. 25061

(14) The governing authority of the school, which shall be 25062
responsible for carrying out the provisions of the contract; 25063

(15) A financial plan detailing an estimated school budget 25064
for each year of the period of the contract and specifying the 25065
total estimated per pupil expenditure amount for each such year. 25066
The plan shall specify for each year the base formula amount that 25067
will be used for purposes of funding calculations under section 25068
3314.08 of the Revised Code. This base formula amount for any year 25069

shall not exceed the formula amount defined under section 3317.02 25070
of the Revised Code. The plan may also specify for any year a 25071
percentage figure to be used for reducing the per pupil amount of 25072
~~disadvantaged pupil impact aid~~ the subsidy calculated pursuant to 25073
section 3317.029 of the Revised Code the school is to receive that 25074
year under section 3314.08 of the Revised Code. 25075

(16) Requirements and procedures regarding the disposition of 25076
employees of the school in the event the contract is terminated or 25077
not renewed pursuant to section 3314.07 of the Revised Code; 25078

(17) Whether the school is to be created by converting all or 25079
part of an existing public school or is to be a new start-up 25080
school, and if it is a converted public school, specification of 25081
any duties or responsibilities of an employer that the board of 25082
education that operated the school before conversion is delegating 25083
to the governing board of the community school with respect to all 25084
or any specified group of employees provided the delegation is not 25085
prohibited by a collective bargaining agreement applicable to such 25086
employees; 25087

(18) Provisions establishing procedures for resolving 25088
disputes or differences of opinion between the sponsor and the 25089
governing authority of the community school; 25090

(19) A provision requiring the governing authority to adopt a 25091
policy regarding the admission of students who reside outside the 25092
district in which the school is located. That policy shall comply 25093
with the admissions procedures specified in ~~section~~ sections 25094
3314.06 and 3314.061 of the Revised Code and, at the sole 25095
discretion of the authority, shall do one of the following: 25096

(a) Prohibit the enrollment of students who reside outside 25097
the district in which the school is located; 25098

(b) Permit the enrollment of students who reside in districts 25099
adjacent to the district in which the school is located; 25100

(c) Permit the enrollment of students who reside in any other district in the state. 25101
25102

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code; 25103
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(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code; 25107
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(22) A provision recognizing both of the following: 25110

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations; 25111
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(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action; 25115
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(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code; 25122
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(24) The school will comply with section 3302.04 of the Revised Code, including division (E) of that section to the extent possible, except that any action required to be taken by a school 25128
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district pursuant to that section shall be taken by the sponsor of 25131
the school. However, the sponsor shall not be required to take any 25132
action described in division (F) of that section. 25133

(25) Beginning in the 2006-2007 school year, the school will 25134
open for operation not later than the thirtieth day of September 25135
each school year, unless the mission of the school as specified 25136
under division (A)(2) of this section is solely to serve dropouts. 25137
In its initial year of operation, if the school fails to open by 25138
the thirtieth day of September, or within one year after the 25139
adoption of the contract pursuant to division (D) of section 25140
3314.02 of the Revised Code if the mission of the school is solely 25141
to serve dropouts, the contract shall be void. 25142

(B) The community school shall also submit to the sponsor a 25143
comprehensive plan for the school. The plan shall specify the 25144
following: 25145

(1) The process by which the governing authority of the 25146
school will be selected in the future; 25147

(2) The management and administration of the school; 25148

(3) If the community school is a currently existing public 25149
school, alternative arrangements for current public school 25150
students who choose not to attend the school and teachers who 25151
choose not to teach in the school after conversion; 25152

(4) The instructional program and educational philosophy of 25153
the school; 25154

(5) Internal financial controls. 25155

(C) A contract entered into under section 3314.02 of the 25156
Revised Code between a sponsor and the governing authority of a 25157
community school may provide for the community school governing 25158
authority to make payments to the sponsor, which is hereby 25159
authorized to receive such payments as set forth in the contract 25160

between the governing authority and the sponsor. The total amount 25161
of such payments for oversight and monitoring of the school shall 25162
not exceed three per cent of the total amount of payments for 25163
operating expenses that the school receives from the state. 25164
Beginning July 1, 2006, no sponsor shall charge a community school 25165
it sponsors a fee for any services provided to the school, except 25166
as authorized by this division. 25167

(D) The contract shall specify the duties of the sponsor 25168
which shall be in accordance with the written agreement entered 25169
into with the department of education under division (B) of 25170
section 3314.015 of the Revised Code and shall include the 25171
following: 25172

(1) Monitor the community school's compliance with all laws 25173
applicable to the school and with the terms of the contract; 25174

(2) Monitor and evaluate the academic and fiscal performance 25175
and the organization and operation of the community school on at 25176
least an annual basis; 25177

(3) Report on an annual basis the results of the evaluation 25178
conducted under division (D)(2) of this section to the department 25179
of education and to the parents of students enrolled in the 25180
community school; 25181

(4) Provide technical assistance to the community school in 25182
complying with laws applicable to the school and terms of the 25183
contract; 25184

(5) Take steps to intervene in the school's operation to 25185
correct problems in the school's overall performance, declare the 25186
school to be on probationary status pursuant to section 3314.073 25187
of the Revised Code, suspend the operation of the school pursuant 25188
to section 3314.072 of the Revised Code, or terminate the contract 25189
of the school pursuant to section 3314.07 of the Revised Code as 25190
determined necessary by the sponsor; 25191

(6) Have in place a plan of action to be undertaken in the 25192
event the community school experiences financial difficulties or 25193
closes prior to the end of a school year. 25194

(E) Upon the expiration of a contract entered into under this 25195
section, the sponsor of a community school may, with the approval 25196
of the governing authority of the school, renew that contract for 25197
a period of time determined by the sponsor, but not ending earlier 25198
than the end of any school year, if the sponsor finds that the 25199
school's compliance with applicable laws and terms of the contract 25200
and the school's progress in meeting the academic goals prescribed 25201
in the contract have been satisfactory. Any contract that is 25202
renewed under this division remains subject to the provisions of 25203
sections 3314.07, 3314.072, and 3314.073 of the Revised Code. 25204

(F) If a community school fails to open for operation within 25205
one year after the contract entered into under this section is 25206
adopted pursuant to division (D) of section 3314.02 of the Revised 25207
Code or permanently closes prior to the expiration of the 25208
contract, the contract shall be void and the school shall not 25209
enter into a contract with any other sponsor. A school shall not 25210
be considered permanently closed because the operations of the 25211
school have been suspended pursuant to section 3314.072 of the 25212
Revised Code. Any contract that becomes void under this division 25213
shall not count toward any statewide limit on the number of such 25214
contracts prescribed by section 3314.013 of the Revised Code. 25215

Sec. 3314.06. The governing authority of each community 25216
school established under this chapter shall adopt admission 25217
procedures that specify the following: 25218

(A) That except as otherwise provided in this section, 25219
admission to the school shall be open to any individual age five 25220
to twenty-two entitled to attend school pursuant to section 25221
3313.64 or 3313.65 of the Revised Code in a school district in the 25222

state. 25223

(B)(1) That admission to the school may be limited to 25224
students who have attained a specific grade level or are within a 25225
specific age group; to students that meet a definition of 25226
"at-risk," as defined in the contract; ~~or~~ to residents of a 25227
specific geographic area within the district, as defined in the 25228
contract; or to separate groups of autistic students and 25229
nonhandicapped students, as authorized in section 3314.061 of the 25230
Revised Code and as defined in the contract. 25231

(2) For purposes of division (B)(1) of this section, 25232
"at-risk" students may include those students identified as gifted 25233
students under section 3324.03 of the Revised Code. 25234

(C) Whether enrollment is limited to students who reside in 25235
the district in which the school is located or is open to 25236
residents of other districts, as provided in the policy adopted 25237
pursuant to the contract. 25238

(D)(1) That there will be no discrimination in the admission 25239
of students to the school on the basis of race, creed, color, 25240
handicapping condition, or sex except that ~~the~~: 25241

(a) The governing authority may establish single-gender 25242
schools for the purpose described in division (G) of this section 25243
provided comparable facilities and learning opportunities are 25244
offered for both boys and girls. Such comparable facilities and 25245
opportunities may be offered for each sex at separate locations. 25246

(b) The governing authority may establish a school that 25247
simultaneously serves a group of students identified as autistic 25248
and a group of students who are not handicapped, as authorized in 25249
section 3314.061 of the Revised Code. However, unless the total 25250
capacity established for the school has been filled, no student 25251
with any handicap shall be denied admission on the basis of that 25252
handicap. 25253

(2) That upon admission of any handicapped student, the 25254
community school will comply with all federal and state laws 25255
regarding the education of handicapped students. 25256

(E) That the school may not limit admission to students on 25257
the basis of intellectual ability, measures of achievement or 25258
aptitude, or athletic ability, except that a school may limit its 25259
enrollment to students as described in division (B)~~(2)~~ of this 25260
section. 25261

(F) That the community school will admit the number of 25262
students that does not exceed the capacity of the school's 25263
programs, classes, grade levels, or facilities. 25264

(G) That the purpose of single-gender schools that are 25265
established shall be to take advantage of the academic benefits 25266
some students realize from single-gender instruction and 25267
facilities and to offer students and parents residing in the 25268
district the option of a single-gender education. 25269

(H) That, except as otherwise provided under division (B) of 25270
this section or section 3314.061 of the Revised Code, if the 25271
number of applicants exceeds the capacity restrictions of division 25272
(F) of this section, students shall be admitted by lot from all 25273
those submitting applications, except preference shall be given to 25274
students attending the school the previous year and to students 25275
who reside in the district in which the school is located. 25276
Preference may be given to siblings of students attending the 25277
school the previous year. 25278

Notwithstanding divisions (A) to (H) of this section, in the 25279
event the racial composition of the enrollment of the community 25280
school is violative of a federal desegregation order, the 25281
community school shall take any and all corrective measures to 25282
comply with the desegregation order. 25283

Sec. 3314.061. A governing authority may establish a 25284
community school under this chapter that is limited to providing 25285
simultaneously special education and related services to a 25286
specified number of students identified as autistic and regular 25287
educational programs to a specified number of students who are not 25288
handicapped. The contract between the governing authority and the 25289
school's sponsor shall specify the target ratio of number of 25290
autistic students to number of nonhandicapped students in the 25291
school's population, the total number of autistic students that 25292
may be enrolled in the school, and the total number of 25293
nonhandicapped students that may be enrolled in the school. A 25294
school established in accordance with this section is subject to 25295
division (H) of section 3314.06 of the Revised Code, except that 25296
because the governing authority establishes a separate capacity 25297
for autistic students and nonhandicapped students, if the number 25298
of applicants among the group of autistic students or the group of 25299
nonhandicapped students exceeds the capacity restrictions for that 25300
group, students shall be admitted by lot from all those of that 25301
same group submitting applications. However, unless the total 25302
capacity established for the school has been filled, no student 25303
with any handicap shall be denied admission on the basis of that 25304
handicap. 25305

Sec. 3314.074. Divisions (A) and (B) of this section apply 25306
only to the extent permitted under Chapter 1702. of the Revised 25307
Code. 25308

(A) If any community school established under this chapter 25309
permanently closes and ceases its operation as a community school, 25310
the assets of that school shall be distributed first to the 25311
retirement funds of employees of the school, employees of the 25312
school, and private creditors who are owed compensation and then 25313
any remaining funds shall be paid to the state treasury to the 25314

credit of the general revenue fund.	25315
(B) If a community school closes and ceases to operate as a community school and the school has received computer hardware or software from the <u>former</u> Ohio SchoolNet commission <u>or the eTech Ohio commission</u> , such hardware or software shall be returned to the <u>eTech Ohio</u> commission, and the <u>eTech Ohio</u> commission shall redistribute the hardware and software, to the extent such redistribution is possible, to school districts in conformance with the provisions of the programs operated and administered by the <u>eTech Ohio</u> commission.	25316 25317 25318 25319 25320 25321 25322 25323 25324
(C) If the assets of the school are insufficient to pay all persons or entities to whom compensation is owed, the prioritization of the distribution of the assets to individual persons or entities within each class of payees may be determined by decree of a court in accordance with this section and Chapter 1702. of the Revised Code.	25325 25326 25327 25328 25329 25330
Sec. 3314.08. (A) As used in this section:	25331
(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.	25332 25333 25334
(2) "Cost-of-doing-business factor" has the same meaning as in section 3317.02 of the Revised Code.	25335 25336
(3) "IEP" means an individualized education program as defined in section 3323.01 of the Revised Code.	25337 25338
(4) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a handicap described in that section.	25339 25340 25341
(5) "Applicable vocational education weight" means:	25342
(a) For a student enrolled in vocational education programs	25343

or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division; 25344
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(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division. 25346
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(6) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code. 25349
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(7) A community school student is "included in the ~~DPIA~~ poverty student count" of a school district if the student is entitled to attend school in the district and: 25352
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~~(a) For school years prior to fiscal year 2004, the student's family receives assistance under the Ohio works first program.~~ 25355
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~~(b) For school years in and after fiscal year 2004, the student's family income does not exceed the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, and the student's family receives family assistance, as defined in section 3317.029 of the Revised Code.~~ 25357
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(8) "DPIA Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) and (6) of this section in any year, as specified in the school's financial plan for the year pursuant to division (A)(15) of section 3314.03 of the Revised Code. 25362
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(9) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code. 25369
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(10) "SF-3 payment" means the sum of the payments to a school district in a fiscal year under divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) 25371
25372
25373

of section 3317.024, and sections 3317.029, ~~3317.0212, 3317.0213,~~ 25374
3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of 25375
the Revised Code after making the adjustments required by sections 25376
3313.981 and 3313.979, divisions (B), (C), (D), (E), (K), (L), ~~and~~ 25377
(M), ~~and (N)~~ of section 3317.023, and division (C) of section 25378
3317.20 of the Revised Code. 25379

(B) The state board of education shall adopt rules requiring 25380
both of the following: 25381

(1) The board of education of each city, exempted village, 25382
and local school district to annually report the number of 25383
students entitled to attend school in the district who are 25384
enrolled in grades one through twelve in a community school 25385
established under this chapter, the number of students entitled to 25386
attend school in the district who are enrolled in kindergarten in 25387
a community school, the number of those kindergartners who are 25388
enrolled in all-day kindergarten in their community school, and 25389
for each child, the community school in which the child is 25390
enrolled. 25391

(2) The governing authority of each community school 25392
established under this chapter to annually report all of the 25393
following: 25394

(a) The number of students enrolled in grades one through 25395
twelve and the number of students enrolled in kindergarten in the 25396
school who are not receiving special education and related 25397
services pursuant to an IEP; 25398

(b) The number of enrolled students in grades one through 25399
twelve and the number of enrolled students in kindergarten, who 25400
are receiving special education and related services pursuant to 25401
an IEP; 25402

(c) The number of students reported under division (B)(2)(b) 25403
of this section receiving special education and related services 25404

pursuant to an IEP for a handicap described in each of divisions	25405
(A) to (F) of section 3317.013 of the Revised Code;	25406
(d) The full-time equivalent number of students reported	25407
under divisions (B)(2)(a) and (b) of this section who are enrolled	25408
in vocational education programs or classes described in each of	25409
divisions (A) and (B) of section 3317.014 of the Revised Code that	25410
are provided by the community school;	25411
(e) Twenty per cent of the number of students reported under	25412
divisions (B)(2)(a) and (b) of this section who are not reported	25413
under division (B)(2)(d) of this section but who are enrolled in	25414
vocational education programs or classes described in each of	25415
divisions (A) and (B) of section 3317.014 of the Revised Code at a	25416
joint vocational school district under a contract between the	25417
community school and the joint vocational school district and are	25418
entitled to attend school in a city, local, or exempted village	25419
school district whose territory is part of the territory of the	25420
joint vocational district;	25421
(f) The number of enrolled preschool handicapped students	25422
receiving special education services in a state-funded unit;	25423
(g) The community school's base formula amount;	25424
(h) For each student, the city, exempted village, or local	25425
school district in which the student is entitled to attend school;	25426
(i) Any DPIA <u>poverty-based assistance</u> reduction factor that	25427
applies to a school year.	25428
(C) From the SF-3 payment made to a city, exempted village,	25429
or local school district and, if necessary, from the payment made	25430
to the district under sections 321.24 and 323.156 of the Revised	25431
Code, the department of education shall annually subtract the sum	25432
of the amounts described in divisions (C)(1) to (6) (9) of this	25433
section. However, <u>when deducting payments on behalf of students</u>	25434

enrolled in internet- or computer-based community schools, the 25435
department shall deduct only those amounts described in divisions 25436
(C)(1) and (2) of this section. Furthermore, the aggregate amount 25437
deducted under this division shall not exceed the sum of the 25438
district's SF-3 payment and its payment under sections 321.24 and 25439
323.156 of the Revised Code. 25440

(1) An amount equal to the sum of the amounts obtained when, 25441
for each community school where the district's students are 25442
enrolled, the number of the district's students reported under 25443
divisions (B)(2)(a), (b), and (e) of this section who are enrolled 25444
in grades one through twelve, and one-half the number of students 25445
reported under those divisions who are enrolled in kindergarten, 25446
in that community school is multiplied by the greater of the 25447
following: 25448

(a) The fiscal year 2005 base formula amount of that 25449
community school as adjusted by the school district's fiscal year 25450
2005 cost-of-doing-business factor; 25451

(b) The sum of (the current base formula amount of that 25452
community school times the school district's current 25453
cost-of-doing-business factor) plus the per pupil amount of the 25454
base funding supplements specified in divisions (C)(1) to (4) of 25455
section 3317.012 of the Revised Code. 25456

(2) The sum of the amounts calculated under divisions 25457
(C)(2)(a) and (b) of this section: 25458

(a) For each of the district's students reported under 25459
division (B)(2)(c) of this section as enrolled in a community 25460
school in grades one through twelve and receiving special 25461
education and related services pursuant to an IEP for a handicap 25462
described in section 3317.013 of the Revised Code, the product of 25463
the applicable special education weight times the community 25464
school's base formula amount; 25465

(b) For each of the district's students reported under 25466
division (B)(2)(c) of this section as enrolled in kindergarten in 25467
a community school and receiving special education and related 25468
services pursuant to an IEP for a handicap described in section 25469
3317.013 of the Revised Code, one-half of the amount calculated as 25470
prescribed in division (C)(2)(a) of this section. 25471

(3) For each of the district's students reported under 25472
division (B)(2)(d) of this section for whom payment is made under 25473
division (D)(4) of this section, the amount of that payment; 25474

(4) An amount equal to the sum of the amounts obtained when, 25475
for each community school where the district's students are 25476
enrolled, the number of the district's students enrolled in that 25477
community school who are included in the district's ~~DPIA~~ poverty 25478
student count is multiplied by the per pupil amount of 25479
~~disadvantaged pupil impact aid~~ poverty-based assistance the school 25480
district receives that year pursuant to division (B) or (C) of 25481
section 3317.029 of the Revised Code, as adjusted by any ~~DPIA~~ 25482
poverty-based assistance reduction factor of that community 25483
school. If the district receives ~~disadvantaged pupil impact aid~~ 25484
poverty-based assistance under division (B) of that section, the 25485
per pupil amount of that aid is the quotient of the amount the 25486
district received under that division divided by the district's 25487
~~DPIA~~ poverty student count, as defined in that section. If the 25488
district receives ~~disadvantaged pupil impact aid~~ poverty-based 25489
assistance under division (C) of section 3317.029 of the Revised 25490
Code, the per pupil amount of that aid is the per pupil dollar 25491
amount prescribed for the district in ~~division~~ divisions (C)(1) ~~or~~ 25492
~~(2)~~ to (3) of that section. 25493

(5) An amount equal to the sum of the amounts obtained when, 25494
for each community school where the district's students are 25495
enrolled, the district's per pupil amount of aid received under 25496
division (E) of section 3317.029 of the Revised Code, as adjusted 25497

by any ~~DPIA~~ poverty-based assistance reduction factor of the 25498
community school, is multiplied by the sum of the following: 25499

(a) The number of the district's students reported under 25500
division (B)(2)(a) of this section who are enrolled in grades one 25501
to three in that community school and who are not receiving 25502
special education and related services pursuant to an IEP; 25503

(b) One-half of the district's students who are enrolled in 25504
all-day or any other kindergarten class in that community school 25505
and who are not receiving special education and related services 25506
pursuant to an IEP; 25507

(c) One-half of the district's students who are enrolled in 25508
all-day kindergarten in that community school and who are not 25509
receiving special education and related services pursuant to an 25510
IEP. 25511

The district's per pupil amount of aid under division (E) of 25512
section 3317.029 of the Revised Code is the quotient of the amount 25513
the district received under that division divided by the 25514
district's kindergarten through third grade ADM, as defined in 25515
that section. 25516

(6) An amount equal to the sum of the amounts obtained when, 25517
for each community school where the district's students are 25518
enrolled, the district's per pupil amount received under division 25519
(F) of section 3317.029 of the Revised Code, as adjusted by any 25520
poverty-based assistance reduction factor of that community 25521
school, is multiplied by the number of the district's students 25522
enrolled in the community school who are identified as 25523
limited-English proficient. 25524

The district's per pupil amount under division (F) of section 25525
3317.029 of the Revised Code is the amount calculated under 25526
division (F)(1) or (2) of that section, times a multiple of 0.40 25527
in fiscal year 2006 and 0.70 in fiscal year 2007. 25528

(7) An amount equal to the sum of the amounts obtained when, 25529
for each community school where the district's students are 25530
enrolled, the district's per pupil amount received under division 25531
(G) of section 3317.029 of the Revised Code, as adjusted by any 25532
poverty-based assistance reduction factor of that community 25533
school, is multiplied by the sum of the following: 25534

(a) The number of the district's students enrolled in grades 25535
one through twelve in that community school; 25536

(b) One-half of the number of the district's students 25537
enrolled in kindergarten in that community school. 25538

The district's per pupil amount under division (G) of section 25539
3317.029 of the Revised Code is the district's amount per teacher 25540
calculated under division (G)(1) or (2) of that section divided by 25541
17, times a multiple of 0.40 in fiscal year 2006 and 0.70 in 25542
fiscal year 2007. 25543

(8) An amount equal to the sum of the amounts obtained when, 25544
for each community school where the district's students are 25545
enrolled, the district's per pupil amount received under divisions 25546
(H) and (I) of section 3317.029 of the Revised Code, as adjusted 25547
by any poverty-based assistance reduction factor of that community 25548
school, is multiplied by the sum of the following: 25549

(a) The number of the district's students enrolled in grades 25550
one through twelve in that community school; 25551

(b) One-half of the number of the district's students 25552
enrolled in kindergarten in that community school. 25553

The district's per pupil amount under divisions (H) and (I) 25554
of section 3317.029 of the Revised Code is the amount calculated 25555
under each division divided by the district's formula ADM, as 25556
defined in section 3317.02 of the Revised Code. 25557

(9) An amount equal to the per pupil state parity aid funding 25558

calculated for the school district under either division (C) or 25559
(D) of section 3317.0217 of the Revised Code multiplied by the sum 25560
of the number of students in grades one through twelve, and 25561
one-half of the number of students in kindergarten, who are 25562
entitled to attend school in the district and are enrolled in a 25563
community school as reported under division (B)(1) of this 25564
section. 25565

(D) The department shall annually pay to a community school 25566
established under this chapter the sum of the amounts described in 25567
divisions (D)(1) to ~~(7)~~(10) of this section. However, the 25568
department shall calculate and pay to each internet- or 25569
computer-based community school only the amounts described in 25570
divisions (D)(1) to (3) of this section. Furthermore, the sum of 25571
the payments to all community schools under divisions (D)(1), (2), 25572
and (4), ~~(5), (6), and (7)~~ to (10) of this section for the 25573
students entitled to attend school in any particular school 25574
district shall not exceed the sum of that district's SF-3 payment 25575
and its payment under sections 321.24 and 323.156 of the Revised 25576
Code. If the sum of the payments calculated under those divisions 25577
for the students entitled to attend school in a particular school 25578
district exceeds the sum of that district's SF-3 payment and its 25579
payment under sections 321.24 and 323.156 of the Revised Code, the 25580
department shall calculate and apply a proration factor to the 25581
payments to all community schools under those divisions for the 25582
students entitled to attend school in that district. 25583

(1) An Subject to section 3314.085 of the Revised Code, an 25584
amount equal to the sum of the amounts obtained when the number of 25585
students enrolled in grades one through twelve, plus one-half of 25586
the kindergarten students in the school, reported under divisions 25587
(B)(2)(a), (b), and (e) of this section who are not receiving 25588
special education and related services pursuant to an IEP for a 25589
handicap described in section 3317.013 of the Revised Code is 25590

specified in divisions (C)(1) to (4) of section 3317.012 of the 25622
Revised Code] + 25623
(the applicable special education weight X 25624
the community school's base formula amount); 25625

(ii) For each student reported under division (B)(2)(c) of 25626
this section as enrolled in kindergarten and receiving special 25627
education and related services pursuant to an IEP for a handicap 25628
described in section 3317.013 of the Revised Code, one-half of the 25629
amount calculated under the formula prescribed in division 25630
(D)(2)(b)(i) of this section. 25631

(3) An amount received from federal funds to provide special 25632
education and related services to students in the community 25633
school, as determined by the superintendent of public instruction. 25634

(4) For each student reported under division (B)(2)(d) of 25635
this section as enrolled in vocational education programs or 25636
classes that are described in section 3317.014 of the Revised 25637
Code, are provided by the community school, and are comparable as 25638
determined by the superintendent of public instruction to school 25639
district vocational education programs and classes eligible for 25640
state weighted funding under section 3317.014 of the Revised Code, 25641
an amount equal to the applicable vocational education weight 25642
times the community school's base formula amount times the 25643
percentage of time the student spends in the vocational education 25644
programs or classes. 25645

(5) An amount equal to the sum of the amounts obtained when, 25646
for each school district where the community school's students are 25647
entitled to attend school, the number of that district's students 25648
enrolled in the community school who are included in the 25649
district's ~~DPIA~~ poverty student count is multiplied by the per 25650
pupil amount of ~~disadvantaged pupil impact aid~~ poverty-based 25651
assistance that school district receives that year pursuant to 25652
division (B) or (C) of section 3317.029 of the Revised Code, as 25653

adjusted by any DPIA poverty-based assistance reduction factor of 25654
the community school. The per pupil amount of aid shall be 25655
determined as described in division (C)(4) of this section. 25656

(6) An amount equal to the sum of the amounts obtained when, 25657
for each school district where the community school's students are 25658
entitled to attend school, the district's per pupil amount of aid 25659
received under division (E) of section 3317.029 of the Revised 25660
Code, as adjusted by any DPIA poverty-based assistance reduction 25661
factor of the community school, is multiplied by the sum of the 25662
following: 25663

(a) The number of the district's students reported under 25664
division (B)(2)(a) of this section who are enrolled in grades one 25665
to three in that community school and who are not receiving 25666
special education and related services pursuant to an IEP; 25667

(b) One-half of the district's students who are enrolled in 25668
all-day or any other kindergarten class in that community school 25669
and who are not receiving special education and related services 25670
pursuant to an IEP; 25671

(c) One-half of the district's students who are enrolled in 25672
all-day kindergarten in that community school and who are not 25673
receiving special education and related services pursuant to an 25674
IEP. 25675

The district's per pupil amount of aid under division (E) of 25676
section 3317.029 of the Revised Code shall be determined as 25677
described in division (C)(5) of this section. 25678

(7) An amount equal to the sum of the amounts obtained when, 25679
for each school district where the community school's students are 25680
entitled to attend school, the number of that district's students 25681
enrolled in the community school who are identified as 25682
limited-English proficient is multiplied by the district's per 25683
pupil amount received under division (F) of section 3317.029 of 25684

the Revised Code, as adjusted by any poverty-based assistance 25685
reduction factor of the community school. 25686

The district's per pupil amount under division (F) of section 25687
3317.029 of the Revised Code shall be determined as described in 25688
division (C)(6) of this section. 25689

(8) An amount equal to the sum of the amounts obtained when, 25690
for each school district where the community school's students are 25691
entitled to attend school, the district's per pupil amount 25692
received under division (G) of section 3317.029 of the Revised 25693
Code, as adjusted by any poverty-based assistance reduction factor 25694
of the community school, is multiplied by the sum of the 25695
following: 25696

(a) The number of the district's students enrolled in grades 25697
one through twelve in that community school; 25698

(b) One-half of the number of the district's students 25699
enrolled in kindergarten in that community school. 25700

The district's per pupil amount under division (G) of section 25701
3317.029 of the Revised Code shall be determined as described in 25702
division (C)(7) of this section. 25703

(9) An amount equal to the sum of the amounts obtained when, 25704
for each school district where the community school's students are 25705
entitled to attend school, the district's per pupil amount 25706
received under divisions (H) and (I) of section 3317.029 of the 25707
Revised Code, as adjusted by any poverty-based assistance 25708
reduction factor of the community school, is multiplied by the sum 25709
of the following: 25710

(a) The number of the district's students enrolled in grades 25711
one through twelve in that community school; 25712

(b) One-half of the number of the district's students 25713
enrolled in kindergarten in that community school. 25714

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.

(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under division (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student receiving special education and related services pursuant to an IEP for a handicap described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

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

(F) A community school may apply to the department of 25746
education for preschool handicapped or gifted unit funding the 25747
school would receive if it were a school district. Upon request of 25748
its governing authority, a community school that received unit 25749
funding as a school district-operated school before it became a 25750
community school shall retain any units awarded to it as a school 25751
district-operated school provided the school continues to meet 25752
eligibility standards for the unit. 25753

A community school shall be considered a school district and 25754
its governing authority shall be considered a board of education 25755
for the purpose of applying to any state or federal agency for 25756
grants that a school district may receive under federal or state 25757
law or any appropriations act of the general assembly. The 25758
governing authority of a community school may apply to any private 25759
entity for additional funds. 25760

(G) A board of education sponsoring a community school may 25761
utilize local funds to make enhancement grants to the school or 25762
may agree, either as part of the contract or separately, to 25763
provide any specific services to the community school at no cost 25764
to the school. 25765

(H) A community school may not levy taxes or issue bonds 25766
secured by tax revenues. 25767

(I) No community school shall charge tuition for the 25768
enrollment of any student. 25769

(J)(1)(a) A community school may borrow money to pay any 25770
necessary and actual expenses of the school in anticipation of the 25771
receipt of any portion of the payments to be received by the 25772
school pursuant to division (D) of this section. The school may 25773
issue notes to evidence such borrowing. The proceeds of the notes 25774
shall be used only for the purposes for which the anticipated 25775
receipts may be lawfully expended by the school. 25776

(b) A school may also borrow money for a term not to exceed 25777
fifteen years for the purpose of acquiring facilities. 25778

(2) Except for any amount guaranteed under section 3318.50 of 25779
the Revised Code, the state is not liable for debt incurred by the 25780
governing authority of a community school. 25781

(K) For purposes of determining the number of students for 25782
which divisions (D)(5) and (6) of this section applies in any 25783
school year, a community school may submit to the department of 25784
job and family services, no later than the first day of March, a 25785
list of the students enrolled in the school. For each student on 25786
the list, the community school shall indicate the student's name, 25787
address, and date of birth and the school district where the 25788
student is entitled to attend school. Upon receipt of a list under 25789
this division, the department of job and family services shall 25790
determine, for each school district where one or more students on 25791
the list is entitled to attend school, the number of students 25792
residing in that school district who were included in the 25793
department's report under section 3317.10 of the Revised Code. The 25794
department shall make this determination on the basis of 25795
information readily available to it. Upon making this 25796
determination and no later than ninety days after submission of 25797
the list by the community school, the department shall report to 25798
the state department of education the number of students on the 25799
list who reside in each school district who were included in the 25800
department's report under section 3317.10 of the Revised Code. In 25801
complying with this division, the department of job and family 25802
services shall not report to the state department of education any 25803
personally identifiable information on any student. 25804

(L) The department of education shall adjust the amounts 25805
subtracted and paid under divisions (C) and (D) of this section to 25806
reflect any enrollment of students in community schools for less 25807
than the equivalent of a full school year. The state board of 25808

education within ninety days after April 8, 2003, shall adopt in
accordance with Chapter 119. of the Revised Code rules governing
the payments to community schools under this section including
initial payments in a school year and adjustments and reductions
made in subsequent periodic payments to community schools and
corresponding deductions from school district accounts as provided
under divisions (C) and (D) of this section. For purposes of this
section:

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

(2) A student shall be considered to be enrolled in a
community school during a school year for the period of time
~~between~~ beginning on the later of the date on which the school
both has received documentation of the student's enrollment from a
parent and the student has commenced participation in learning
opportunities as defined in the contract with the sponsor, or
thirty days prior to the date on which the student is entered into
the education management information system established under
section 3301.0714 of the Revised Code. For purposes of applying
this division to a community school student, "learning
opportunities" shall be defined in the contract, which shall
describe both classroom-based and non-classroom-based learning
opportunities and shall be in compliance with criteria and
documentation requirements for student participation which shall
be established by the department. Any student's instruction time
in non-classroom-based learning opportunities shall be certified
by an employee of the community school. A student's enrollment
shall be considered to cease on the date on which any of the
following occur:

(a) The community school receives documentation from a parent

terminating enrollment of the student. 25841

(b) The community school is provided documentation of a 25842
student's enrollment in another public or private school. 25843

(c) The community school ceases to offer learning 25844
opportunities to the student pursuant to the terms of the contract 25845
with the sponsor or the operation of any provision of this 25846
chapter. 25847

(3) A student's percentage of full-time equivalency shall be 25848
considered to be the percentage the hours of learning opportunity 25849
offered to that student is of nine hundred and twenty hours. 25850
However, no internet- or computer-based community school shall be 25851
credited for any time a student spends participating in learning 25852
opportunities beyond ten hours within any period of twenty-four 25853
consecutive hours. 25854

(M) The department of education shall reduce the amounts paid 25855
under division (D) of this section to reflect payments made to 25856
colleges under division (B) of section 3365.07 of the Revised 25857
Code. 25858

(N)(1) No student shall be considered enrolled in any 25859
internet- or computer-based community school or, if applicable to 25860
the student, in any community school that is required to provide 25861
the student with a computer pursuant to division (C) of section 25862
3314.22 of the Revised Code, unless both of the following 25863
conditions are satisfied: 25864

(a) The student possesses or has been provided with all 25865
required hardware and software materials and all such materials 25866
are operational so that the student is capable of fully 25867
participating in the learning opportunities specified in the 25868
contract between the school and the school's sponsor as required 25869
by division (A)(23) of section 3314.03 of the Revised Code; 25870

(b) The school is in compliance with division (A)(1) or (2) 25871
of section ~~3314.032~~ 3314.22 of the Revised Code, relative to such 25872
student. 25873

(2) In accordance with policies adopted jointly by the 25874
superintendent of public instruction and the auditor of state, the 25875
department shall reduce the amounts otherwise payable under 25876
division (D) of this section to any ~~internet or computer based~~ 25877
community school that includes in its program the provision of 25878
computer hardware and software materials to ~~each~~ any student, if 25879
such hardware and software materials have not been delivered, 25880
installed, and activated for ~~all students~~ each such student in a 25881
timely manner or other educational materials or services have not 25882
been provided according to the contract between the individual 25883
community school and its sponsor. 25884

The superintendent of public instruction and the auditor of 25885
state shall jointly establish a method for auditing any community 25886
school to which this division pertains to ensure compliance with 25887
this section. 25888

The superintendent, auditor of state, and the governor shall 25889
jointly make recommendations to the general assembly for 25890
legislative changes that may be required to assure fiscal and 25891
academic accountability for such ~~internet or computer based~~ 25892
schools. 25893

(O)(1) If the department determines that a review of a 25894
community school's enrollment is necessary, such review shall be 25895
completed and written notice of the findings shall be provided to 25896
the governing authority of the community school and its sponsor 25897
within ninety days of the end of the community school's fiscal 25898
year, unless extended for a period not to exceed thirty additional 25899
days for one of the following reasons: 25900

(a) The department and the community school mutually agree to 25901

the extension.	25902
(b) Delays in data submission caused by either a community school or its sponsor.	25903 25904
(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:	25905 25906 25907 25908 25909
(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.	25910 25911 25912
(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.	25913 25914 25915 25916
(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.	25917 25918 25919 25920
(d) Any decision made by the board under this division is final.	25921 25922
(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.	25923 25924 25925 25926
<u>Sec. 3314.084.</u> (A) As used in this section:	25927
<u>(1) "Formula ADM" has the same meaning as in section 3317.03 of the Revised Code.</u>	25928 25929
<u>(2) "Home" has the same meaning as in section 3313.64 of the</u>	25930

Revised Code. 25931

(3) "School district of residence" has the same meaning as in 25932
section 3323.01 of the Revised Code; however, a community school 25933
established under this chapter is not a "school district of 25934
residence" for purposes of this section. 25935

(B) Notwithstanding anything to the contrary in section 25936
3314.08 or 3317.03 of the Revised Code, all of the following apply 25937
in the case of a child who is enrolled in a community school and 25938
is also living in a home: 25939

(1) For purposes of the report required under division (B)(1) 25940
of section 3314.08 of the Revised Code, the child's school 25941
district of residence, and not the school district in which the 25942
home that the child is living in is located, shall be considered 25943
to be the school district in which the child is entitled to attend 25944
school. That school district of residence, therefore, shall make 25945
the report required under division (B)(1) of section 3314.08 of 25946
the Revised Code with respect to the child. 25947

(2) For purposes of the report required under division (B)(2) 25948
of section 3314.08 of the Revised Code, the community school shall 25949
report the name of the child's school district of residence. 25950

(3) The child's school district of residence shall count the 25951
child in that district's formula ADM. 25952

(4) The school district in which the home that the child is 25953
living in is located shall not count the child in that district's 25954
formula ADM. 25955

(5) The Department of Education shall deduct the applicable 25956
amounts prescribed under division (C) of section 3314.08 and 25957
division (D) of section 3314.13 of the Revised Code from the 25958
child's school district of residence and shall not deduct those 25959
amounts from the school district in which the home that the child 25960

is living in is located. 25961

(6) The Department shall make the payments prescribed in 25962
divisions (D) and (E) of section 3314.08 and sections 3314.085 and 25963
3314.13 of the Revised Code, as applicable, to the community 25964
school. 25965

Sec. 3314.085. (A) The general assembly has determined that 25966
the base cost of operating an internet- or computer-based 25967
community school, after incurring start-up costs, is less than the 25968
base cost for other public schools. 25969

(B) A three-year pilot program is established for the payment 25970
of state base cost funds to internet- or computer-based community 25971
schools. The pilot program shall operate in fiscal years 2007, 25972
2008, and 2009. In each of those fiscal years: 25973

(1) Notwithstanding division (D)(1) of section 3314.08 of the 25974
Revised Code, the department of education shall pay each internet- 25975
or computer-based community school eighty per cent of the amount 25976
specified in that division instead of the full amount specified in 25977
that division. 25978

(2) In a fiscal year that constitutes the first or second 25979
fiscal year that an internet- or computer-based community school 25980
is open for business providing learning opportunities, regardless 25981
of whether the school is open for an entire school year during 25982
either fiscal year, the department shall pay the school the 25983
remaining twenty per cent of the amount calculated under division 25984
(D)(1) of section 3314.08 of the Revised Code for the school's 25985
start-up costs. 25986

(3) In each fiscal year after the second fiscal year that an 25987
internet- or computer-based community school is open for business 25988
providing learning opportunities, regardless of whether the school 25989
was open for an entire school year during either of the first two 25990

fiscal years, the school may apply to the department for a grant 25991
under division (C) of this section. 25992

(C) In each fiscal year under the pilot program, an internet- 25993
or computer-based community school that is open providing learning 25994
opportunities for a third or subsequent fiscal year may apply to 25995
the department for a grant to provide services that are in 25996
addition to or an enhancement to those required by law to be 25997
provided by internet- or computer-based community schools and are 25998
intended to substantially enhance student learning. The amount of 25999
the grant or grants awarded to an internet- or computer-based 26000
community school each fiscal year shall not exceed the remaining 26001
twenty per cent of the amount calculated for the school under 26002
division (D)(1) of section 3314.08 of the Revised Code. 26003

In the first fiscal year that a school applies for a grant, 26004
the department shall award grants based on a school's proposal for 26005
services stated in its application. Each grant awarded must 26006
contain an agreement between the school and the department that 26007
specifies the goal to be achieved, the actions to be taken, the 26008
methodology to measure the achievement of the goal, and the target 26009
to be met according to that methodology. A grant may not be 26010
renewed for a subsequent year unless the school meets the target 26011
specified in the grant agreement. 26012

The superintendent of public instruction shall adopt rules to 26013
operate the grant component of the pilot program. The rules shall 26014
specify types of services for which grants may be awarded. The 26015
superintendent may include in the rules any other requirements the 26016
superintendent determines necessary to operate the grant component 26017
of the pilot program. Each internet- or computer-based community 26018
school that applies for or receives a grant shall comply with the 26019
rules. 26020

(D) Not later than December 1, 2008, the superintendent shall 26021

report to the general assembly the department's findings and 26022
conclusions concerning the pilot program and recommendations for a 26023
permanent method of calculating and paying state base cost 26024
payments to internet- or computer-based community schools after 26025
fiscal year 2009. 26026

Sec. 3314.12. On or before the first day of November each 26027
year, the sponsor of each community school established under this 26028
chapter shall submit to the department of education, in accordance 26029
with guidelines adopted by the department for purposes of this 26030
section, a report that describes the special education and related 26031
services provided by that school to enrolled students during the 26032
previous fiscal year and the school's expenditures for those 26033
services. 26034

Sec. 3314.13. (A) As used in this section: 26035

(1) "All-day kindergarten" has the same meaning as in section 26036
3317.029 of the Revised Code. 26037

(2) "Formula amount" has the same meaning as in section 26038
3317.02 of the Revised Code. 26039

(B) The Except as provided in division (C) of this section, 26040
the department of education annually shall pay each community 26041
school established under this chapter one-half of the formula 26042
amount for each student to whom both of the following apply: 26043

(1) The student is entitled to attend school under section 26044
3313.64 or 3313.65 of the Revised Code in a school district that 26045
is eligible to receive a payment under division (D) of section 26046
3317.029 of the Revised Code if it provides all-day kindergarten; 26047

(2) The student is reported by the community school as 26048
enrolled in all-day kindergarten at the community school. 26049

(C) The department shall make no payments under this section 26050

to any internet- or computer-based community school. 26051

(D) If a student for whom payment is made under division (B) 26052
of this section is entitled to attend school in a district that 26053
receives any payment for all-day kindergarten under division (D) 26054
of section 3317.029 of the Revised Code, the department shall 26055
deduct the payment to the community school under this section from 26056
the amount paid that school district under that division. If that 26057
school district does not receive payment for all-day kindergarten 26058
under that division because it does not provide all-day 26059
kindergarten, the department shall pay the community school from 26060
state funds appropriated generally for ~~disadvantaged pupil impact~~ 26061
~~aid~~ poverty-based assistance to school districts. 26062

~~(D)~~(E) The department shall adjust the amounts deducted from 26063
school districts and paid to community schools under this section 26064
to reflect any enrollments of students in all-day kindergarten in 26065
community schools for less than the equivalent of a full school 26066
year. 26067

Sec. 3314.17. (A) Each community school established under 26068
this chapter shall participate in the statewide education 26069
management information system established under section 3301.0714 26070
of the Revised Code. All provisions of that section and the rules 26071
adopted under that section apply to each community school as if it 26072
were a school district, except as modified for community schools 26073
under division (B) of this section. 26074

(B) The rules adopted by the state board of education under 26075
section 3301.0714 of the Revised Code may distinguish methods and 26076
timelines for community schools to annually report data, which 26077
methods and timelines differ from those prescribed for school 26078
districts. Any methods and timelines prescribed for community 26079
schools shall be appropriate to the academic schedule and 26080
financing of community schools. The guidelines, however, shall not 26081

modify the actual data required to be reported under that section. 26082

~~(C) Each fiscal officer appointed under section 3314.011 of the Revised Code is responsible for annually reporting the community school's data under section 3301.0714 of the Revised Code. If the superintendent of public instruction determines that a community school fiscal officer has willfully failed to report data or has willfully reported erroneous, inaccurate, or incomplete data in any year, or has negligently reported erroneous, inaccurate, or incomplete data in the current and any previous year, the superintendent may impose a civil penalty of one hundred dollars on the fiscal officer after providing the officer with notice and an opportunity for a hearing in accordance with Chapter 119. of the Revised Code. The superintendent's Any time the department of education determines that a community school has taken any of the actions described under division (C)(1), (2), or (3) of this section, it shall make a report of the actions of the school, send a copy of the report to the sponsor of the school, and maintain a copy of the report in its files:~~ 26083
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(1) The community school fails to meet any deadline established pursuant to this section for the reporting of any data to the education management information system; 26100
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(2) The community school fails to meet any deadline established by the state board of education for the correction of any data reported to the education management information system; 26103
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(3) The community school reports data to the education management information system in a condition, as determined by the department, that indicates that the school did not make a good faith effort in reporting the data to the system. 26106
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Any report made under this division shall include recommendations for corrective action by the school. 26110
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Upon making a report for the first time in a fiscal year, the 26112

department shall withhold ten per cent of the total amount due 26113
during that fiscal year under sections 3314.08 and 3314.13 of the 26114
Revised Code to the community school to which the report applies. 26115
Upon making a second report in a fiscal year, the department shall 26116
withhold an additional twenty per cent of such total amount due 26117
during that fiscal year to the school to which the report applies. 26118
The department shall not release such funds unless it determines 26119
that the school has taken corrective action. However, no such 26120
release of funds shall occur if the school fails to take 26121
corrective action within forty-five days of the date upon which 26122
the report was made by the department. 26123

(D) The authority to ~~impose civil penalties~~ withhold funds 26124
under this division (C) of this section does not preclude the 26125
state board of education from suspending or revoking the license 26126
of a community school employee under division (N) of section 26127
3301.0714 of the Revised Code. 26128

~~(D)~~(E) No community school shall acquire, change, or update 26129
its student administration software package to manage and report 26130
data required to be reported to the department unless it converts 26131
to a student software package that is certified by the department. 26132

Sec. 3314.18. Each community school established under this 26133
chapter shall participate in project SOAR implemented by Battelle 26134
for Kids for the purpose of collecting information on the amount 26135
of student academic growth attributable to the instruction 26136
provided by the school. Each community school shall comply with 26137
all requirements for participation in project SOAR, including the 26138
administration of tests and the submission of student performance 26139
data. 26140

The department of education shall negotiate the cost of 26141
community school participation in project SOAR with Battelle for 26142
kids. In fiscal year 2006, each community school shall pay the 26143

cost of its participation in project SOAR. Beginning in fiscal 26144
year 2007, the department shall pay the cost of that 26145
participation. All payments, by either a community school or the 26146
department, shall be made directly to battelle for kids. No 26147
community school shall be required to contribute to the cost of 26148
its participation in project SOAR under this section. after fiscal 26149
year 2006. 26150

Sec. 3314.19. The department of education annually shall 26151
examine the data reported by each community school under sections 26152
3301.0714 and 3314.17 of the Revised Code about scores attained on 26153
the state proficiency and achievement tests, prescribed under 26154
section 3301.0710 of the Revised Code, by each student enrolled in 26155
the school at the end of the school year. If the department 26156
determines that any of that data is incomplete or inaccurate, the 26157
department shall notify the school of the incompleteness or 26158
inaccuracy and shall provide technical assistance to the school so 26159
that the school may revise its reports to completely and 26160
accurately reflect student test scores in sufficient time to be 26161
included in the department's report card for the school issued 26162
under section 3314.012 of the Revised Code. 26163

Sec. ~~3314.031~~ 3314.21. (A) As used in this section: 26164

(1) "Harmful to juveniles" has the same meaning as in section 26165
2907.01 of the Revised Code. 26166

(2) "Obscene" has the same meaning as in division (F) of 26167
section 2907.01 of the Revised Code as that division has been 26168
construed by the supreme court of this state. 26169

(3) "Teacher of record" means a teacher who is responsible 26170
for the overall academic development and achievement of a student 26171
and not merely the student's instruction in any single subject. 26172

(B) ~~It is the intent of the general assembly that teachers~~ 26173

~~employed by internet or computer based community schools conduct~~ 26174
~~visits with their students in person throughout the school year~~ 26175
(1) Each internet- or computer-based community school shall retain 26176
an affiliation with at least one full-time teacher of record 26177
licensed in accordance with division (A)(10) of section 3314.03 of 26178
the Revised Code and shall not rely exclusively on teachers 26179
engaged by any person or company from which the school has 26180
purchased its curriculum. 26181

(2) Each student enrolled in an internet- or computer-based 26182
community school shall be assigned to at least one teacher of 26183
record. No teacher of record shall be primarily responsible for 26184
the academic development and achievement of more than one hundred 26185
twenty-five students enrolled in the internet- or computer-based 26186
community school that has retained that teacher. 26187

(3) Each internet- or computer-based community school shall 26188
provide each student enrolled in the school with an in-person 26189
visit with a teacher, licensed in accordance with division (A)(10) 26190
of section 3314.03 of the Revised Code, for not less than one hour 26191
after every two hundred thirty hours of learning opportunities 26192
provided to that student by the school. 26193

(C) For any internet- or computer-based community school, the 26194
contract between the sponsor and the governing authority of the 26195
school described in section 3314.03 of the Revised Code shall 26196
specify each of the following: 26197

(1) A requirement that the school use a filtering device or 26198
install filtering software that protects against internet access 26199
to materials that are obscene or harmful to juveniles on each 26200
computer provided to students for instructional use. The school 26201
shall provide such device or software at no cost to any student 26202
who works primarily from the student's residence on a computer 26203
obtained from a source other than the school. 26204

(2) A plan for fulfilling the ~~intent of the general assembly~~ requirement specified in division (B)(3) of this section. The plan shall indicate the number of times teachers will visit each student throughout the school year and the manner in which those visits will be conducted.

(3) That the school will set up a central base of operation and the sponsor will maintain a representative within fifty miles of that base of operation to provide monitoring and assistance.

Sec. ~~3314.032~~ 3314.22. (A)(1) Each child enrolled in an internet- or computer-based community school is entitled to a computer supplied by the school. In no case shall an internet- or computer-based community school provide a stipend or other substitute to an enrolled child or the child's parent in lieu of supplying a computer to the child. The prohibition contained in the preceding sentence is intended to clarify the meaning of this division as it existed prior to the effective date of this amendment and is not intended to change that meaning in any way.

(2) Notwithstanding division (A)(1) of this section, if more than one child living in a single ~~household~~ residence is enrolled in an internet- or computer-based community school, at the option of the parent of those children, the school may supply less than one computer per child, as long as at least one computer is supplied to the ~~household~~ residence. The parent may amend the decision to accept less than one computer per child anytime during the school year, and, in such case, within thirty days after the parent notifies the school of such amendment, the school shall provide any additional computers requested by the parent up to the number necessary to comply with division (A)(1) of this section.

(B) Each internet- or computer-based community school shall provide to each parent who is considering enrolling the parent's child in the school and to the parent of each child already

enrolled in the school a written notice of the provisions 26236
prescribed in divisions (A)(1) and (2) of this section. 26237

(C) If a community school that is not an internet- or 26238
computer-based community school provides any of its enrolled 26239
students with nonclassroom-based learning opportunities provided 26240
via an internet- or other computer-based instructional method and 26241
requires such students to participate in any of those learning 26242
opportunities from their residences, the school shall be subject 26243
to this section and division (C)(1) of section 3314.21 of the 26244
Revised Code relative to each such student in the same manner as 26245
an internet- or computer-based community school, unless both of 26246
the following conditions apply to the student: 26247

(1) The nonclassroom-based learning opportunities in which 26248
the student is required to participate from the student's 26249
residence are supplemental or remedial in nature or do not 26250
constitute a significant portion of the total classroom-based and 26251
nonclassroom-based learning opportunities provided to the student 26252
by the school; 26253

(2) The student's residence is equipped with a computer 26254
available for the student's use. 26255

Sec. ~~3314.033~~ 3314.23. (A) Not later than ~~September 30, 2003~~ 26256
~~June 30, 2006~~, the state board of education shall ~~recommend to the~~ 26257
~~general assembly~~ adopt rules in accordance with Chapter 119. of 26258
the Revised Code establishing standards governing the operation of 26259
internet- or computer-based community schools, ~~as defined in~~ 26260
~~section 3314.02 of the Revised Code~~, and other educational courses 26261
delivered primarily via electronic media. The standards adopted by 26262
rule under this division may be the same standards recommended to 26263
the general assembly pursuant to the version of section 3314.033 26264
of the Revised Code in effect prior to the effective date of this 26265
amendment. 26266

(B) Each internet- or computer-based community school in operation on or after the effective date of this amendment shall comply with the rules adopted by the state board under division (A) of this section regardless of whether the school's contract with its sponsor contains a stipulation requiring compliance with those rules. 26267
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Sec. ~~3314.034~~ 3314.24. (A) On or after July 1, 2004, no internet- or computer-based community school shall enter into a contract with a nonpublic school to use or rent any facility space at the nonpublic school for the provision of instructional services to students enrolled in the internet- or computer-based community school. 26273
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(B) If, on or after July 1, 2004, an internet- or computer-based community school has a contract with a nonpublic school as described in division (A) of this section, the department of education shall not make any payments under section 3314.08 of the Revised Code to the internet- or computer-based community school for any student who is enrolled in the internet- or computer-based community school and receives any instructional services from the internet- or computer-based community school at the nonpublic school. 26279
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Sec. 3314.25. Each internet- or computer-based community school shall provide its students a location within a fifty-mile radius of the student's residence at which to complete the statewide achievement tests and diagnostic assessments prescribed under sections 3301.079 and 3301.0710 of the Revised Code. 26288
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Sec. 3314.26. (A) Each internet- or computer-based community school shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any test prescribed under section 3301.0710 or 26293
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3301.0712 of the Revised Code for the student's grade level and 26297
was not excused from the test pursuant to division (C)(1) or (3) 26298
of section 3301.0711 of the Revised Code. The school shall report 26299
the name of any such student to the department of education. The 26300
department shall maintain a list of all students reported under 26301
this division and section 3313.6410 of the Revised Code and 26302
provide that list to each internet- or computer-based community 26303
school and to each school to which section 3313.6410 of the 26304
Revised Code applies. 26305

(B) No internet- or computer-based community school shall 26306
enroll any student on the list maintained by the department under 26307
division (A) of this section. 26308

Sec. 3314.27. No student enrolled in an internet- or 26309
computer-based community school may participate in more than ten 26310
hours of learning opportunities in any period of twenty-four 26311
consecutive hours. Any time such a student participates in 26312
learning opportunities beyond the limit prescribed in this section 26313
shall not count toward the annual minimum number of hours required 26314
to be provided to that student as prescribed in division 26315
(A)(11)(a) of section 3314.03 of the Revised Code. If any 26316
internet- or computer-based community school requires its students 26317
to participate in learning opportunities on the basis of days 26318
rather than hours, one day shall consist of a minimum of five 26319
hours of such participation. 26320

Sec. 3314.28. (A) Each internet- or computer-based community 26321
school established under this chapter shall submit to the school's 26322
sponsor a plan for providing special education and related 26323
services to disabled students enrolled in the school in accordance 26324
with division (A)(1) or (2) of this section. 26325

(1) If the school was established prior to the effective date 26326

of this section, the plan shall be submitted to the sponsor on or 26327
before September 1, 2005, and on or before the first day of 26328
September in each year thereafter that the school is in operation. 26329

(2) If the school is established after the effective date of 26330
this section, the plan shall be submitted to the sponsor prior to 26331
the school's receipt of its first payment under this chapter and 26332
on or before the first day of September in each year thereafter 26333
that the school is in operation. 26334

(B) Within thirty days after receiving the plan prescribed in 26335
division (A) of this section, the sponsor of each internet- or 26336
computer-based community school shall certify all of the following 26337
to the department of education: 26338

(1) A statement of whether the plan received is satisfactory 26339
to the sponsor; 26340

(2) If the plan received is not satisfactory to the sponsor, 26341
the sponsor's assurance that it will promptly assist the school in 26342
developing a plan that is satisfactory to the sponsor; 26343

(3) The sponsor's assurance that it will monitor the 26344
implementation of the plan; 26345

(4) The sponsor's assurance that it will take any necessary 26346
corrective action to ensure that the school's plan is properly and 26347
fully implemented. 26348

(C) The department shall develop guidelines for the content 26349
and format of the plan required under this section. 26350

Sec. 3314.35. (A) This section applies to any community 26351
school established under this chapter that meets one or more of 26352
the following criteria: 26353

(1) The school is declared to be in need of continuous 26354
improvement, under an academic watch, or in a state of academic 26355

emergency pursuant to section 3302.03 of the Revised Code. 26356

(2) The school has not been in operation for at least two full school years. 26357
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(3) The school does not offer any grade level for which an achievement test is prescribed under section 3301.0710 of the Revised Code or the number of students enrolled in each grade level offered by the school for which an achievement test is prescribed is too small to yield statistically reliable data about student performance, as determined by the department of education. 26359
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(B) Beginning in the 2006-2007 school year, each community school to which this section applies shall administer a reading and mathematics assessment approved by the department in the fall and spring of the school year to each student who is enrolled in any of grades one through twelve to measure the academic progress made by students during the school year. For each grade level, the community school shall administer the same assessment in the spring that the school administers in the fall. 26365
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(C) Each community school that administers the assessments required by division (B) of this section shall be responsible for all costs associated with the administration and scoring of the assessments. Each community school shall report the scores of all students taking the assessments to the department in a manner prescribed by the department. 26373
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(D) The department shall establish a list of nationally normed assessments in reading and mathematics that it approves for use by community schools under this section. The department may approve assessments in other subject areas, but no community school shall be required to administer an assessment in a subject area other than reading or mathematics under this section. 26379
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(E) The sponsor of any community school to which this section does not apply may elect to have the school administer reading and 26385
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mathematics assessments in accordance with this section. 26387

Sec. 3314.36. (A) Not later than July 1, 2006, the state 26388
board of education shall adopt rules establishing reasonable 26389
standards for expected gains in student achievement between the 26390
fall and spring administrations of the reading and mathematics 26391
assessments administered under section 3314.35 of the Revised Code 26392
and for expected gains in the graduation rate. The standards may 26393
establish different levels of expected gains to correspond with 26394
differences in the baseline academic achievement levels of the 26395
students being assessed. 26396

(B) Any community school that is declared to be under an 26397
academic watch or in a state of academic emergency pursuant to 26398
section 3302.03 of the Revised Code after July 1, 2006, or to 26399
which division (A)(3) of section 3314.35 of the Revised Code 26400
applies shall be subject to division (C) of this section if either 26401
of the following apply to the school: 26402

(1) The percentage of the school's total student population 26403
showing the expected gains in student achievement established 26404
under division (A) of this section on the reading or mathematics 26405
assessments administered most recently under section 3314.35 of 26406
the Revised Code is less than the following, as applicable: 26407

(a) Fifty-five per cent for any school that has been in 26408
operation for two school years; 26409

(b) Sixty per cent for any school that has been in operation 26410
for three school years; 26411

(c) Sixty-five per cent for any school that has been in 26412
operation for four or more school years. 26413

(2) The school offers a high school diploma but is not 26414
showing the expected gains in the graduation rate established 26415
under division (A) of this section. 26416

A community school that has been in operation for one school year shall not be subject to division (C) of this section. 26417
26418

(C)(1) In the first school year that a community school is subject to division (C) of this section, the school shall develop and implement an improvement plan to address the school's poor academic performance. The sponsor of the school shall assist in the development of the improvement plan and shall approve the plan prior to implementation. The school shall file a copy of the improvement plan with the department of education. 26419
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(2) In the second consecutive school year that a community school is subject to division (C) of this section, the sponsor of the school shall pay to the department one-half of the total amount of the payments made by the school's governing authority to the sponsor under division (C) of section 3314.03 of the Revised Code for the school year or five thousand dollars, whichever is greater. 26426
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(3) In the third consecutive school year that a community school is subject to division (C) of this section, all of the following shall occur: 26433
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(a) The school shall be permanently closed at the conclusion of the school year. 26436
26437

(b) The sponsor of the school shall pay to the department the total amount of the payments made by the school's governing authority to the sponsor under division (C) of section 3314.03 of the Revised Code for the school year. 26438
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(c) The limit on the number of schools with which the sponsor may enter into a contract for sponsorship under division (B)(1) of section 3314.015 of the Revised Code shall be decreased by one. 26442
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(D) The sponsor of any community school that is declared to be in need of continuous improvement, effective, or excellent 26445
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pursuant to section 3302.03 of the Revised Code and offers one or 26447
more grade levels for which an achievement test is prescribed 26448
under section 3301.0710 of the Revised Code may elect to evaluate 26449
the performance of the school in accordance with division (B) of 26450
this section, provided the school administers reading and 26451
mathematics assessments under section 3314.35 of the Revised Code. 26452
If the sponsor so elects, the evaluation method shall be used for 26453
a minimum of three school years and shall be specified in the 26454
contract required by section 3314.03 of the Revised Code. Nothing 26455
in this division requires the sponsor of a community school that 26456
elects to evaluate the school in accordance with division (B) of 26457
this section to take any action specified in division (C) of this 26458
section, unless the contract requires such action. 26459

(E) In calculating the gains in student achievement 26460
demonstrated by a community school for the purposes of division 26461
(B) of this section, the department shall include the scores of 26462
all students who participated in the fall and spring 26463
administrations of the assessments administered under section 26464
3314.35 of the Revised Code. If the school's participation rate 26465
for any grade level is less than ninety-five per cent, the 26466
department shall calculate the gains in academic achievement 26467
demonstrated by the students in that grade level as if the 26468
participation rate was ninety-five per cent by assuming a score of 26469
zero for each student that it is necessary to add to the 26470
participation rate to make that rate equal ninety-five per cent. 26471

Sec. 3315.17. (A) The board of education of each city, 26472
exempted village, local, and joint vocational school district 26473
shall establish a textbook and instructional materials fund. Each 26474
board annually shall deposit into that fund an amount derived from 26475
revenues received by the district for operating expenses that is 26476
equal to three per cent of the formula amount for the preceding 26477

fiscal year, as defined in section 3317.02 of the Revised Code, or 26478
another percentage if established by the auditor of state under 26479
division (C) of this section, multiplied by the district's student 26480
population for the preceding fiscal year. Money in the fund shall 26481
be used solely for textbooks, instructional software, and 26482
instructional materials, supplies, and equipment. Any money in the 26483
fund that is not used in any fiscal year shall carry forward to 26484
the next fiscal year. 26485

(B)(1) Notwithstanding division (A) of this section, if in a 26486
fiscal year a district board deposits in the textbook and 26487
instructional materials fund an amount of money greater than the 26488
amount required to be deposited by this section or the rules 26489
adopted under division (C) of this section, the board may deduct 26490
the excess amount of money from the amount of money required to be 26491
deposited in succeeding fiscal years. 26492

(2) Notwithstanding division (A) of this section, in any year 26493
a district is in fiscal emergency status as declared pursuant to 26494
section 3316.03 of the Revised Code, the district may deposit an 26495
amount less than required by division (A) of this section, or make 26496
no deposit, into the district textbook and instructional materials 26497
fund for that year. 26498

(C) The state superintendent of public instruction and the 26499
auditor of state jointly shall adopt rules in accordance with 26500
Chapter 119. of the Revised Code defining what constitutes 26501
textbooks, instructional software, and instructional materials, 26502
supplies, and equipment for which money in a school district's 26503
textbook and instructional materials fund may be used. The auditor 26504
of state also may designate a percentage, other than three per 26505
cent, of the formula amount multiplied by the district's student 26506
population that must be deposited into the fund. 26507

(D) Notwithstanding division (A) of this section, a district 26508

board of education in any fiscal year may appropriate money in the 26509
district textbook and instructional materials fund for purposes 26510
other than those permitted by that division if both of the 26511
following occur during that fiscal year: 26512

(1) All of the following certify to the district board in 26513
writing that the district has sufficient textbooks, instructional 26514
software, and instructional materials, supplies, and equipment to 26515
ensure a thorough and efficient education within the district: 26516

(a) The district superintendent; 26517

(b) In districts required to have a business advisory 26518
council, a person designated by vote of the business advisory 26519
council; 26520

(c) If the district teachers are represented by an exclusive 26521
bargaining representative for purposes of Chapter 4117. of the 26522
Revised Code, the president of that organization or the 26523
president's designee. 26524

(2) The district board adopts, by unanimous vote of all 26525
members of the board, a resolution stating that the district has 26526
sufficient textbooks, instructional software, and instructional 26527
materials, supplies, and equipment to ensure a thorough and 26528
efficient education within the district. 26529

(E) Notwithstanding any provision to the contrary in Chapter 26530
4117. of the Revised Code, the requirements of this section 26531
prevail over any conflicting provisions of agreements between 26532
employee organizations and public employers entered into on or 26533
after November 21, 1997. 26534

(F) As used in this section and in section 3315.18 of the 26535
Revised Code, "student population" means the average, daily, 26536
full-time-equivalent number of students in kindergarten through 26537
twelfth grade receiving any educational services from the school 26538

district during the first full school week in October, excluding 26539
students enrolled in adult education classes, but including all of 26540
the following: 26541

(1) Adjacent or other district students enrolled in the 26542
district under an open enrollment policy pursuant to section 26543
3313.98 of the Revised Code; 26544

(2) Students receiving services in the district pursuant to a 26545
compact, cooperative education agreement, or a contract, but who 26546
are entitled to attend school in another district pursuant to 26547
section 3313.64 or 3313.65 of the Revised Code; 26548

(3) Students for whom tuition is payable pursuant to sections 26549
3317.081 and 3323.141 of the Revised Code. 26550

The department of education shall determine a district's 26551
student population using data reported to it under section 3317.03 26552
of the Revised Code for the applicable fiscal year. 26553

Sec. 3315.18. (A) The board of education of each city, 26554
exempted village, local, and joint vocational school district 26555
shall establish a capital and maintenance fund. Each board 26556
annually shall deposit into that fund an amount derived from 26557
revenues received by the district that would otherwise have been 26558
deposited in the general fund that is equal to three per cent of 26559
the formula amount for the preceding fiscal year, as defined in 26560
section 3317.02 of the Revised Code, or another percentage if 26561
established by the auditor of state under division (B) of this 26562
section, multiplied by the district's student population for the 26563
preceding fiscal year, except that money received from a permanent 26564
improvement levy authorized by section 5705.21 of the Revised Code 26565
may replace general revenue moneys in meeting the requirements of 26566
this section. Money in the fund shall be used solely for 26567
acquisition, replacement, enhancement, maintenance, or repair of 26568

permanent improvements, as that term is defined in section 5705.01 26569
of the Revised Code. Any money in the fund that is not used in any 26570
fiscal year shall carry forward to the next fiscal year. 26571

(B) The state superintendent of public instruction and the 26572
auditor of state jointly shall adopt rules in accordance with 26573
Chapter 119. of the Revised Code defining what constitutes 26574
expenditures permitted by division (A) of this section. The 26575
auditor of state may designate a percentage, other than three per 26576
cent, of the formula amount multiplied by the district's student 26577
population that must be deposited into the fund. 26578

(C) Within its capital and maintenance fund, a school 26579
district board of education may establish a separate account 26580
solely for the purpose of depositing funds transferred from the 26581
district's reserve balance account established under former 26582
division (H) of section 5705.29 of the Revised Code. After ~~the~~ 26583
~~effective date of this amendment~~ April 10, 2001, a board may 26584
deposit all or part of the funds formerly included in such reserve 26585
balance account in the separate account established under this 26586
section. Funds deposited in this separate account and interest on 26587
such funds shall be utilized solely for the purpose of providing 26588
the district's portion of the basic project costs of any project 26589
undertaken in accordance with Chapter 3318. of the Revised Code. 26590

(D) Notwithstanding division (A) of this section, in any year 26591
a district is in fiscal emergency status as declared pursuant to 26592
section 3316.03 of the Revised Code, the district may deposit an 26593
amount less than required by division (A) of this section, or make 26594
no deposit, into the district capital and maintenance fund for 26595
that year. 26596

(E) Notwithstanding any provision to the contrary in Chapter 26597
4117. of the Revised Code, the requirements of this section 26598
prevail over any conflicting provisions of agreements between 26599
employee organizations and public employers entered into after 26600

November 21, 1997. 26601

Sec. 3315.37. The board of education of a school district may 26602
establish a teacher education loan program and may expend school 26603
funds for the program. The program shall be for the purpose of 26604
making loans to students who are residents of the school district 26605
or graduates of schools in the school district, who are enrolled 26606
in teacher preparation programs at institutions approved by the 26607
state board pursuant to section 3319.23 of the Revised Code, and 26608
who indicate an intent to teach in the school district providing 26609
the loan. The district board may forgive the obligation to repay 26610
any or all of the principal and interest on the loan if the 26611
borrower teaches in that school district. 26612

The district board shall adopt rules establishing eligibility 26613
criteria, application procedures, procedures for review of 26614
applications, loan amounts, interest, repayment schedules, 26615
conditions under which principal and interest obligations incurred 26616
under the program will be forgiven, and any other matter 26617
incidental to the operation of the program. 26618

The board may contract with a private, nonprofit foundation, 26619
one or more institutions of higher education, or other educational 26620
agencies to administer the program. 26621

The receipt of a loan under this section does not affect a 26622
student's eligibility for assistance, or the amount of such 26623
assistance, granted under section 3315.33, 3333.12, 3333.122, 26624
3333.22, 3333.26, 3333.27, 5910.04, or 5919.34 of the Revised 26625
Code, but the board's rules may provide for taking such assistance 26626
into consideration when determining a student's eligibility for a 26627
loan under this section. 26628

Sec. 3316.043. Upon the approval by the superintendent of 26629
public instruction of an initial financial plan under section 26630

3316.04 of the Revised Code or a financial recovery plan under 26631
section 3316.06 of the Revised Code, the board of education of the 26632
school district for which the plan was approved shall revise the 26633
district's five-year projection of revenues and expenditures in 26634
accordance with rules adopted under section 5705.391 of the 26635
Revised Code so that the five-year projection is consistent with 26636
the financial plan or financial recovery plan. In the case of a 26637
school district declared to be in a state of fiscal emergency, the 26638
five-year projection shall be revised by the financial planning 26639
and supervision commission for that district. 26640

Sec. 3316.06. (A) Within one hundred twenty days after the 26641
first meeting of a school district financial planning and 26642
supervision commission, the commission shall adopt a financial 26643
recovery plan regarding the school district for which the 26644
commission was created. During the formulation of the plan, the 26645
commission shall seek appropriate input from the school district 26646
board and from the community. This plan shall contain the 26647
following: 26648

(1) Actions to be taken to: 26649

(a) Eliminate all fiscal emergency conditions declared to 26650
exist pursuant to division (B) of section 3316.03 of the Revised 26651
Code; 26652

(b) Satisfy any judgments, past-due accounts payable, and all 26653
past-due and payable payroll and fringe benefits; 26654

(c) Eliminate the deficits in all deficit funds, except that 26655
any prior year deficits in the textbook and instructional 26656
materials fund established pursuant to section 3315.17 of the 26657
Revised Code and the capital and maintenance fund established 26658
pursuant to section 3315.18 of the Revised Code shall be forgiven; 26659

(d) Restore to special funds any moneys from such funds that 26660

were used for purposes not within the purposes of such funds, or
borrowed from such funds by the purchase of debt obligations of
the school district with the moneys of such funds, or missing from
the special funds and not accounted for, if any;

(e) Balance the budget, avoid future deficits in any funds,
and maintain on a current basis payments of payroll, fringe
benefits, and all accounts;

(f) Avoid any fiscal emergency condition in the future;

(g) Restore the ability of the school district to market
long-term general obligation bonds under provisions of law
applicable to school districts generally.

(2) The management structure that will enable the school
district to take the actions enumerated in division (A)(1) of this
section. The plan shall specify the level of fiscal and management
control that the commission will exercise within the school
district during the period of fiscal emergency, and shall
enumerate respectively, the powers and duties of the commission
and the powers and duties of the school board during that period.
The commission may elect to assume any of the powers and duties of
the school board it considers necessary, including all powers
related to personnel, curriculum, and legal issues in order to
successfully implement the actions described in division (A)(1) of
this section.

(3) The target dates for the commencement, progress upon, and
completion of the actions enumerated in division (A)(1) of this
section and a reasonable period of time expected to be required to
implement the plan. The commission shall prepare a reasonable time
schedule for progress toward and achievement of the requirements
for the plan, and the plan shall be consistent with that time
schedule.

(4) The amount and purpose of any issue of debt obligations

that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the school district and the county auditor. Debt obligations issued pursuant to section 133.301 of the Revised Code shall include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval, during the period of the fiscal emergency, by district voters of a tax levied under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, or 5748.08 of the Revised Code, that is not a renewal or replacement levy and that will provide new operating revenue. Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, following the required approval of the district voters and with the approval of the commission, the school district may issue securities to evidence the restructuring or refinancing. Those securities may extend the original period for repayment, not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms of agreements under which the debt originally was contracted, at the discretion of the commission, provided that any loans received pursuant to section 3313.483 of the Revised Code shall be paid from funds the district would otherwise receive under sections 3317.022 to 3317.025 of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. The securities issued for the purpose of restructuring or refinancing the debt shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal for

the purpose of restructuring or refinancing debt under this section. 26725
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(B) Any financial recovery plan may be amended subsequent to its adoption. Each financial recovery plan shall be updated annually. 26727
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(C) Each school district financial planning and supervision commission shall submit the financial recovery plan it adopts or updates under this section to the state superintendent of public instruction for approval immediately following its adoption or updating. The state superintendent shall evaluate the plan and either approve or disapprove it within thirty calendar days from the date of its submission. If the plan is disapproved, the state superintendent shall recommend modifications that will render it acceptable. No financial planning and supervision commission shall implement a financial recovery plan that is adopted or updated on or after ~~the effective date of this amendment~~ April 10, 2001, unless the state superintendent has approved it. 26730
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Sec. 3316.16. (A) A school district financial planning and supervision commission, with respect to its functions under this chapter, shall continue in existence until such time as a determination is made under division (B) of this section that all of the following have occurred: 26742
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(1) An effective financial accounting and reporting system in accordance with section 3316.10 of the Revised Code is in the process of being implemented, and it is reasonably expected that this implementation will be completed within two years. 26747
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(2) All of the fiscal emergency conditions determined pursuant to division (B) of section 3316.03 of the Revised Code have been corrected or eliminated, and no new fiscal emergency conditions have occurred. 26751
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(3) The objectives of the financial recovery plan described 26755
in section 3316.06 of the Revised Code are being met. 26756

(4) The school district board has prepared a financial 26757
forecast for a five-year period in accordance with the standards 26758
issued by the auditor of state and an opinion has been rendered by 26759
the auditor of state that the financial forecast is considered to 26760
be nonadverse. The forecast shall display the district's projected 26761
compliance with sections 3315.17 and 3315.18 of the Revised Code 26762
beginning in the year the commission is proposed for termination. 26763

(B) The determination that all conditions listed in division 26764
(A) of this section for the termination of the existence of the 26765
commission and its functions exist may be made either by the 26766
auditor of state or by the commission and shall be certified to 26767
the commission, the auditor of state, the governor, the director 26768
of budget and management, and the budget commission, whereupon 26769
such commission and its functions under this chapter shall 26770
terminate. This determination shall be made by the auditor of 26771
state upon the filing with the auditor of state of a written 26772
request for such a determination by the school district board, the 26773
governor, or the commission, or may be made by the auditor of 26774
state upon the auditor of state's own initiative. 26775

(C) The commission shall prepare and submit at the time of 26776
such certification a final report of its activities, in such form 26777
as is appropriate for the purpose of providing a record of its 26778
activities and assisting other commissions created under this 26779
chapter in the conduct of their functions. All of the books and 26780
records of the commission shall be delivered to the auditor of 26781
state for retention and safekeeping. 26782

(D) Upon receipt of the certification provided for in 26783
division (B) of this section, the director of budget and 26784
management shall follow the procedures set forth in section 126.29 26785

of the Revised Code. 26786

(E) If, at the time of termination of the commission, an 26787
effective financial accounting and reporting system has not been 26788
fully implemented, the auditor of state shall monitor the progress 26789
of implementation and shall exercise authority under this section 26790
and Chapter 117. of the Revised Code to secure full implementation 26791
at the earliest time feasible but within two years after such 26792
termination. 26793

Sec. 3317.012. (A) The general assembly, having deliberated 26794
on the model with which to calculate the base cost of an adequate 26795
education per pupil, has made a policy decision to calculate that 26796
amount as consisting of the following building blocks: 26797

(1) Base classroom teachers; 26798

(2) Other personnel support, which includes additional 26799
teachers, such as music, arts, and physical education teachers 26800
funded by state, local, or federal funds or other funds that are 26801
above the base cost funding level, and other school personnel 26802
including administrators; 26803

(3) Nonpersonnel support. 26804

This model reflects policy decisions made by the general 26805
assembly concerning the cost of base classroom teachers, which 26806
decisions entail two policy variables: the number of students per 26807
base classroom teacher necessary for an adequate education and the 26808
average compensation for a base classroom teacher necessary for an 26809
adequate education. The model requires the general assembly to 26810
decide the amount of other personnel support necessary for an 26811
adequate education, and increase that amount from year to year by 26812
the same percentage as it increases the average compensation for 26813
base classroom teachers. The model finally requires the general 26814
assembly to decide the nonpersonnel costs necessary for an 26815

adequate education and to inflate the nonpersonnel costs from year 26816
to year using the projected inflationary measure for the gross 26817
domestic product deflator (all items) prepared by the bureau of 26818
labor statistics of the United States department of labor. 26819

(B)(1) For fiscal year 2006, the general assembly has 26820
resolved that a ratio of one base classroom teacher per twenty 26821
students is necessary for an adequate education. The general 26822
assembly has made a policy decision that the average compensation 26823
for base classroom teachers is \$53,680 for fiscal year 2006, which 26824
includes an amount for the value of fringe benefits. For fiscal 26825
year 2007, the general assembly has resolved that a ratio of one 26826
base classroom teacher per twenty students is necessary for an 26827
adequate education. The general assembly has made a policy 26828
decision that the average compensation for base classroom teachers 26829
is \$54,941, which includes an amount for the value of fringe 26830
benefits. Based on a ratio of twenty students per base classroom 26831
teacher, these amounts equal \$2,684 per pupil in fiscal year 2006 26832
and \$2,747 per pupil in fiscal year 2007. 26833

(2) The general assembly has made a policy decision that the 26834
per pupil cost of salary and benefits of other personnel support 26835
is \$1,807 in fiscal year 2006. Based on the percentage increase 26836
for the average compensation of base classroom teachers from 26837
fiscal year 2006 to fiscal year 2007, the per pupil cost of other 26838
personnel support is \$1,850 in fiscal year 2007. 26839

(3) The general assembly has made a policy decision that the 26840
per pupil cost of nonpersonnel support is \$792 in fiscal year 2006 26841
and \$806 in fiscal year 2007. The amount for fiscal year 2007 26842
reflects the projected inflationary measure for the gross domestic 26843
product deflator (all items) of 1.80%. 26844

(4) Based on the determinations specified in divisions (B)(1) 26845
to (3) of this section, the per-pupil base cost is \$5,283 in 26846

<u>fiscal year 2006 and \$5,403 in fiscal year 2007.</u>	26847
<u>(C) In addition to the per-pupil base cost as determined</u>	26848
<u>under divisions (A) and (B) of this section, the general assembly</u>	26849
<u>determines that the following base funding supplements shall be</u>	26850
<u>paid to each school district:</u>	26851
<u>(1) Base funding for large-group academic intervention for</u>	26852
<u>all students, based on 25 hours per group of students per year at</u>	26853
<u>an hourly rate of \$20.00 in fiscal year 2006 and \$20.40 in fiscal</u>	26854
<u>year 2007, as follows:</u>	26855
<u>large-group intervention units X 25 hours X hourly rate</u>	26856
<u>Where:</u>	26857
<u>(a) "Large-group intervention units" equals the district's</u>	26858
<u>formula ADM divided by 20;</u>	26859
<u>(b) "Hourly rate" equals \$20.00 in fiscal year 2006 and</u>	26860
<u>\$20.40 in fiscal year 2007.</u>	26861
<u>(2) Base funding for professional development, phased in</u>	26862
<u>according to the following formula:</u>	26863
<u>district's teacher factor X 0.045 X</u>	26864
<u>formula amount X phase-in percentage</u>	26865
<u>Where:</u>	26866
<u>(a) For each school district, the district's "teacher factor"</u>	26867
<u>is the district's formula ADM divided by 17;</u>	26868
<u>(b) "Phase-in percentage" equals 0.25 in fiscal year 2006 and</u>	26869
<u>0.50 in fiscal year 2007.</u>	26870
<u>(3) Base funding for data-based decision making, calculated</u>	26871
<u>according to the following formula:</u>	26872
<u>0.001 X formula amount X formula ADM</u>	26873
<u>(4) Base funding for professional development regarding</u>	26874
<u>data-based decision making, calculated according to the following</u>	26875

<u>formula:</u>	26876
<u>(0.20 X the district's teacher factor X 0.08 X formula amount) +</u>	26877
<u>(the district's principal factor X</u>	26878
<u>0.08 X formula amount)</u>	26879
<u>Where:</u>	26880
<u>(a) For each school district, the district's "teacher factor"</u>	26881
<u>is the district's formula ADM divided by 17;</u>	26882
<u>(b) For each school district, the district's "principal</u>	26883
<u>factor" is the district's formula ADM divided by 340.</u>	26884
<u>(D) The general assembly intends that school districts spend</u>	26885
<u>the state funds calculated and paid for each component of the</u>	26886
<u>building blocks methodology described in divisions (B)(1) to (3)</u>	26887
<u>and (C)(1) to (4) of this section according to the purposes</u>	26888
<u>described in those divisions.</u>	26889
Sec. 3317.013. This section does not apply to handicapped	26890
preschool students.	26891
Analysis of special education cost data has resulted in a	26892
finding that the average special education additional cost per	26893
pupil, including the costs of related services, can be expressed	26894
as a multiple of the base cost per pupil calculated under section	26895
3317.012 of the Revised Code. The multiples for the following	26896
categories of special education programs, as these programs are	26897
defined for purposes of Chapter 3323. of the Revised Code, and	26898
adjusted as provided in this section, are as follows:	26899
(A) A multiple of 0.2892 for students whose primary or only	26900
identified handicap is a speech and language handicap, as this	26901
term is defined pursuant to Chapter 3323. of the Revised Code;	26902
(B) A multiple of 0.3691 for students identified as specific	26903
learning disabled or developmentally handicapped, as these terms	26904
are defined pursuant to Chapter 3323. of the Revised Code, or	26905

other health handicapped-minor; 26906

(C) A multiple of 1.7695 for students identified as hearing 26907
handicapped, vision impaired, or severe behavior handicapped, as 26908
these terms are defined pursuant to Chapter 3323. of the Revised 26909
Code; 26910

(D) A multiple of 2.3646 for students identified as 26911
orthopedically handicapped, as this term is defined pursuant to 26912
Chapter 3323. of the Revised Code or other health handicapped - 26913
major; 26914

(E) A multiple of 3.1129 for students identified as 26915
multihandicapped, as this term is defined pursuant to Chapter 26916
3323. of the Revised Code; 26917

(F) A multiple of 4.7342 for students identified as autistic, 26918
having traumatic brain injuries, or as both visually and hearing 26919
disabled, as these terms are defined pursuant to Chapter 3323. of 26920
the Revised Code. 26921

In fiscal year 2004, the multiples specified in divisions (A) 26922
to (F) of this section shall be adjusted by multiplying them by 26923
0.88. In fiscal ~~year~~ years 2005, 2006, and 2007, the multiples 26924
specified in those divisions shall be adjusted by multiplying them 26925
by 0.90. 26926

Not later than the thirtieth day of May 30, in 2004, ~~and May~~ 26927
~~30, 2005, 2006, and 2007,~~ the department shall submit to the 26928
office of budget and management a report that specifies for each 26929
city, local, exempted village, and joint vocational school 26930
district the fiscal year allocation of the state and local shares 26931
of special education and related services additional weighted 26932
funding and federal special education funds passed through to the 26933
district. 26934

Sec. 3317.016. In addition to its form SF-3, or any successor 26935

to that form, the department of education shall publish on its web 26936
site a spreadsheet for each school district that specifies the 26937
constituent components of the district's "building blocks" funds, 26938
as follows: 26939

(A) For compensation of base classroom teachers, as described 26940
in division (B)(1) of section 3317.012 of the Revised Code, each 26941
spreadsheet shall specify the district's aggregate and per pupil 26942
amounts of state funds and of combined state and local funds, the 26943
average compensation decided by the general assembly for base 26944
classroom teachers, as specified in that division, and the number 26945
of base classroom teachers attributable to the district based on 26946
the student-teacher ratio decided by the general assembly, as 26947
specified in that division. 26948

(B) Each spreadsheet shall specify the district's aggregate 26949
and per pupil amounts of state funds and of combined state and 26950
local funds for each of the following: 26951

(1) Other personnel support, as described in division (B)(2) 26952
of section 3317.012 of the Revised Code; 26953

(2) Nonpersonnel support, as described in division (B)(3) of 26954
that section; 26955

(3) Academic intervention services, as described in division 26956
(C)(1) of that section; 26957

(4) Professional development, as described in division (C)(2) 26958
of that section; 26959

(5) Data-based decision making, as described in division 26960
(C)(3) of that section; 26961

(6) Professional development for data-based decision making, 26962
as described in division (C)(4) of that section. 26963

(C) Each spreadsheet shall separately specify the district's 26964
aggregate and per pupil state funds for each of the following 26965

<u>components of poverty-based assistance under section 3317.029 of</u>	26966
<u>the Revised Code:</u>	26967
<u>(1) Poverty-based assistance guarantee payment under division</u>	26968
<u>(B) of that section;</u>	26969
<u>(2) Academic intervention funding under division (C) of that</u>	26970
<u>section;</u>	26971
<u>(3) All-day kindergarten under division (D) of that section;</u>	26972
<u>(4) Class-size reduction under division (E) of that section;</u>	26973
<u>(5) Services to limited English proficient students under</u>	26974
<u>division (F) of that section;</u>	26975
<u>(6) Professional development, under division (G) of that</u>	26976
<u>section;</u>	26977
<u>(7) Dropout prevention under division (H) of that section;</u>	26978
<u>(8) Community outreach under division (I) of that section.</u>	26979
<u>Sec. 3317.017. (A) Not later than July 1, 2006, the</u>	26980
<u>superintendent of public instruction shall adopt a rule under</u>	26981
<u>which the superintendent may issue an order with respect to the</u>	26982
<u>spending, by a school district declared to be under an academic</u>	26983
<u>watch or in a state of academic emergency under section 3302.03 of</u>	26984
<u>the Revised Code, of the following state building block funds</u>	26985
<u>intended to pay instructional-related costs:</u>	26986
<u>(1) State funds for compensation of base classroom teachers,</u>	26987
<u>as described in division (B)(1) of section 3317.012 of the Revised</u>	26988
<u>Code;</u>	26989
<u>(2) State funds for academic intervention services under</u>	26990
<u>division (C)(1) of section 3317.012 and division (C) of section</u>	26991
<u>3317.029 of the Revised Code;</u>	26992
<u>(3) State funds for professional development under divisions</u>	26993

<u>(C)(2) and (4) of section 3317.012 and division (G) of section 3317.029 of the Revised Code;</u>	26994 26995
<u>(4) State funds for data based decision making under division (C)(3) of section 3317.012 of the Revised Code;</u>	26996 26997
<u>(5) The poverty-based assistance guarantee payment under division (B) of section 3317.029 of the Revised Code;</u>	26998 26999
<u>(6) State funds for all-day kindergarten under division (D) of section 3317.029 of the Revised Code;</u>	27000 27001
<u>(7) State funds for class-size reduction under division (E) of section 3317.029 of the Revised Code;</u>	27002 27003
<u>(8) State funds for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code;</u>	27004 27005 27006
<u>(9) State funds for dropout prevention under division (H) of section 3317.029 of the Revised Code;</u>	27007 27008
<u>(10) State funds for community outreach under division (I) of section 3317.029 of the Revised Code.</u>	27009 27010
<u>(B) The rule shall authorize the superintendent of public instruction to issue an order that does one or a combination of the following:</u>	27011 27012 27013
<u>(1) Requires the school district to periodically report to the superintendent of public instruction on its spending of the state funds paid for each building blocks component described in divisions (A)(1) to (10) of this section;</u>	27014 27015 27016 27017
<u>(2) Requires the district to establish a separate account for each of the building blocks components described in divisions (A)(1) to (10) of this section to which the district shall credit the state funds paid for each;</u>	27018 27019 27020 27021
<u>(3) Directs the district's spending of any or all of the</u>	27022

state funds paid for the components described in divisions (A)(1) to (10) of this section in accordance with the descriptions and requirements of sections 3317.012 and 3317.029 of the Revised Code. 27023
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(C) The rule shall specify situations in which the superintendent may issue an order and the types of orders the superintendent will issue for each of those situations. The rule, however, shall authorize the superintendent to issue orders in situations that are not enumerated or described in the rule. 27027
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(D) The board of education of each school district to which the superintendent of public instruction issues an order pursuant to the rule adopted under this section shall comply with that order. 27032
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Sec. 3317.02. As used in this chapter: 27036

(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts. 27037
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(B) "Formula amount" means the base cost for the fiscal year specified in division (B)(4) of section 3317.012 of the Revised Code. 27039
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(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM. 27042
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(D)~~(1)~~ "Formula ADM" means, for a city, local, or exempted village school district, the number reported pursuant to division (A) of section 3317.03 of the Revised Code, and for a joint 27050
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vocational school district, the number reported pursuant to 27053
division (D) of ~~that~~ section 3317.03 of the Revised Code. 27054

~~(2)(E)~~ "Three-year average formula ADM" means the average of 27055
formula ADMs for the current and preceding two fiscal years. 27056
~~However, as applicable in fiscal years 1999 and 2000, the~~ 27057
~~three year average for city, local, and exempted village school~~ 27058
~~districts shall be determined utilizing the FY 1997 ADM or FY 1998~~ 27059
~~ADM in lieu of formula ADM for fiscal year 1997 or 1998. In fiscal~~ 27060
~~years 2000 and 2001, the three year average for joint vocational~~ 27061
~~school districts shall be determined utilizing the average daily~~ 27062
~~membership reported in fiscal years 1998 and 1999 under division~~ 27063
~~(D) of section 3317.03 of the Revised Code in lieu of formula ADM~~ 27064
~~for fiscal years 1998 and 1999.~~ 27065

~~(E) "FY 1997 ADM" or "FY 1998 ADM" means the school~~ 27066
~~district's average daily membership reported for the applicable~~ 27067
~~fiscal year under the version of division (A) of section 3317.03~~ 27068
~~of the Revised Code in effect during that fiscal year, adjusted as~~ 27069
~~follows:~~ 27070

~~(1) Minus the average daily membership of handicapped~~ 27071
~~preschool children;~~ 27072

~~(2) Minus one half of the average daily membership attending~~ 27073
~~kindergarten;~~ 27074

~~(3) Minus three fourths of the average daily membership~~ 27075
~~attending a joint vocational school district;~~ 27076

~~(4) Plus the average daily membership entitled under section~~ 27077
~~3313.64 or 3313.65 of the Revised Code to attend school in the~~ 27078
~~district but receiving educational services in approved units from~~ 27079
~~an educational service center or another school district under a~~ 27080
~~compact or a cooperative education agreement, as determined by the~~ 27081
~~department;~~ 27082

~~(5) Minus the average daily membership receiving educational~~ 27083

~~services from the district in approved units but entitled under 27084~~
~~section 3313.64 or 3313.65 of the Revised Code to attend school in 27085~~
~~another school district, as determined by the department. 27086~~

(F)(1) "Category one special education ADM" means the average 27087
daily membership of handicapped children receiving special 27088
education services for the handicap specified in division (A) of 27089
section 3317.013 of the Revised Code and reported under division 27090
(B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code. 27091

(2) "Category two special education ADM" means the average 27092
daily membership of handicapped children receiving special 27093
education services for those handicaps specified in division (B) 27094
of section 3317.013 of the Revised Code and reported under 27095
division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised 27096
Code. 27097

(3) "Category three special education ADM" means the average 27098
daily membership of students receiving special education services 27099
for those handicaps specified in division (C) of section 3317.013 27100
of the Revised Code, and reported under division (B)(7) or 27101
(D)(2)(d) of section 3317.03 of the Revised Code. 27102

(4) "Category four special education ADM" means the average 27103
daily membership of students receiving special education services 27104
for those handicaps specified in division (D) of section 3317.013 27105
of the Revised Code and reported under division (B)(8) or 27106
(D)(2)(e) of section 3317.03 of the Revised Code. 27107

(5) "Category five special education ADM" means the average 27108
daily membership of students receiving special education services 27109
for the handicap specified in division (E) of section 3317.013 of 27110
the Revised Code and reported under division (B)(9) or (D)(2)(f) 27111
of section 3317.03 of the Revised Code. 27112

(6) "Category six special education ADM" means the average 27113
daily membership of students receiving special education services 27114

for the handicap specified in division (F) of section 3317.013 of	27115
the Revised Code and reported under division (B)(10) or (D)(2)(g)	27116
of section 3317.03 of the Revised Code.	27117
(7) "Category one vocational education ADM" means the average	27118
daily membership of students receiving vocational education	27119
services described in division (A) of section 3317.014 of the	27120
Revised Code and reported under division (B)(11) or (D)(2)(h) of	27121
section 3317.03 of the Revised Code.	27122
(8) "Category two vocational education ADM" means the average	27123
daily membership of students receiving vocational education	27124
services described in division (B) of section 3317.014 of the	27125
Revised Code and reported under division (B)(12) or (D)(2)(i) of	27126
section 3317.03 of the Revised Code.	27127
(G) "Handicapped preschool child" means a handicapped child,	27128
as defined in section 3323.01 of the Revised Code, who is at least	27129
age three but is not of compulsory school age, as defined in	27130
section 3321.01 of the Revised Code, and who is not currently	27131
enrolled in kindergarten.	27132
(H) "County MR/DD board" means a county board of mental	27133
retardation and developmental disabilities.	27134
(I) "Recognized valuation" means the amount calculated for a	27135
school district pursuant to section 3317.015 of the Revised Code.	27136
(J) "Transportation ADM" means the number of children	27137
reported under division (B)(13) of section 3317.03 of the Revised	27138
Code.	27139
(K) "Average efficient transportation use cost per student"	27140
means a statistical representation of transportation costs as	27141
calculated under division (D)(2) of section 3317.022 of the	27142
Revised Code.	27143
(L) "Taxes charged and payable" means the taxes charged and	27144

payable against real and public utility property after making the 27145
 reduction required by section 319.301 of the Revised Code, plus 27146
 the taxes levied against tangible personal property. 27147

(M) "Total taxable value" means the sum of the amounts 27148
 certified for a city, local, exempted village, or joint vocational 27149
 school district under divisions (A)(1) and (2) of section 3317.021 27150
 of the Revised Code. 27151

(N)(1) "Cost-of-doing-business factor" means the amount 27152
 indicated in this division for the county in which a city, local, 27153
 exempted village, or joint vocational school district is located, 27154
adjusted in accordance with division (N)(2) of this section. If a 27155
 city, local, or exempted village school district is located in 27156
 more than one county, the factor is the amount indicated for the 27157
 county to which the district is assigned by the state department 27158
 of education. If a joint vocational school district is located in 27159
 more than one county, the factor is the amount indicated for the 27160
 county in which the joint vocational school with the greatest 27161
 formula ADM operated by the district is located. 27162

COST-OF-DOING-BUSINESS 27163

COUNTY	FACTOR	AMOUNT	
Adams	1.0035		27165
Allen	1.0206		27166
Ashland	1.0297		27167
Ashtabula	1.0397		27168
Athens	1.0014		27169
Auglaize	1.0247		27170
Belmont	1.0064		27171
Brown	1.0177		27172
Butler	1.0646		27173
Carroll	1.0137		27174
Champaign	1.0446		27175
Clark	1.0447		27176

Clermont	1.0541	27177
Clinton	1.0329	27178
Columbiana	1.0214	27179
Coshocton	1.0173	27180
Crawford	1.0164	27181
Cuyahoga	1.0626	27182
Darke	1.0338	27183
Defiance	1.0146	27184
Delaware	1.0528	27185
Erie	1.0388	27186
Fairfield	1.0366	27187
Fayette	1.0319	27188
Franklin	1.0608	27189
Fulton	1.0330	27190
Gallia	1.0000	27191
Geauga	1.0501	27192
Greene	1.0444	27193
Guernsey	1.0066	27194
Hamilton	1.0750	27195
Hancock	1.0215	27196
Hardin	1.0356	27197
Harrison	1.0074	27198
Henry	1.0318	27199
Highland	1.0148	27200
Hocking	1.0188	27201
Holmes	1.0178	27202
Huron	1.0293	27203
Jackson	1.0138	27204
Jefferson	1.0073	27205
Knox	1.0279	27206
Lake	1.0524	27207
Lawrence	1.0081	27208
Licking	1.0381	27209

Logan	1.0385	27210
Lorain	1.0515	27211
Lucas	1.0390	27212
Madison	1.0488	27213
Mahoning	1.0346	27214
Marion	1.0306	27215
Medina	1.0536	27216
Meigs	1.0026	27217
Mercer	1.0203	27218
Miami	1.0411	27219
Monroe	1.0050	27220
Montgomery	1.0453	27221
Morgan	1.0089	27222
Morrow	1.0301	27223
Muskingum	1.0127	27224
Noble	1.0073	27225
Ottawa	1.0486	27226
Paulding	1.0115	27227
Perry	1.0160	27228
Pickaway	1.0391	27229
Pike	1.0103	27230
Portage	1.0472	27231
Preble	1.0442	27232
Putnam	1.0216	27233
Richland	1.0199	27234
Ross	1.0151	27235
Sandusky	1.0321	27236
Scioto	1.0012	27237
Seneca	1.0223	27238
Shelby	1.0278	27239
Stark	1.0255	27240
Summit	1.0542	27241
Trumbull	1.0351	27242

Tuscarawas	1.0089	27243
Union	1.0500	27244
Van Wert	1.0133	27245
Vinton	1.0095	27246
Warren	1.0658	27247
Washington	1.0060	27248
Wayne	1.0348	27249
Williams	1.0228	27250
Wood	1.0360	27251
Wyandot	1.0171	27252

(2) As used in this division, "multiplier" means the number 27253
for the corresponding fiscal year as follows: 27254

<u>FISCAL YEAR OF THE</u>	<u>MULTIPLIER</u>	27255
<u>COMPUTATION</u>		
<u>2006</u>	<u>5.0/7.5</u>	27256
<u>2007</u>	<u>2.5/7.5</u>	27257
<u>2008 and thereafter</u>	<u>0</u>	27258

Beginning in fiscal year 2006, the department annually shall 27259
adjust the cost-of-doing-business factor for each county in 27260
accordance with the following formula: 27261

[(the cost-of-doing-business factor specified in division 27262
(N)(1) of this section - 1) X multiplier] + 1 27263

The result of the calculation is the cost-of-doing-business 27264
factor. 27265

(O) "Tax exempt value" of a school district means the amount 27266
certified for a school district under division (A)(4) of section 27267
3317.021 of the Revised Code. 27268

(P) "Potential value" of a school district means the 27269
recognized valuation of a school district plus the tax exempt 27270
value of the district. 27271

(Q) "District median income" means the median Ohio adjusted 27272

gross income certified for a school district. On or before the 27273
first day of July of each year, the tax commissioner shall certify 27274
to the department of education for each city, exempted village, 27275
and local school district the median Ohio adjusted gross income of 27276
the residents of the school district determined on the basis of 27277
tax returns filed for the second preceding tax year by the 27278
residents of the district. 27279

(R) "Statewide median income" means the median district 27280
median income of all city, exempted village, and local school 27281
districts in the state. 27282

(S) "Income factor" for a city, exempted village, or local 27283
school district means the quotient obtained by dividing that 27284
district's median income by the statewide median income. 27285

(T) "Medically fragile child" means a child to whom all of 27286
the following apply: 27287

(1) The child requires the services of a doctor of medicine 27288
or osteopathic medicine at least once a week due to the 27289
instability of the child's medical condition. 27290

(2) The child requires the services of a registered nurse on 27291
a daily basis. 27292

(3) The child is at risk of institutionalization in a 27293
hospital, skilled nursing facility, or intermediate care facility 27294
for the mentally retarded. 27295

(U) A child may be identified as "other health 27296
handicapped-major" if the child's condition meets the definition 27297
of "other health impaired" established in rules adopted by the 27298
state board of education prior to July 1, 2001, and if either of 27299
the following apply: 27300

(1) The child is identified as having a medical condition 27301
that is among those listed by the superintendent of public 27302

instruction as conditions where a substantial majority of cases 27303
fall within the definition of "medically fragile child." The 27304
superintendent of public instruction shall issue an initial list 27305
no later than September 1, 2001. 27306

(2) The child is determined by the superintendent of public 27307
instruction to be a medically fragile child. A school district 27308
superintendent may petition the superintendent of public 27309
instruction for a determination that a child is a medically 27310
fragile child. 27311

(V) A child may be identified as "other health 27312
handicapped-minor" if the child's condition meets the definition 27313
of "other health impaired" established in rules adopted by the 27314
state board of education prior to July 1, 2001, but the child's 27315
condition does not meet either of the conditions specified in 27316
division (U)(1) or (2) of this section. 27317

(W) "SF-3 payment" means the sum of the payments to a school 27318
district in a fiscal year under divisions (A), (C)(1), (C)(4), 27319
(D), (E), and (F) of section 3317.022, divisions (J), (P), and (R) 27320
of section 3317.024, and sections 3317.029, 3317.0216, 3317.0217, 27321
3317.04, 3317.05, 3317.052, and 3317.053 of the Revised Code after 27322
making the adjustments required by sections 3313.981 and 3313.979 27323
of the Revised Code, divisions (B), (C), (D), (E), (K), (L), (M), 27324
and (N) of section 3317.023, and division (C) of section 3317.20 27325
of the Revised Code. 27326

Sec. 3317.021. (A) On or before the first day of June of each 27327
year, the tax commissioner shall certify to the department of 27328
education the following information for each city, exempted 27329
village, and local school district, and the information required 27330
by divisions (A)(1) and (2) of this section for each joint 27331
vocational school district, and it shall be used, along with the 27332
information certified under division (B) of this section, in 27333

making the computations for the district under sections 3317.022	27334
and 3317.0217 or section 3317.16 of the Revised Code:	27335
(1) The taxable value of real and public utility real	27336
property in the school district subject to taxation in the	27337
preceding tax year, by class and by county of location;	27338
(2) The taxable value of tangible personal property,	27339
including public utility personal property, subject to taxation by	27340
the district for the preceding tax year;	27341
(3)(a) The total property tax rate and total taxes charged	27342
and payable for the current expenses for the preceding tax year	27343
<u>for each city, local, and exempted village school district,</u>	27344
<u>including</u> the total property tax rate and the total taxes charged	27345
and payable to a joint vocational district for the preceding tax	27346
year that are limited to or to the extent apportioned to current	27347
expenses;	27348
(b) The portion of the amount of taxes charged and payable	27349
reported for each city, local, and exempted village school	27350
district under division (A)(3)(a) of this section <u>excluding those</u>	27351
<u>taxes</u> attributable to a joint vocational school district.	27352
(4) The value of all real and public utility real property in	27353
the school district exempted from taxation minus both of the	27354
following:	27355
(a) The value of real and public utility real property in the	27356
district owned by the United States government and used	27357
exclusively for a public purpose;	27358
(b) The value of real and public utility real property in the	27359
district exempted from taxation under Chapter 725. or 1728. or	27360
section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632,	27361
5709.73, or 5709.78 of the Revised Code.	27362
(5) The total federal adjusted gross income of the residents	27363

of the school district, based on tax returns filed by the 27364
residents of the district, for the most recent year for which this 27365
information is available. 27366

(B) On or before the first day of May each year, the tax 27367
commissioner shall certify to the department of education the 27368
total taxable real property value of railroads and, separately, 27369
the total taxable tangible personal property value of all public 27370
utilities for the preceding tax year, by school district and by 27371
county of location. 27372

(C) If a public utility has properly and timely filed a 27373
petition for reassessment under section 5727.47 of the Revised 27374
Code with respect to an assessment issued under section 5727.23 of 27375
the Revised Code affecting taxable property apportioned by the tax 27376
commissioner to a school district, the taxable value of, and taxes 27377
charged and payable on, public utility tangible personal property 27378
included in the certification under divisions (A)(2), (A)(3), and 27379
(B) of this section for the school district shall include only the 27380
amount of taxable value on the basis of which the public utility 27381
paid tax for the preceding year as provided in division (B)(1) or 27382
(2) of section 5727.47 of the Revised Code for a certification 27383
under divisions (A)(2) and (B) of this section, and shall include 27384
only the amount of taxes charged and payable that the public 27385
utility paid for the preceding year as provided in division (B)(1) 27386
or (2) of section 5727.47 of the Revised Code for a certification 27387
under division (A)(3) of this section. 27388

(D) If on the basis of the information certified under 27389
division (A) of this section, the department determines that any 27390
district fails in any year to meet the qualification requirement 27391
specified in division (A) of section 3317.01 of the Revised Code, 27392
the department shall immediately request the tax commissioner to 27393
determine the extent to which any school district income tax 27394
levied by the district under Chapter 5748. of the Revised Code 27395

shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (D)(3) of this section to the department. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district;

(3) Divide the amount estimated under division (D)(2) of this section by the product obtained under division (D)(1) of this section.

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

(1) Compute the following for each eligible district:

[(cost-of-doing-business factor X

the formula amount X

formula ADM) + the sum of the base funding supplements prescribed 27426
in divisions (C)(1) to (4) of section 3317.012 of the Revised 27427
Code] - 27428
(.023 X recognized valuation) 27429

If the difference obtained is a negative number, the 27430
district's computation shall be zero. 27431

(2) Compute both of the following for each school district: 27432

(a) The difference of (i) the district's fiscal year 2005 27433
base cost payment under the version of division (A)(1) of this 27434
section in effect in fiscal year 2005, minus (ii) the amount 27435
computed for the district for the current fiscal year under 27436
current division (A)(1) of this section; 27437

(b) The following amount: 27438
[(fiscal year 2005 base cost payment/fiscal year 2005 formula 27439
ADM) X current year formula ADM] minus the amount computed for the 27440
district under current division (A)(1) of this section 27441

If one of the amounts computed under division (A)(2)(a) or 27442
(b) of this section is a positive amount, the department shall pay 27443
the district that amount in addition to the amount calculated 27444
under division (A)(1) of this section. If both amounts are 27445
positive amounts, the department shall pay the district the lesser 27446
of the two amounts in addition to the amount calculated under 27447
division (A)(1) of this section. 27448

(3)(a) For each school district for which the tax exempt 27449
value of the district equals or exceeds twenty-five per cent of 27450
the potential value of the district, the department of education 27451
shall calculate the difference between the district's tax exempt 27452
value and twenty-five per cent of the district's potential value. 27453

(b) For each school district to which division (A)~~(2)~~(3)(a) 27454
of this section applies, the department shall adjust the 27455
recognized valuation used in the calculation under division (A)(1) 27456

of this section by subtracting from it the amount calculated under 27457
division (A)~~(2)~~(3)(a) of this section. 27458

(B) As used in this section: 27459

(1) The "total special education weight" for a district means 27460
the sum of the following amounts: 27461

(a) The district's category one special education ADM 27462
multiplied by the multiple specified in division (A) of section 27463
3317.013 of the Revised Code; 27464

(b) The district's category two special education ADM 27465
multiplied by the multiple specified in division (B) of section 27466
3317.013 of the Revised Code; 27467

(c) The district's category three special education ADM 27468
multiplied by the multiple specified in division (C) of section 27469
3317.013 of the Revised Code; 27470

(d) The district's category four special education ADM 27471
multiplied by the multiple specified in division (D) of section 27472
3317.013 of the Revised Code; 27473

(e) The district's category five special education ADM 27474
multiplied by the multiple specified in division (E) of section 27475
3317.013 of the Revised Code; 27476

(f) The district's category six special education ADM 27477
multiplied by the multiple specified in division (F) of section 27478
3317.013 of the Revised Code. 27479

(2) "State share percentage" means the percentage calculated 27480
for a district as follows: 27481

(a) Calculate the state base cost funding amount for the 27482
district for the fiscal year under division (A) of this section. 27483
If the district would not receive any state base cost funding for 27484
that year under that division, the district's state share 27485
percentage is zero. 27486

(b) If the district would receive state base cost funding	27487
under that division, divide that amount by an amount equal to the	27488
following:	27489
(Cost-of-doing-business factor X	27490
the formula amount X	27491
<u>formula ADM) + the sum of the base funding supplements prescribed</u>	27492
<u>in divisions (C)(1) to (4) of section 3317.012 of the Revised Code</u>	27493
The resultant number is the district's state share	27494
percentage.	27495
(3) "Related services" includes:	27496
(a) Child study, special education supervisors and	27497
coordinators, speech and hearing services, adaptive physical	27498
development services, occupational or physical therapy, teacher	27499
assistants for handicapped children whose handicaps are described	27500
in division (B) of section 3317.013 or division (F)(3) of section	27501
3317.02 of the Revised Code, behavioral intervention, interpreter	27502
services, work study, nursing services, and specialized	27503
integrative services as those terms are defined by the department;	27504
(b) Speech and language services provided to any student with	27505
a handicap, including any student whose primary or only handicap	27506
is a speech and language handicap;	27507
(c) Any related service not specifically covered by other	27508
state funds but specified in federal law, including but not	27509
limited to, audiology and school psychological services;	27510
(d) Any service included in units funded under former	27511
division (O)(1) of section 3317.023 of the Revised Code;	27512
(e) Any other related service needed by handicapped children	27513
in accordance with their individualized education plans.	27514
(4) The "total vocational education weight" for a district	27515
means the sum of the following amounts:	27516

(a) The district's category one vocational education ADM	27517
multiplied by the multiple specified in division (A) of section	27518
3317.014 of the Revised Code;	27519
(b) The district's category two vocational education ADM	27520
multiplied by the multiple specified in division (B) of section	27521
3317.014 of the Revised Code.	27522
(C)(1) The department shall compute and distribute state	27523
special education and related services additional weighted costs	27524
funds to each school district in accordance with the following	27525
formula:	27526
The district's state share percentage	27527
X the formula amount for the year	27528
for which the aid is calculated	27529
X the district's total special education weight	27530
(2) The attributed local share of special education and	27531
related services additional weighted costs equals:	27532
(1 - the district's state share percentage) X	27533
the district's total special education weight X	27534
the formula amount	27535
(3)(a) The department shall compute and pay in accordance	27536
with this division additional state aid to school districts for	27537
students in categories two through six special education ADM. If a	27538
district's costs for the fiscal year for a student in its	27539
categories two through six special education ADM exceed the	27540
threshold catastrophic cost for serving the student, the district	27541
may submit to the superintendent of public instruction	27542
documentation, as prescribed by the superintendent, of all its	27543
costs for that student. Upon submission of documentation for a	27544
student of the type and in the manner prescribed, the department	27545
shall pay to the district an amount equal to the sum of the	27546
following:	27547

(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost;	27548 27549
(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.	27550 27551 27552
(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals:	27553 27554
(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-five thousand dollars in fiscal year 2002 and , twenty-five thousand seven hundred dollars in fiscal years 2003, 2004, and 2005, <u>and</u> <u>twenty-six thousand five hundred dollars in fiscal years 2006 and 2007;</u>	27555 27556 27557 27558 27559 27560
(ii) For a student in the district's category six special education ADM, thirty thousand dollars in fiscal year 2002 and , thirty thousand eight hundred forty dollars in fiscal years 2003, 2004, and 2005, <u>and thirty-one thousand eight hundred dollars in fiscal years 2006 and 2007.</u>	27561 27562 27563 27564 27565
(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.	27566 27567 27568 27569 27570 27571 27572
(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2002, 2003, 2004, and , <u>2005, 2006, and 2007.</u>	27573 27574 27575
(b) For the provision of speech language pathology services to students, including students who do not have individualized	27576 27577

education programs prepared for them under Chapter 3323. of the 27578
Revised Code, and for no other purpose, the department of 27579
education shall pay each school district an amount calculated 27580
under the following formula: 27581

(formula ADM divided by 2000) X 27582

the personnel allowance X the state share percentage 27583

(5) In any fiscal year, a school district shall spend for 27584
purposes that the department designates as approved for special 27585
education and related services expenses at least the amount 27586
calculated as follows: 27587

(cost-of-doing-business factor X 27588

formula amount X the sum of categories 27589

one through six special education ADM) + 27590

(total special education weight X formula amount) 27591

The purposes approved by the department for special education 27592
expenses shall include, but shall not be limited to, 27593
identification of handicapped children, compliance with state 27594
rules governing the education of handicapped children and 27595
prescribing the continuum of program options for handicapped 27596
children, provision of speech language pathology services, and the 27597
portion of the school district's overall administrative and 27598
overhead costs that are attributable to the district's special 27599
education student population. 27600

The department shall require school districts to report data 27601
annually to allow for monitoring compliance with division (C)(5) 27602
of this section. The department shall annually report to the 27603
governor and the general assembly the amount of money spent by 27604
each school district for special education and related services. 27605

(6) In any fiscal year, a school district shall spend for the 27606
provision of speech language pathology services not less than the 27607
sum of the amount calculated under division (C)(1) of this section 27608

for the students in the district's category one special education 27609
ADM and the amount calculated under division (C)(4) of this 27610
section. 27611

(D)(1) As used in this division: 27612

(a) "Daily bus miles per student" equals the number of bus 27613
miles traveled per day, divided by transportation base. 27614

(b) "Transportation base" equals total student count as 27615
defined in section 3301.011 of the Revised Code, minus the number 27616
of students enrolled in preschool handicapped units, plus the 27617
number of nonpublic school students included in transportation 27618
ADM. 27619

(c) "Transported student percentage" equals transportation 27620
ADM divided by transportation base. 27621

(d) "Transportation cost per student" equals total operating 27622
costs for board-owned or contractor-operated school buses divided 27623
by transportation base. 27624

(2) Analysis of student transportation cost data has resulted 27625
in a finding that an average efficient transportation use cost per 27626
student can be calculated by means of a regression formula that 27627
has as its two independent variables the number of daily bus miles 27628
per student and the transported student percentage. For fiscal 27629
year 1998 transportation cost data, the average efficient 27630
transportation use cost per student is expressed as follows: 27631

51.79027 + (139.62626 X daily bus miles per student) + 27632
(116.25573 X transported student percentage) 27633

The department of education shall annually determine the 27634
average efficient transportation use cost per student in 27635
accordance with the principles stated in division (D)(2) of this 27636
section, updating the intercept and regression coefficients of the 27637
regression formula modeled in this division, based on an annual 27638

statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.

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

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

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

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

(a) Its county rough road percentage is higher than the 27669
statewide rough road percentage, as those terms are defined in 27670
division (D)(5) of this section; 27671

(b) Its district student density is lower than the statewide 27672
student density, as those terms are defined in that division. 27673

(5) The rough road subsidy paid to each district meeting the 27674
qualifications of division (D)(4) of this section shall be 27675
calculated in accordance with the following formula: 27676

(per rough mile subsidy X total rough road miles) X 27677
density multiplier 27678

where: 27679

(a) "Per rough mile subsidy" equals the amount calculated in 27680
accordance with the following formula: 27681

$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} -$$
 27682
$$\text{county rough road percentage}) / (\text{maximum rough road percentage} -$$
 27683
$$\text{statewide rough road percentage})]\}$$
 27684

(i) "Maximum rough road percentage" means the highest county 27685
rough road percentage in the state. 27686

(ii) "County rough road percentage" equals the percentage of 27687
the mileage of state, municipal, county, and township roads that 27688
is rated by the department of transportation as type A, B, C, E2, 27689
or F in the county in which the school district is located or, if 27690
the district is located in more than one county, the county to 27691
which it is assigned for purposes of determining its 27692
cost-of-doing-business factor. 27693

(iii) "Statewide rough road percentage" means the percentage 27694
of the statewide total mileage of state, municipal, county, and 27695
township roads that is rated as type A, B, C, E2, or F by the 27696
department of transportation. 27697

(b) "Total rough road miles" means a school district's total 27698

bus miles traveled in one year times its county rough road
percentage. 27699
27700

(c) "Density multiplier" means a figure calculated in 27701
accordance with the following formula: 27702

1 - [(minimum student density - district student 27703
density)/(minimum student density - 27704
statewide student density)] 27705

(i) "Minimum student density" means the lowest district 27706
student density in the state. 27707

(ii) "District student density" means a school district's 27708
transportation base divided by the number of square miles in the 27709
district. 27710

(iii) "Statewide student density" means the sum of the 27711
transportation bases for all school districts divided by the sum 27712
of the square miles in all school districts. 27713

(6) In addition to funds paid under divisions (D)(2) to (5) 27714
of this section, each district shall receive in accordance with 27715
rules adopted by the state board of education a payment for 27716
students transported by means other than board-owned or 27717
contractor-operated buses and whose transportation is not funded 27718
under division (J) of section 3317.024 of the Revised Code. The 27719
rules shall include provisions for school district reporting of 27720
such students. 27721

(E)(1) The department shall compute and distribute state 27722
vocational education additional weighted costs funds to each 27723
school district in accordance with the following formula: 27724

state share percentage X 27725
the formula amount X 27726
total vocational education weight 27727

In any fiscal year, a school district receiving funds under 27728

division (E)(1) of this section shall spend those funds only for 27729
the purposes that the department designates as approved for 27730
vocational education expenses. Vocational educational expenses 27731
approved by the department shall include only expenses connected 27732
to the delivery of career-technical programming to 27733
career-technical students. The department shall require the school 27734
district to report data annually so that the department may 27735
monitor the district's compliance with the requirements regarding 27736
the manner in which funding received under division (E)(1) of this 27737
section may be spent. 27738

(2) The department shall compute for each school district 27739
state funds for vocational education associated services in 27740
accordance with the following formula: 27741

state share percentage X .05 X 27742

the formula amount X the sum of categories one and two 27743

vocational education ADM 27744

In any fiscal year, a school district receiving funds under 27745
division (E)(2) of this section, or through a transfer of funds 27746
pursuant to division (L) of section 3317.023 of the Revised Code, 27747
shall spend those funds only for the purposes that the department 27748
designates as approved for vocational education associated 27749
services expenses, which may include such purposes as 27750
apprenticeship coordinators, coordinators for other vocational 27751
education services, vocational evaluation, and other purposes 27752
designated by the department. The department may deny payment 27753
under division (E)(2) of this section to any district that the 27754
department determines is not operating those services or is using 27755
funds paid under division (E)(2) of this section, or through a 27756
transfer of funds pursuant to division (L) of section 3317.023 of 27757
the Revised Code, for other purposes. 27758

(F) The actual local share in any fiscal year for the 27759
combination of special education and related services additional 27760

weighted costs funding calculated under division (C)(1) of this section, transportation funding calculated under divisions (D)(2) and (3) of this section, and vocational education and associated services additional weighted costs funding calculated under divisions (E)(1) and (2) of this section shall not exceed for any school district the product of three and three-tenths mills times the district's recognized valuation. The department annually shall pay each school district as an excess cost supplement any amount by which the sum of the district's attributed local shares for that funding exceeds that product. For purposes of calculating the excess cost supplement:

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

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

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

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

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

As used in this section:	27791
(1) "Classroom teacher" means a licensed employee who	27792
provides direct instruction to pupils, excluding teachers funded	27793
from money paid to the district from federal sources; educational	27794
service personnel; and vocational and special education teachers.	27795
(2) "Educational service personnel" shall not include such	27796
specialists funded from money paid to the district from federal	27797
sources or assigned full-time to vocational or special education	27798
students and classes and may only include those persons employed	27799
in the eight specialist areas in a pattern approved by the	27800
department of education under guidelines established by the state	27801
board of education.	27802
(3) "Annual salary" means the annual base salary stated in	27803
the state minimum salary schedule for the performance of the	27804
teacher's regular teaching duties that the teacher earns for	27805
services rendered for the first full week of October of the fiscal	27806
year for which the adjustment is made under division (C) of this	27807
section. It shall not include any salary payments for supplemental	27808
teachers contracts.	27809
(4) "Regular student population" means the formula ADM plus	27810
the number of students reported as enrolled in the district	27811
pursuant to division (A)(1) of section 3313.981 of the Revised	27812
Code; minus the number of students reported under division (A)(2)	27813
of section 3317.03 of the Revised Code; minus the FTE of students	27814
reported under division (B)(6), (7), (8), (9), (10), (11), or (12)	27815
of that section who are enrolled in a vocational education class	27816
or receiving special education; and minus twenty per cent of the	27817
students enrolled concurrently in a joint vocational school	27818
district.	27819
(5) "State share percentage" has the same meaning as in	27820
section 3317.022 of the Revised Code.	27821

(6) "VEPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of vocational education services to students within the district or group.

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

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

(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty-fifth;

(2) Subtract the quotient in (1) from the district's regular student population;

(3) Multiply the difference in (2) by seven hundred fifty-two dollars.

(C) If a positive amount, add one-half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:

(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;

(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.

The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's regular student population. In calculating the

district's mean salary under this division, those full-time 27852
equivalent classroom teachers with the highest training level 27853
shall be counted first, those with the next highest training level 27854
second, and so on, in descending order. Within the respective 27855
training levels, teachers with the highest years of service shall 27856
be counted first, the next highest years of service second, and so 27857
on, in descending order. 27858

(D) This division does not apply to a school district that 27859
has entered into an agreement under division (A) of section 27860
3313.42 of the Revised Code. Deduct the amount obtained from the 27861
following computations if the district employs fewer than five 27862
full-time equivalent educational service personnel, including 27863
elementary school art, music, and physical education teachers, 27864
counselors, librarians, visiting teachers, school social workers, 27865
and school nurses for each one thousand pupils in the regular 27866
student population: 27867

(1) Divide the number of full-time equivalent educational 27868
service personnel employed by the district by five 27869
one-thousandths; 27870

(2) Subtract the quotient in (1) from the district's regular 27871
student population; 27872

(3) Multiply the difference in (2) by ninety-four dollars. 27873

(E) If a local school district, or a city or exempted village 27874
school district to which a governing board of an educational 27875
service center provides services pursuant to section 3313.843 of 27876
the Revised Code, deduct the amount of the payment required for 27877
the reimbursement of the governing board under section 3317.11 of 27878
the Revised Code. 27879

(F)(1) If the district is required to pay to or entitled to 27880
receive tuition from another school district under division (C)(2) 27881
or (3) of section 3313.64 or section 3313.65 of the Revised Code, 27882

or if the superintendent of public instruction is required to 27883
determine the correct amount of tuition and make a deduction or 27884
credit under section 3317.08 of the Revised Code, deduct and 27885
credit such amounts as provided in division (J) of section 3313.64 27886
or section 3317.08 of the Revised Code. 27887

(2) For each child for whom the district is responsible for 27888
tuition or payment under division (A)(1) of section 3317.082 or 27889
section 3323.091 of the Revised Code, deduct the amount of tuition 27890
or payment for which the district is responsible. 27891

(G) If the district has been certified by the superintendent 27892
of public instruction under section 3313.90 of the Revised Code as 27893
not in compliance with the requirements of that section, deduct an 27894
amount equal to ten per cent of the amount computed for the 27895
district under section 3317.022 of the Revised Code. 27896

(H) If the district has received a loan from a commercial 27897
lending institution for which payments are made by the 27898
superintendent of public instruction pursuant to division (E)(3) 27899
of section 3313.483 of the Revised Code, deduct an amount equal to 27900
such payments. 27901

(I)(1) If the district is a party to an agreement entered 27902
into under division (D), (E), or (F) of section 3311.06 or 27903
division (B) of section 3311.24 of the Revised Code and is 27904
obligated to make payments to another district under such an 27905
agreement, deduct an amount equal to such payments if the district 27906
school board notifies the department in writing that it wishes to 27907
have such payments deducted. 27908

(2) If the district is entitled to receive payments from 27909
another district that has notified the department to deduct such 27910
payments under division (I)(1) of this section, add the amount of 27911
such payments. 27912

(J) If the district is required to pay an amount of funds to 27913

a cooperative education district pursuant to a provision described 27914
by division (B)(4) of section 3311.52 or division (B)(8) of 27915
section 3311.521 of the Revised Code, deduct such amounts as 27916
provided under that provision and credit those amounts to the 27917
cooperative education district for payment to the district under 27918
division (B)(1) of section 3317.19 of the Revised Code. 27919

(K)(1) If a district is educating a student entitled to 27920
attend school in another district pursuant to a shared education 27921
contract, compact, or cooperative education agreement other than 27922
an agreement entered into pursuant to section 3313.842 of the 27923
Revised Code, credit to that educating district on an FTE basis 27924
both of the following: 27925

(a) An amount equal to the greater of the following: 27926

(i) The fiscal year 2005 formula amount times the fiscal year 27927
2005 cost of doing business factor of the school district where 27928
the student is entitled to attend school pursuant to section 27929
3313.64 or 3313.65 of the Revised Code; 27930

(ii) The sum of (the current formula amount times the current 27931
cost-of-doing-business factor of the school district when the 27932
student is entitled to attend school pursuant to section 3313.64 27933
or 3313.65 of the Revised Code) plus the per pupil amount of the 27934
base funding supplements specified in divisions (C)(1) to (4) of 27935
section 3317.012 of the Revised Code. 27936

(b) An amount equal to the current formula amount times the 27937
state share percentage times any multiple applicable to the 27938
student pursuant to section 3317.013 or 3317.014 of the Revised 27939
Code. 27940

(2) Deduct any amount credited pursuant to division (K)(1) of 27941
this section from amounts paid to the school district in which the 27942
student is entitled to attend school pursuant to section 3313.64 27943
or 3313.65 of the Revised Code. 27944

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11 of the Revised Code.

(L)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the amounts calculated for all the school districts within that VEPD pursuant to division (E)(2) of section 3317.022 of the Revised Code.

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division (L)(1) of this section.

(M) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a handicapped student, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

(N)(1) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall pay that amount to the district.

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall deduct that amount from the district of residence of that child.

Sec. 3317.024. In addition to the moneys paid to eligible

school districts pursuant to section 3317.022 of the Revised Code, 27975
moneys appropriated for the education programs in divisions (A) to 27976
(H), (J) to (L), (O), (P), and (R) of this section shall be 27977
distributed to school districts meeting the requirements of 27978
section 3317.01 of the Revised Code; in the case of divisions (J) 27979
and (P) of this section, to educational service centers as 27980
provided in section 3317.11 of the Revised Code; in the case of 27981
divisions (E), (M), and (N) of this section, to county MR/DD 27982
boards; in the case of division (R) of this section, to joint 27983
vocational school districts; in the case of division (K) of this 27984
section, to cooperative education school districts; and in the 27985
case of division (Q) of this section, to the institutions defined 27986
under section 3317.082 of the Revised Code providing elementary or 27987
secondary education programs to children other than children 27988
receiving special education under section 3323.091 of the Revised 27989
Code. The following shall be distributed monthly, quarterly, or 27990
annually as may be determined by the state board of education: 27991

(A) A per pupil amount to each school district that 27992
establishes a summer school remediation program that complies with 27993
rules of the state board of education. 27994

(B) An amount for each island school district and each joint 27995
state school district for the operation of each high school and 27996
each elementary school maintained within such district and for 27997
capital improvements for such schools. Such amounts shall be 27998
determined on the basis of standards adopted by the state board of 27999
education. 28000

(C) An amount for each school district operating classes for 28001
children of migrant workers who are unable to be in attendance in 28002
an Ohio school during the entire regular school year. The amounts 28003
shall be determined on the basis of standards adopted by the state 28004
board of education, except that payment shall be made only for 28005
subjects regularly offered by the school district providing the 28006

classes. 28007

(D) An amount for each school district with guidance, 28008
testing, and counseling programs approved by the state board of 28009
education. The amount shall be determined on the basis of 28010
standards adopted by the state board of education. 28011

(E) An amount for the emergency purchase of school buses as 28012
provided for in section 3317.07 of the Revised Code; 28013

(F) An amount for each school district required to pay 28014
tuition for a child in an institution maintained by the department 28015
of youth services pursuant to section 3317.082 of the Revised 28016
Code, provided the child was not included in the calculation of 28017
the district's average daily membership for the preceding school 28018
year. 28019

(G) In fiscal year 2000 only, an amount to each school 28020
district for supplemental salary allowances for each licensed 28021
employee except those licensees serving as superintendents, 28022
assistant superintendents, principals, or assistant principals, 28023
whose term of service in any year is extended beyond the term of 28024
service of regular classroom teachers, as described in section 28025
3301.0725 of the Revised Code; 28026

(H) An amount for adult basic literacy education for each 28027
district participating in programs approved by the state board of 28028
education. The amount shall be determined on the basis of 28029
standards adopted by the state board of education. 28030

(I) Notwithstanding section 3317.01 of the Revised Code, but 28031
only until June 30, 1999, to each city, local, and exempted 28032
village school district, an amount for conducting driver education 28033
courses at high schools for which the state board of education 28034
prescribes minimum standards and to joint vocational and 28035
cooperative education school districts and educational service 28036
centers, an amount for conducting driver education courses to 28037

pupils enrolled in a high school for which the state board 28038
prescribes minimum standards. No payments shall be made under this 28039
division after June 30, 1999. 28040

(J) An amount for the approved cost of transporting 28041
developmentally handicapped eligible pupils with disabilities 28042
attending a special education program approved by the department 28043
of education whom it is impossible or impractical to transport by 28044
regular school bus in the course of regular route transportation 28045
provided by the district or service center. No district or service 28046
center is eligible to receive a payment under this division for 28047
the cost of transporting any pupil whom it transports by regular 28048
school bus and who is included in the district's transportation 28049
ADM. The state board of education shall establish standards and 28050
guidelines for use by the department of education in determining 28051
the approved cost of such transportation for each district or 28052
service center. 28053

(K) An amount to each school district, including each 28054
cooperative education school district, pursuant to section 3313.81 28055
of the Revised Code to assist in providing free lunches to needy 28056
children and an amount to assist needy school districts in 28057
purchasing necessary equipment for food preparation. The amounts 28058
shall be determined on the basis of rules adopted by the state 28059
board of education. 28060

(L) An amount to each school district, for each pupil 28061
attending a chartered nonpublic elementary or high school within 28062
the district. The amount shall equal the amount appropriated for 28063
the implementation of section 3317.06 of the Revised Code divided 28064
by the average daily membership in grades kindergarten through 28065
twelve in nonpublic elementary and high schools within the state 28066
as determined during the first full week in October of each school 28067
year. 28068

(M) An amount for each county MR/DD board, distributed on the 28069
basis of standards adopted by the state board of education, for 28070
the approved cost of transportation required for children 28071
attending special education programs operated by the county MR/DD 28072
board under section 3323.09 of the Revised Code; 28073

(N) An amount for each county MR/DD board, distributed on the 28074
basis of standards adopted by the state board of education, for 28075
supportive home services for preschool children; 28076

(O) An amount for each school district that establishes a 28077
mentor teacher program that complies with rules of the state board 28078
of education. No school district shall be required to establish or 28079
maintain such a program in any year unless sufficient funds are 28080
appropriated to cover the district's total costs for the program. 28081

(P) An amount to each school district or educational service 28082
center for the total number of gifted units approved pursuant to 28083
section 3317.05 of the Revised Code. The amount for each such unit 28084
shall be the sum of the minimum salary for the teacher of the 28085
unit, calculated on the basis of the teacher's training level and 28086
years of experience pursuant to the salary schedule prescribed in 28087
the version of section 3317.13 of the Revised Code in effect prior 28088
to July 1, 2001, plus fifteen per cent of that minimum salary 28089
amount, plus two thousand six hundred seventy-eight dollars. 28090

(Q) An amount to each institution defined under section 28091
3317.082 of the Revised Code providing elementary or secondary 28092
education to children other than children receiving special 28093
education under section 3323.091 of the Revised Code. This amount 28094
for any institution in any fiscal year shall equal the total of 28095
all tuition amounts required to be paid to the institution under 28096
division (A)(1) of section 3317.082 of the Revised Code. 28097

(R) A grant to each school district and joint vocational 28098
school district that operates a "graduation, reality, and 28099

dual-role skills" (GRADS) program for pregnant and parenting 28100
students that is approved by the department. The amount of the 28101
payment shall be the district's state share percentage, as defined 28102
in section 3317.022 or 3317.16 of the Revised Code, times the 28103
GRADS personnel allowance times the full-time-equivalent number of 28104
GRADS teachers approved by the department. The GRADS personnel 28105
allowance is \$47,555 in fiscal years 2004 ~~and~~, 2005, 2006, and 28106
2007. 28107

The state board of education or any other board of education 28108
or governing board may provide for any resident of a district or 28109
educational service center territory any educational service for 28110
which funds are made available to the board by the United States 28111
under the authority of public law, whether such funds come 28112
directly or indirectly from the United States or any agency or 28113
department thereof or through the state or any agency, department, 28114
or political subdivision thereof. 28115

Sec. 3317.026. (A) As used in this section, "refunded taxes" 28116
means taxes charged and payable from real and tangible personal 28117
property, including public utility property, that have been found 28118
to have been overpaid as the result of reductions in the taxable 28119
value of such property and that have been refunded, including any 28120
interest or penalty refunded with those taxes. If taxes are 28121
refunded over a period of time pursuant to division (B)(2), (3), 28122
or (4) of section 319.36 or division (C) of section 5727.471 of 28123
the Revised Code, the total amount of taxes required to be 28124
refunded, excluding any interest accruing after the day the 28125
undertaking is entered into, shall be considered to have been 28126
refunded on the day the first portion of the overpayment is paid 28127
or credited. 28128

(B) Not later than the last day of February each year, each 28129
county auditor shall certify to the tax commissioner, for each 28130

school district in the county, the amount of refunded taxes 28131
refunded in the preceding calendar year and the reductions in 28132
taxable value that resulted in those refunds, except for 28133
reductions in taxable value that previously have been reported to 28134
the tax commissioner on an abstract. If the tax commissioner 28135
determines that the amount of refunded taxes certified for a 28136
school district exceeds three per cent of the total taxes charged 28137
and payable for current expenses of the school district for the 28138
calendar year in which those taxes were refunded, the tax 28139
commissioner shall certify the reductions in taxable value that 28140
resulted in those refunds on or before the first day of June to 28141
the department of education. Upon receiving the certification by 28142
the tax commissioner, the department of education shall reduce the 28143
total taxable value of the school district, as defined in section 28144
3317.02 of the Revised Code, by the total amount of the reductions 28145
in taxable value that resulted in those refunds for the purpose of 28146
computing the ~~state aid~~ SF-3 payment for the school district for 28147
the current fiscal year ~~under section 3317.022 of the Revised~~ 28148
~~Code~~. The increase in the amount of such aid resulting from the 28149
adjustment required by this section shall be paid to the school 28150
district on or before the ~~thirtieth~~ thirty-first day of ~~June~~ July 28151
of the ~~current~~ following fiscal year. 28152

If an adjustment is made under this division in the amount of 28153
state aid paid to a school district, the tax value reductions from 28154
which that adjustment results shall not be used in recomputing aid 28155
to a school district under section 3317.027 of the Revised Code. 28156

~~(D)~~(C) If a school district received a grant from the 28157
catastrophic expenditures account pursuant to division (C) of 28158
section 3316.20 of the Revised Code on the basis of the same 28159
circumstances for which an adjustment is made under this section, 28160
the amount of the adjustment shall be reduced and transferred in 28161
accordance with division (C) of section 3316.20 of the Revised 28162

Code. 28163

(D) Not later than the first day of June each year, the tax 28164
commissioner shall certify to the department of education for each 28165
school district the total of the increases in taxable value above 28166
the amount of taxable value on which tax was paid, as provided in 28167
division (B)(1) or (2) of section 5727.47 of the Revised Code, as 28168
determined by the commissioner, and for which a notification was 28169
sent pursuant to section 5727.471 of the Revised Code, in the 28170
preceding calendar year. Upon receiving the certification, the 28171
department shall increase the total taxable value, as defined in 28172
section 3317.02 of the Revised Code, of the school district by the 28173
total amount of the increase in taxable value certified by the 28174
commissioner for the school district for the purpose of computing 28175
the school district's ~~state aid~~ SF-3 payment for the following 28176
fiscal year ~~under sections 3317.022 and 3317.0212 of the Revised~~ 28177
~~Code.~~ 28178

Sec. 3317.027. On or before the fifteenth day of May of each 28179
year, the tax commissioner shall certify to the department of 28180
education: 28181

(A) The amount by which applications filed under section 28182
5713.38 of the Revised Code or complaints filed under section 28183
5715.19 of the Revised Code resulted in a reduction in the second 28184
preceding year's taxable value in each school district in which 28185
such a reduction occurred, and the amount by which such reduction 28186
reduced the district's taxes charged and payable for such year; 28187
and 28188

(B) The taxes charged and payable for the second preceding 28189
tax year that were remitted under section 5713.081 of the Revised 28190
Code and the taxable value against which such taxes were imposed. 28191

Upon receipt of such certifications, the department shall 28192
recompute the ~~state aid for such year under section 3317.022 of~~ 28193

~~the Revised Code~~ district's SF-3 payment and determine the amount 28194
~~of aid that~~ the SF-3 payment would have been paid had the taxable 28195
value not been used in the computation made under division (A)(1) 28196
of section 3317.021 of the Revised Code and had the taxes charged 28197
and payable not been included in the certification made under 28198
division (A)(3) of such section. The department shall ~~adjust~~ 28199
calculate the amount that the remainder of the fiscal year's 28200
~~payments so the district's total payments should have been~~ for the 28201
fiscal year ~~equal~~ including the amount of the ~~recomputation~~ SF-3 28202
payment as recomputed. The increase or decrease in the amount of 28203
aid resulting from the adjustment required under this section 28204
shall be paid to the school district on or before the thirty-first 28205
day of July of the following fiscal year. 28206

If a school district received a grant from the catastrophic 28207
expenditures account pursuant to division (C) of section 3316.20 28208
of the Revised Code on the basis of the same circumstances for 28209
which a recomputation is made under this section, the amount of 28210
the recomputation shall be reduced and transferred in accordance 28211
with division (C) of section 3316.20 of the Revised Code. 28212

Sec. 3317.028. (A) On or before the fifteenth day of May in 28213
each calendar year prior to calendar year 2007, the tax 28214
commissioner shall determine for each school district whether the 28215
taxable value of all tangible personal property, including utility 28216
tangible personal property, subject to taxation by the district in 28217
the preceding tax year was less or greater than the taxable value 28218
of such property during the second preceding tax year. If any such 28219
decrease exceeds five per cent of the district's tangible personal 28220
property taxable value included in the total taxable value used in 28221
computing the district's ~~state-aid computation~~ SF-3 payment for 28222
the fiscal year that ends in the current calendar year, or if any 28223
such increase exceeds five per cent of the district's total 28224
taxable value used in computing the district's ~~state-aid~~ 28225

~~computation SF-3 payment~~ for the fiscal year that ends in the 28226
current calendar year, the tax commissioner shall certify both of 28227
the following to the department of education: 28228

(1) The taxable value of the tangible personal property 28229
increase or decrease, including utility tangible personal property 28230
increase or decrease, which shall be considered a change in 28231
valuation; 28232

(2) The decrease or increase in taxes charged and payable on 28233
such change in taxable value calculated in the same manner as in 28234
division (A)(3) of section 3317.021 of the Revised Code. 28235

~~(B) Notwithstanding division (A) of this section, when~~ 28236
~~determining under that division in calendar year 2002 whether the~~ 28237
~~taxable value of tangible personal property subject to taxation by~~ 28238
~~each school district in the preceding tax year was less or greater~~ 28239
~~than the taxable value of such property during the second~~ 28240
~~preceding tax year, the tax commissioner shall exclude from the~~ 28241
~~taxable value for both years the tax value loss, as defined in~~ 28242
~~section 5727.84 of the Revised Code On or before May 15, 2007, and~~ 28243
~~the fifteenth day of May in each calendar year thereafter, the tax~~ 28244
~~commissioner shall determine for each school district whether the~~ 28245
~~taxable value of all utility tangible personal property subject to~~ 28246
~~taxation by the district in the preceding tax year was less or~~ 28247
~~greater than the taxable value of such property during the second~~ 28248
~~preceding tax year. If any decrease exceeds five per cent of the~~ 28249
~~district's tangible personal property taxable value included in~~ 28250
~~the total taxable value used in the district's state aid~~ 28251
~~computation for the fiscal year that ends in the current calendar~~ 28252
~~year, or if any increase exceeds five per cent of the district's~~ 28253
~~total taxable value used in the district's state aid computation~~ 28254
~~for the fiscal year that ends in the current calendar year, the~~ 28255
~~tax commissioner shall certify both of the following to the~~ 28256
~~department of education:~~ 28257

(1) The taxable value of the utility tangible personal property increase or decrease, which shall be considered a change in valuation; 28258
28259
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(2) The decrease or increase in taxes charged and payable on such change in taxable value calculated in the same manner as in division (A)(3) of section 3317.021 of the Revised Code. 28261
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(C) Upon receipt of ~~such a~~ certification specified in this section, the department of education shall reduce or increase by the respective amounts certified, and the taxable value and the taxes charged and payable that were used in computing the district's ~~state aid computation under section 3317.022 of the Revised Code~~ SF-3 payment for the fiscal year that ends in the current calendar year and shall recompute the ~~state aid~~ SF-3 payment for such fiscal year. ~~During the last six months of the fiscal year, the~~ The department shall pay the district a sum equal to one-half of the recomputed payments in lieu of the payments otherwise required under ~~such sections~~ that section on or before the thirty-first day of July of the following fiscal year. 28264
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(D) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code. 28276
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Sec. 3317.029. (A) As used in this section: 28283

(1) "~~DP~~PIA Poverty percentage" means: 28284

~~(a) In fiscal years prior to fiscal year 2004,~~ the quotient 28285
obtained by dividing the five-year average number of children ages 28286
five to seventeen residing in the school district and living in a 28287

family receiving assistance under the Ohio works first program or 28288
an antecedent program known as TANF or ADC, as certified or 28289
adjusted under section 3317.10 of the Revised Code, by the 28290
district's three-year average formula ADM. 28291

~~(b) Beginning in fiscal year 2004, the unduplicated number of 28292
children ages five to seventeen residing in the school district 28293
and living in a family that has family income not exceeding the 28294
federal poverty guidelines and that receives family assistance, as 28295
certified or adjusted under section 3317.10 of the Revised Code, 28296
divided by the district's three-year average formula ADM. 28297~~

~~(2) "Family assistance" means assistance received under one 28298
of the following: 28299~~

~~(a) The Ohio works first program; 28300~~

~~(b) The food stamp program; 28301~~

~~(c) The medical assistance program, including the healthy 28302
start program, established under Chapter 5111. of the Revised 28303
Code; 28304~~

~~(d) The children's health insurance program part I 28305
established under section 5101.50 of the Revised Code or, prior to 28306
fiscal year 2000, an executive order issued under section 107.17 28307
of the Revised Code; 28308~~

~~(e) The disability financial assistance program established 28309
under Chapter 5115. of the Revised Code; 28310~~

~~(f) The disability medical assistance program established 28311
under Chapter 5115. of the Revised Code. 28312~~

~~(3) "Statewide DPIA poverty percentage" means: 28313~~

~~(a) In fiscal years prior to fiscal year 2004, the five-year 28314
average of the total number of children ages five to seventeen 28315
years residing in the state and receiving assistance under the 28316
Ohio works first program or an antecedent program known as TANF or 28317~~

ADC, divided by the sum of the three-year average formula ADMs for all school districts in the state. 28318
28319

~~(b) Beginning in fiscal year 2004, the total unduplicated number of children ages five to seventeen residing in the state and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, divided by the sum of the three-year average formula ADMs for all school districts in the state.~~ 28320
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~~(4)(3) "DPIA Poverty index" means the quotient obtained by dividing the school district's DPIA poverty percentage by the statewide DPIA poverty percentage.~~ 28326
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~~(5) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code.~~ 28329
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~~(6)(4) "DPIA Poverty student count" means:~~ 28331

~~(a) In fiscal years prior to fiscal year 2004, the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the Revised Code;~~ 28332
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~~(b) Beginning in fiscal year 2004, the unduplicated number of children ages five to seventeen residing in the school district and living in a family that has family income not exceeding the federal poverty guidelines and that receives family assistance, as certified or adjusted under section 3317.10 of the Revised Code.~~ 28338
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~~(7)(5) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten, excluding any kindergarten students reported under division (B)(3)(e) or (f) of section 3317.03 of the Revised Code.~~ 28343
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~~(8)(6) "Kindergarten through third grade ADM" means the~~ 28347

amount calculated as follows: 28348

(a) Multiply the kindergarten ADM by the sum of one plus the 28349
all-day kindergarten percentage; 28350

(b) Add the number of students in grades one through three; 28351

(c) Subtract from the sum calculated under division (A)(6)(b) 28352
of this section the number of special education students in grades 28353
kindergarten through three. 28354

~~(9) "Statewide average teacher salary" means forty two 28355
thousand four hundred sixty nine dollars in fiscal year 2002, and 28356
forty three thousand six hundred fifty eight dollars in fiscal 28357
year 2003, which includes an amount for the value of fringe 28358
benefits. 28359~~

~~(10) "Kindergarten through third grade ADM" shall not include 28360
any students reported under division (B)(3)(e) or (f) of section 28361
3317.03 of the Revised Code. 28362~~

(7) "All-day kindergarten" means a kindergarten class that is 28363
in session five days per week for not less than the same number of 28364
clock hours each day as for pupils in grades one through six. 28365

~~(11)(8) "All-day kindergarten percentage" means the 28366
percentage of a district's actual total number of students 28367
enrolled in kindergarten who are enrolled in all-day kindergarten. 28368~~

~~(12)(9) "Buildings with the highest concentration of need" 28369
means+ 28370~~

~~(a) In fiscal years prior to fiscal year 2004, the school 28371
buildings in a district with percentages of students in grades 28372
kindergarten through three receiving assistance under Ohio works 28373
first at least as high as the district-wide percentage of students 28374
receiving such assistance. 28375~~

~~(b) Beginning in fiscal year 2004, the school buildings in a 28376
district with percentages of students in grades kindergarten 28377~~

through three receiving family assistance at least as high as the 28378
district wide percentage of students receiving family assistance. 28379

(e) If, in any fiscal year, the information provided by the 28380
department of job and family services under section 3317.10 of the 28381
Revised Code is insufficient to determine the Ohio works first ~~or~~ 28382
~~family assistance~~ percentage in each building, "buildings with the 28383
highest concentration of need" has the meaning given in rules that 28384
the department of education shall adopt. The rules shall base the 28385
definition of "buildings with the highest concentration of need" 28386
on family income of students in grades kindergarten through three 28387
in a manner that, to the extent possible with available data, 28388
approximates the intent of this division and division ~~(G)~~(K) of 28389
this section to designate buildings where the Ohio works first ~~or~~ 28390
~~family assistance~~ percentage in those grades equals or exceeds the 28391
district-wide Ohio works first ~~or family assistance~~ percentage. 28392

(B) In addition to the amounts required to be paid to a 28393
school district under section 3317.022 of the Revised Code, a the 28394
department of education shall compute and distribute to each 28395
school district ~~shall receive~~ for poverty-based assistance the 28396
greater of the following: 28397

(1) The amount the district received in fiscal year 1998 2005 28398
for disadvantaged pupil impact aid pursuant to division (B) of 28399
section 3317.023 of the Revised Code as it existed at that time or 28400
the Section 41.10 of Am. Sub. H.B. 95 of the 125th General 28401
Assembly, as amended, minus the amount deducted from the district 28402
under Section 16 of Am. Sub. S.B. 2 of the 125th General Assembly 28403
that year for payments to internet- and computer-based community 28404
schools; 28405

(2) The sum of the computations made under divisions (C) to 28406
~~(E)~~(I) of this section. 28407

(C) A ~~supplemental~~ payment that may be utilized for measures 28408

~~related to safety and security and for remediation or similar~~ 28409
~~academic intervention programs, if the district's poverty index is~~ 28410
~~greater than or equal to 0.25, calculated as follows:~~ 28411

~~(1) If the DPIA index of the school district is greater than~~ 28412
~~or equal to thirty five hundredths, but less than one, an amount~~ 28413
~~obtained by multiplying the district's DPIA student count by two~~ 28414
~~hundred thirty dollars;~~ 28415

~~(2) If the DPIA index of the school district is greater than~~ 28416
~~or equal to one, an amount obtained by multiplying the DPIA index~~ 28417
~~by two hundred thirty dollars and multiplying that product by the~~ 28418
~~district's DPIA student count.~~ 28419

~~Except as otherwise provided in division (F) of this section,~~ 28420
~~beginning with the school year that starts July 1, 2002, each~~ 28421
~~school district annually shall use at least twenty per cent of the~~ 28422
~~funds calculated for the district under this division for~~ 28423
~~intervention services required by section 3313.608 of the Revised~~ 28424
~~Code.~~ 28425

(1) If the district's poverty index is greater than or equal 28426
to 0.25, calculate the district's level one amount for large-group 28427
academic intervention for all students as follows: 28428

(a) If the district's poverty index is greater than or equal 28429
to 0.25 but less than 0.75: 28430

large-group intervention units X hourly rate X 28431

level one hours X [(poverty index - 0.25)/0.5] 28432

X phase-in percentage 28433

Where: 28434

(i) "Large-group intervention units" equals the district's 28435
formula ADM divided by 20; 28436

(ii) "Hourly rate" equals \$20.00 in fiscal year 2006 and 28437
\$20.40 in fiscal year 2007; 28438

<u>(iii) "Level one hours" equals 25 in fiscal year 2006 and 30</u>	28439
<u>in fiscal year 2007;</u>	28440
<u>(iv) "Phase-in percentage" equals 0.60 in fiscal year 2006</u>	28441
<u>and 0.85 in fiscal year 2007.</u>	28442
<u>(b) If the district's poverty index is greater than or equal</u>	28443
<u>to 0.75:</u>	28444
<u>large-group intervention units X hourly rate X level one hours</u>	28445
<u>X phase-in percentage</u>	28446
<u>Where "large-group intervention units," "hourly rate," "level</u>	28447
<u>one hours," and "phase-in percentage" have the same meanings as in</u>	28448
<u>division (C)(1)(a) of this section.</u>	28449
<u>(2) If the district's poverty index is greater than or equal</u>	28450
<u>to 0.75, calculate the district's level two amount for</u>	28451
<u>medium-group academic intervention for impoverished students as</u>	28452
<u>follows:</u>	28453
<u>(a) If the district's poverty index is greater than or equal</u>	28454
<u>to 0.75 but less than 1.50:</u>	28455
<u>medium-group intervention units X hourly rate X</u>	28456
<u>{level one hours + [75 hours X ((poverty index - 0.75)/0.75)]}</u>	28457
<u>X phase-in percentage</u>	28458
<u>Where:</u>	28459
<u>(i) "Medium group intervention units" equals the district's</u>	28460
<u>poverty student count divided by 10;</u>	28461
<u>(ii) "Hourly rate," "level one hours," and "phase-in</u>	28462
<u>percentage" have the same meanings as in division (C)(1)(a) of</u>	28463
<u>this section.</u>	28464
	28465
<u>(b) If the district's poverty index is greater than or equal</u>	28466
<u>to 1.50:</u>	28467
<u>medium-group intervention units X hourly rate X level two hours</u>	28468

<u>X phase-in percentage</u>	28469
<u>Where:</u>	28470
<u>(i) "Medium group intervention units" has the same meaning as in division (C)(2)(a)(i) of this section;</u>	28471 28472
<u>(ii) "Hourly rate" and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;</u>	28473 28474
<u>(iii) "Level two hours" equals 100 hours in fiscal year 2006 and 105 hours in fiscal year 2007.</u>	28475 28476
<u>(3) If the district's poverty index is greater than or equal to 1.50, calculate the district's level three amount for small-group academic intervention for impoverished students as follows:</u>	28477 28478 28479 28480
<u>(a) If the district's poverty index is greater than or equal to 1.50 but less than 2.50:</u>	28481 28482
<u>small group intervention units X hourly rate X</u>	28483
<u>{level one hours + [level three hours X (poverty index - 1.50)]}</u>	28484
<u>X phase-in percentage</u>	28485
<u>Where:</u>	28486
<u>(i) "Small group intervention units" equals the district's poverty student count divided by five;</u>	28487 28488
<u>(ii) "Hourly rate," "level one hours," and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;</u>	28489 28490 28491
<u>(iii) "Level three hours" equals 350 hours in fiscal year 2006 and 385 hours in fiscal year 2007.</u>	28492 28493
<u>(b) If the district's poverty index is greater than or equal to 2.50:</u>	28494 28495
<u>small group intervention units X hourly rate X level three hours</u>	28496
<u>X phase-in percentage</u>	28497

<u>Where:</u>	28498
<u>(i) "Small group intervention units" has the same meaning as in division (C)(3)(a)(i) of this section;</u>	28499 28500
<u>(ii) "Hourly rate" and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;</u>	28501 28502
<u>(iii) "Level three hours" equals 375 hours in fiscal year 2006 and 415 hours in fiscal year 2007.</u>	28503 28504
<u>Any district that receives funds under division (C)(2) or (3) of this section annually shall submit to the department of education by a date established by the department a plan describing how the district will deploy those funds. The deployment measures described in that plan shall comply with any applicable spending requirements prescribed in division (J)(6) of this section or with any order issued by the superintendent of public instruction under section 3317.017 of the Revised Code.</u>	28505 28506 28507 28508 28509 28510 28511 28512
<u>(D) A payment for all-day kindergarten if the DPIA poverty index of the school district is greater than or equal to one 1.0 or if the district's three-year average formula ADM exceeded seventeen thousand five hundred, calculated. In addition, the department shall make a payment under this division to any school district that, in a prior fiscal year, qualified for this payment and provided all-day kindergarten, regardless of changes to the district's poverty index. The department shall calculate the payment under this division by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.</u>	28513 28514 28515 28516 28517 28518 28519 28520 28521 28522 28523
<u>(E) A class-size reduction payment based on calculating the number of new teachers necessary to achieve a lower student-teacher ratio, as follows:</u>	28524 28525 28526
<u>(1) Determine or calculate a formula number of teachers per</u>	28527

one thousand students based on the ~~DPIA~~ poverty index of the 28528
school district as follows: 28529

(a) If the ~~DPIA~~ poverty index of the school district is less 28530
than ~~six-tenths~~ 1.0, the formula number of teachers is ~~43.478~~ 28531
50.0, which is the number of teachers per one thousand students at 28532
a student-teacher ratio of ~~twenty-three~~ twenty to one; 28533

(b) If the ~~DPIA~~ poverty index of the school district is 28534
greater than or equal to ~~six-tenths~~ 1.0, but less than ~~two-and~~ 28535
~~one-half~~ 1.5, the formula number of teachers is calculated as 28536
follows: 28537

$$\frac{43.478 + \{[(\text{DPIA index} - 0.6) / 1.9] \times 23.188\}}{50.0 + \{[(\text{poverty index} - 1.0) / 0.5] \times 16.667\}}$$

28538
28539

Where ~~43.478~~ 50.0 is the number of teachers per one thousand 28540
students at a student-teacher ratio of ~~twenty-three~~ twenty to one; 28541
~~1.9~~ 0.5 is the interval from a ~~DPIA~~ poverty index of ~~six-tenths~~ 28542
1.0 to a ~~DPIA~~ poverty index of ~~two-and one-half~~ 1.5; and ~~23.188~~ 28543
16.667 is the difference in the number of teachers per one 28544
thousand students at a student-teacher ratio of fifteen to one and 28545
the number of teachers per one thousand students at a 28546
student-teacher ratio of ~~twenty-three~~ twenty to one. 28547

(c) If the ~~DPIA~~ poverty index of the school district is 28548
greater than or equal to ~~two-and one-half~~ 1.5, the formula number 28549
of teachers is 66.667, which is the number of teachers per one 28550
thousand students at a student-teacher ratio of fifteen to one. 28551

(2) Multiply the formula number of teachers determined or 28552
calculated in division (E)(1) of this section by the kindergarten 28553
through third grade ADM for the district and divide that product 28554
by one thousand; 28555

(3) Calculate the number of new teachers as follows: 28556

(a) Multiply the kindergarten through third grade ADM by 28557

~~43.478~~ 50.0, which is the number of teachers per one thousand 28558
students at a student-teacher ratio of ~~twenty-three~~ twenty to one, 28559
and divide that product by one thousand; 28560

(b) Subtract the quotient obtained in division (E)(3)(a) of 28561
this section from the product in division (E)(2) of this section. 28562

(4) Multiply the greater of the difference obtained under 28563
division (E)(3) of this section or zero by the statewide average 28564
teachers ~~salary~~ compensation. For this purpose, the "statewide 28565
average teacher compensation" is \$53,680 in fiscal year 2006 and 28566
\$54,941 in fiscal year 2007, which includes an amount for the 28567
value of fringe benefits. 28568

(F) A payment for services to limited English proficient 28569
students, if the district's poverty index is greater than or equal 28570
to 1.0 and the proportion of its students who are limited English 28571
proficient, as reported in 2003 on its school district report 28572
issued under section 3302.03 of the Revised Code for the 2002-2003 28573
school year, is greater than or equal to 2.0%, calculated as 28574
follows: 28575

(1) If the district's poverty index is greater than or equal 28576
to 1.0, but less than 1.75, determine the amount per limited 28577
English proficient student as follows: 28578

{0.125 + [0.125 X ((poverty index - 1.0)/0.75)]} X formula amount 28579

(2) If the district's poverty index is greater than or equal 28580
to 1.75, the amount per limited English proficient student equals: 28581
0.25 X formula amount 28582

(3) Multiply the per student amount determined for the 28583
district under division (F)(1) or (2) of this section by the 28584
number of the district's limited English proficient students, 28585
times a phase-in percentage of 0.40 in fiscal year 2006 and 0.70 28586
in fiscal year 2007. For purposes of this calculation, the number 28587
of limited English proficient students for each district shall be 28588

the number determined by the department when it calculated the 28589
district's percentage of limited English students for its school 28590
district report card issued in 2003 for the 2002-2003 school year. 28591

Not later than December 31, 2006, the department of education 28592
shall recommend to the general assembly and the director of budget 28593
and management a method of identifying the number of limited 28594
English proficient students for purposes of calculating payments 28595
under this division after fiscal year 2007. 28596

(G) A payment for professional development of teachers, if 28597
the district's poverty index is greater than or equal to 1.0, 28598
calculated as follows: 28599

(1) If the district's poverty index is greater than or equal 28600
to 1.0, but less than 1.75, determine the amount per teacher as 28601
follows: 28602

[(poverty index - 1.0)/ 0.75] X 0.045 X formula amount 28603

(2) If the district's poverty index is greater than or equal 28604
to 1.75, the amount per teacher equals: 28605

0.045 X formula amount 28606

(3) Determine the number of teachers, as follows: 28607

(formula ADM/17) 28608

(4) Multiply the per teacher amount determined for the 28609
district under division (G)(1) or (2) of this section by the 28610
number of teachers determined under division (G)(3) of this 28611
section, times a phase-in percentage of 0.40 in fiscal year 2006 28612
and 0.70 in fiscal year 2007. 28613

(H) A payment for dropout prevention, if the district is a 28614
big eight school district as defined in section 3314.02 of the 28615
Revised Code, calculated as follows: 28616

0.005 X formula amount X poverty index 28617

X formula ADM X phase-in percentage 28618

Where "phase-in percentage" equals 0.40 in fiscal year 2006 28619
and 0.70 in fiscal year 2007. 28620

(I) An amount for community outreach, if the district is an 28621
urban school district as defined in section 3314.02 of the Revised 28622
Code, calculated as follows: 28623

0.005 X formula amount X poverty index X 28624

formula ADM X phase-in percentage 28625

Where "phase-in percentage" equals 0.40 in fiscal year 2006 28626
and 0.70 in fiscal year 2007. 28627

(J) This division applies only to school districts whose DPIA 28628
poverty index is ~~one~~ 1.0 or greater. 28629

(1) Each school district subject to this division shall first 28630
utilize funds received under this section so that, when combined 28631
with other funds of the district, sufficient funds exist to 28632
provide all-day kindergarten to at least the number of children in 28633
the district's all-day kindergarten percentage. 28634

~~(2) Up to an amount equal to the district's DPIA index~~ 28635
~~multiplied by its DPIA student count multiplied by two hundred~~ 28636
~~thirty dollars of the money distributed under this section may be~~ 28637
~~utilized~~ Each school district shall use its payment under division 28638
(F) of this section for one or more of the following purposes: 28639

(a) To hire teachers for limited English proficient students 28640
or other personnel to provide intervention services for those 28641
students; 28642

(b) To contract for intervention services for those students; 28643

(c) To provide other services to assist those students in 28644
passing the third-grade reading achievement test, and to provide 28645
for those students the intervention services required by section 28646
3313.608 of the Revised Code. 28647

(3) Each school district shall use its payment under division 28648

(G) of this section for professional development of teachers or 28649
other licensed personnel providing educational services to 28650
students only in one or more of the following areas: 28651

(a) Data-based decision making; 28652

(b) Standards-based curriculum models; 28653

(c) Job-embedded professional development activities that are 28654
research-based, as defined in federal law. 28655

In addition, each district shall use the payment only to 28656
implement programs identified on a list of eligible professional 28657
development programs provided by the department of education. The 28658
department annually shall provide the list to each district 28659
receiving a payment under division (G) of this section. However, a 28660
district may apply to the department for a waiver to implement an 28661
alternative professional development program in one or more of the 28662
areas specified in divisions (J)(3)(a) to (c) of this section. If 28663
the department grants the waiver, the district may use its payment 28664
under division (G) of this section to implement the alternative 28665
program. 28666

(4) Each big eight school district shall use its payment 28667
under division (H) of this section either for preventing at-risk 28668
students from dropping out of school, for safety and security 28669
measures described in division (J)(5)(b) of this section, for 28670
academic intervention services described in division (J)(6) of 28671
this section, or for a combination of those purposes. Not later 28672
than September 1, 2005, the department of education shall provide 28673
each big eight school district with a list of dropout prevention 28674
programs that it has determined are successful. The department 28675
subsequently may update the list. Each district that elects to use 28676
its payment under division (H) of this section for dropout 28677
prevention shall use the payment only to implement a dropout 28678
prevention program specified on the department's list. However, a 28679

district may apply to the department for a waiver to implement an 28680
alternative dropout prevention program. If the department grants 28681
the waiver, the district may use its payment under division (H) of 28682
this section to implement the alternative program. 28683

(5) Each urban school district that has a poverty index 28684
greater than or equal to 1.0 shall use its payment under division 28685
(I) of this section for one or a combination of the following 28686
purposes: 28687

(a) To hire or contract for community liaison officers, 28688
attendance or truant officers, or safety and security personnel; 28689

(b) To implement programs designed to ensure that schools are 28690
free of drugs and violence and have a disciplined environment 28691
conducive to learning; 28692

(c) To implement academic intervention services described in 28693
division (J)(6) of this section. 28694

(6) Each school district with a poverty index greater than or 28695
equal to 1.0 shall use the amount of its payment under division 28696
(C) of this section, and may use any amount of its payment under 28697
division (H) or (I) of this section, for one or both of the 28698
following: 28699

~~(a) Programs designed to ensure that schools are free of~~ 28700
~~drugs and violence and have a disciplined environment conducive to~~ 28701
~~learning;~~ 28702

~~(b) Remediation academic intervention services for students~~ 28703
~~who have failed or are in danger of failing any of the tests~~ 28704
~~administered pursuant to section 3301.0710 of the Revised Code.~~ 28705

~~Beginning with the school year that starts on July 1, 2002,~~ 28706
~~each school district shall use at least twenty per cent of the~~ 28707
~~funds set aside for the purposes of divisions (F)(2)(a) and (b) of~~ 28708
~~this section to provide, including intervention services required~~ 28709

by section 3313.608 of the Revised Code. No district shall spend 28710
any portion of its payment under division (C) of this section for 28711
any other purpose. Notwithstanding any provision to the contrary 28712
in Chapter 4117. of the Revised Code, no collective bargaining 28713
agreement entered into after the effective date of this amendment 28714
shall require use of the payment for any other purpose. 28715

~~(3)(7)~~ Except as otherwise required by division ~~(G)(K)~~ or 28716
permitted under division ~~(K)(O)~~ of this section, all ~~other~~ 28717
~~remaining~~ funds distributed under this section to districts 28718
~~subject to this division with a poverty index greater than or~~ 28719
~~equal to 1.0~~ shall be utilized for the purpose of the third grade 28720
guarantee. The third grade guarantee consists of increasing the 28721
amount of instructional attention received per pupil in 28722
kindergarten through third grade, either by reducing the ratio of 28723
students to instructional personnel or by increasing the amount of 28724
instruction and curriculum-related activities by extending the 28725
length of the school day or the school year. 28726

School districts may implement a reduction of the ratio of 28727
students to instructional personnel through any or all of the 28728
following methods: 28729

(a) Reducing the number of students in a classroom taught by 28730
a single teacher; 28731

(b) Employing full-time educational aides or educational 28732
paraprofessionals issued a permit or license under section 28733
3319.088 of the Revised Code; 28734

(c) Instituting a team-teaching method that will result in a 28735
lower student-teacher ratio in a classroom. 28736

Districts may extend the school day either by increasing the 28737
amount of time allocated for each class, increasing the number of 28738
classes provided per day, offering optional academic-related 28739
after-school programs, providing curriculum-related extra 28740

curricular activities, or establishing tutoring or remedial 28741
services for students who have demonstrated an educational need. 28742
In accordance with section 3319.089 of the Revised Code, a 28743
district extending the school day pursuant to this division may 28744
utilize a participant of the work experience program who has a 28745
child enrolled in a public school in that district and who is 28746
fulfilling the work requirements of that program by volunteering 28747
or working in that public school. If the work experience program 28748
participant is compensated, the school district may use the funds 28749
distributed under this section for all or part of the 28750
compensation. 28751

Districts may extend the school year either through adding 28752
regular days of instruction to the school calendar or by providing 28753
summer programs. 28754

~~(G)~~(K) Each district ~~subject to division (F) of this section~~ 28755
shall not expend any funds received under division (E) of this 28756
section in any school buildings that are not buildings with the 28757
highest concentration of need, unless there is a ratio of 28758
instructional personnel to students of no more than fifteen to one 28759
in each kindergarten and first grade class in all buildings with 28760
the highest concentration of need. This division does not require 28761
that the funds used in buildings with the highest concentration of 28762
need be spent solely to reduce the ratio of instructional 28763
personnel to students in kindergarten and first grade. A school 28764
district may spend the funds in those buildings in any manner 28765
permitted by division ~~(F)~~(3)~~(J)~~(7) of this section, but may not 28766
spend the money in other buildings unless the fifteen-to-one ratio 28767
required by this division is attained. 28768

~~(H)~~(L)(1) By the first day of August of each fiscal year, 28769
each school district wishing to receive any funds under division 28770
(D) of this section shall submit to the department of education an 28771
estimate of its all-day kindergarten percentage. Each district 28772

shall update its estimate throughout the fiscal year in the form 28773
and manner required by the department, and the department shall 28774
adjust payments under this section to reflect the updates. 28775

(2) Annually by the end of December, the department of 28776
education, utilizing data from the information system established 28777
under section 3301.0714 of the Revised Code and after consultation 28778
with the legislative office of education oversight, shall 28779
determine for each school district subject to division ~~(F)~~(J) of 28780
this section whether in the preceding fiscal year the district's 28781
ratio of instructional personnel to students and its number of 28782
kindergarten students receiving all-day kindergarten appear 28783
reasonable, given the amounts of money the district received for 28784
that fiscal year pursuant to divisions (D) and (E) of this 28785
section. If the department is unable to verify from the data 28786
available that students are receiving reasonable amounts of 28787
instructional attention and all-day kindergarten, given the funds 28788
the district has received under this section and that class-size 28789
reduction funds are being used in school buildings with the 28790
highest concentration of need as required by division ~~(G)~~(K) of 28791
this section, the department shall conduct a more intensive 28792
investigation to ensure that funds have been expended as required 28793
by this section. The department shall file an annual report of its 28794
findings under this division with the chairpersons of the 28795
committees in each house of the general assembly dealing with 28796
finance and education. 28797

~~(I) Any~~ (M)(1) Each school district with a ~~DPIA~~ poverty index 28798
less than ~~one~~ 1.0 and a three-year average formula ADM exceeding 28799
seventeen thousand five hundred shall first utilize funds received 28800
under this section so that, when combined with other funds of the 28801
district, sufficient funds exist to provide all-day kindergarten 28802
to at least the number of children in the district's all-day 28803
kindergarten percentage. ~~Such a district~~ 28804

(2) Each school district with a poverty index less than 1.0 that receives a payment under division (C) of this section shall use its payment under that division in accordance with all requirements of division (J)(6) of this section. 28805
28806
28807
28808

(3) Each school district with a poverty index less than 1.0 that receives a payment under division (I) of this section shall use its payment under that division for one or a combination of the following purposes: 28809
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28811
28812

(a) To hire or contract for community liaison officers, attendance or truant officers, or safety and security personnel; 28813
28814

(b) To implement programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning; 28815
28816
28817

(c) To implement academic intervention services described in division (J)(6) of this section. 28818
28819

(4) Each school district to which division (M)(1), (2), or (3) of this section applies shall expend at least seventy per cent of the remaining funds received under this section, and any other district with a DPIA poverty index less than one 1.0 shall expend at least seventy per cent of all funds received under this section, for any of the following purposes: 28820
28821
28822
28823
28824
28825

+1)(a) The purchase of technology for instructional purposes for remediation; 28826
28827

+2)(b) All-day kindergarten; 28828

+3)(c) Reduction of class sizes in grades kindergarten through three, as described in division (J)(7) of this section; 28829
28830

+4)(d) Summer school remediation; 28831

+5)(e) Dropout prevention programs approved by the department of education under division (J)(4) of this section; 28832
28833

(6) (f) Guaranteeing that all third graders are ready to progress to more advanced work;	28834 28835
(7) (g) Summer education and work programs;	28836
(8) (h) Adolescent pregnancy programs;	28837
(9) (i) Head start or , <u>preschool, early childhood education, or early learning</u> programs;	28838 28839
(10) (j) Reading improvement <u>and remediation</u> programs described by the department of education;	28840 28841
(11) (k) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;	28842 28843 28844
(12) (l) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section 3313.642 of the Revised Code;	28845 28846 28847 28848 28849 28850
(13) (m) School breakfasts provided pursuant to section 3313.813 of the Revised Code.	28851 28852
Each district shall submit to the department, in such format and at such time as the department shall specify, a report on the programs for which it expended funds under this division.	28853 28854 28855
(J) (N) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten.	28856 28857 28858 28859 28860 28861 28862 28863

The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section.

~~(K)~~(O)(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met:

(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten.

(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section.

(2) A district may use a portion of the funds described in division ~~(F)~~~~(3)~~(J)(7) of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the department, in a manner satisfactory to the department.

Sec. 3317.0216. (A) As used in this section:

(1) "Total taxes charged and payable for current expenses" means the sum of the taxes charged and payable as certified under division (A)(3)(a) of section 3317.021 of the Revised Code less any amounts reported under division (A)(3)(b) of that section, and the tax distribution for the preceding year under any school district income tax levied by the district pursuant to Chapter 5748. of the Revised Code to the extent the revenue from the income tax is allocated or apportioned to current expenses.

(2) "Charge-off amount" means the product obtained by

multiplying two and three-tenths per cent by recognized valuation. 28894

(3) Until fiscal year 2003, the "actual local share of 28895
special education, transportation, and vocational education 28896
funding" for any school district means the sum of the district's 28897
attributed local shares described in divisions (F)(1) to (3) of 28898
section 3317.022 of the Revised Code. Beginning in fiscal year 28899
2003, the "actual local share of special education, 28900
transportation, and vocational education funding" means that sum 28901
minus the amount of any excess cost supplement payment calculated 28902
for the district under division (F) of section 3317.022 of the 28903
Revised Code. 28904

(4) "Current expense revenues from the tangible property tax 28905
replacement fund" means payments received from the school district 28906
tangible property tax replacement fund or the general revenue fund 28907
under section 5751.21 of the Revised Code for fixed-rate levies 28908
for current expenses and for fixed-sum levies for current 28909
expenses, including school district emergency levies under 28910
sections 5705.194 to 5705.197 of the Revised Code. 28911

(B) Upon receiving the certifications under section 3317.021 28912
of the Revised Code, the department of education shall determine 28913
for each city, local, and exempted village school district whether 28914
the district's charge-off amount is greater than the sum of the 28915
district's total taxes charged and payable for current expenses 28916
and current expense revenues from the tangible property tax 28917
replacement fund, and if ~~it~~ the charge-off amount is greater, 28918
shall pay the district the amount of the difference. A payment 28919
shall not be made to any school district for which the computation 28920
under division (A) of section 3317.022 of the Revised Code equals 28921
zero. 28922

(C)(1) If a district's charge-off amount is equal to or 28923
greater than the sum of its total taxes charged and payable for 28924

current expenses and current expense revenues from the tangible 28925
property tax replacement fund, the department shall, in addition 28926
to the payment required under division (B) of this section, pay 28927
the district the amount of its actual local share of special 28928
education, transportation, and vocational education funding. 28929

(2) If a district's charge-off amount is less than the sum of 28930
its total taxes charged and payable for current expenses and 28931
current expense revenues from the tangible property tax 28932
replacement fund, the department shall pay the district any amount 28933
by which its actual local share of special education, 28934
transportation, and vocational education funding exceeds the sum 28935
of its total taxes charged and payable for current expenses and 28936
current expense revenues from the tangible property tax 28937
replacement fund minus its charge-off amount. 28938

(D) If a school district that received a payment under 28939
division (B) or (C) of this section in the prior fiscal year is 28940
ineligible for payment under those divisions in the current fiscal 28941
year, the department shall determine if the ineligibility is the 28942
result of a property tax or income tax levy approved by the 28943
district's voters to take effect in tax year 2005 or thereafter. 28944
If the department determines that is the case, and calculates that 28945
the levy causing the ineligibility exceeded by at least one mill 28946
the equivalent millage of the prior year's payment under divisions 28947
(B) and (C) of this section, the department shall make a payment 28948
to the district for the first three years that the district loses 28949
eligibility for payment under divisions (B) and (C) of this 28950
section, as follows: 28951

(1) In the first year of ineligibility, the department shall 28952
pay the district seventy-five per cent of the amount it last paid 28953
the district under divisions (B) and (C) of this section. 28954

(2) In the second year of ineligibility, the department shall 28955
pay the district fifty per cent of the amount it last paid the 28956

<u>district under those divisions.</u>	28957
<u>(3) In the third year of ineligibility, the department shall</u>	28958
<u>pay the district twenty-five per cent of the amount it last paid</u>	28959
<u>the district under those divisions.</u>	28960
<u>(E) A district that receives payment under division (D) of</u>	28961
<u>this section and subsequently qualifies for payment under division</u>	28962
<u>(B) or (C) of this section is ineligible for future payments under</u>	28963
<u>division (D) of this section.</u>	28964
Sec. 3317.0217. The department of education shall annually	28965
compute and pay state parity aid to school districts, as follows:	28966
(A) Calculate the local wealth per pupil of each school	28967
district, which equals the following sum:	28968
(1) Two-thirds times the quotient of (a) the district's	28969
recognized valuation divided by (b) its formula ADM; plus	28970
(2) One-third times the quotient of (a) the average of the	28971
total federal adjusted gross income of the school district's	28972
residents for the three years most recently reported under section	28973
3317.021 of the Revised Code divided by (b) its formula ADM.	28974
(B) Rank all school districts in order of local wealth per	28975
pupil, from the district with the lowest local wealth per pupil to	28976
the district with the highest local wealth per pupil.	28977
(C) Compute the per pupil state parity aid funding for each	28978
school district in accordance with the following formula:	28979
Payment percentage X (threshold local wealth	28980
per pupil - the district's local	28981
wealth per pupil) X 0.0095 <u>0.0075</u>	28982
Where:	28983
(1) "Payment percentage," for purposes of division (C) of	28984
this section, equals 20% in fiscal year 2002, 40% in fiscal year	28985

2003, 58% in fiscal year 2004, 76% in fiscal year 2005, and 100%
after fiscal year 2005.

~~(2) Nine and one half mills (0.0095) is the general
assembly's determination of the average number of effective
operating mills that districts in the seventieth to ninetieth
percentiles of valuations per pupil collected in fiscal year 2001
above the revenues required to finance their attributed local
shares of the calculated cost of an adequate education. This was
determined by (a) adding the district revenues from operating
property tax levies and income tax levies, (b) subtracting from
that total the sum of (i) twenty three mills times adjusted
recognized valuation plus (ii) the attributed local shares of
special education, transportation, and vocational education
funding as described in divisions (F)(1) to (3) of section
3317.022 of the Revised Code, and (c) converting the result to an
effective operating property tax rate Seven and one-half mills
(0.0075) is an adjustment to the original parity aid standard of
nine and one-half mills, to account for the general assembly's
policy decision to phase-out use of the cost-of-doing-business
factor in the base cost formula.~~

~~(3)(2) The "threshold local wealth per pupil" is the local
wealth per pupil of the school district with the
four-hundred-ninetieth lowest local wealth per pupil.~~

If the result of the calculation for a school district under
division (C) of this section is less than zero, the district's per
pupil parity aid shall be zero.

(D) Compute the per pupil alternative parity aid for each
school district that has a combination of an income factor of 1.0
or less, a ~~DPIA~~ poverty index of 1.0 or greater, and a fiscal year
2005 cost-of-doing-business factor of 1.0375 or greater, in
accordance with the following formula:

Payment percentage X \$60,000 X

(1 - income factor) X 4/15 X 0.023 29018

Where: 29019

(1) "~~DPIA~~ Poverty index" has the same meaning as in section 29020
3317.029 of the Revised Code. 29021

(2) "Payment percentage," for purposes of division (D) of 29022
this section, equals 50% in fiscal year 2002 and 100% after fiscal 29023
year 2002. 29024

(E) Pay each district that has a combination of an income 29025
factor of of 1.0 or less, a ~~DPIA~~ poverty index of 1.0 or greater, and 29026
a fiscal year 2005 cost-of-doing-business factor of 1.0375 or 29027
greater, the greater of the following: 29028

(1) The product of the district's per pupil parity aid 29029
calculated under division (C) of this section times its net 29030
formula ADM; 29031

(2) The product of its per pupil alternative parity aid 29032
calculated under division (D) of this section times its net 29033
formula ADM. 29034

(F) Pay every other district the product of its per pupil 29035
parity aid calculated under division (C) of this section times its 29036
net formula ADM. 29037

(G) As used in divisions (E) and (F) of this section, "net 29038
formula ADM" means formula ADM minus the number of internet- and 29039
computer-based community school students and scholarship students 29040
reported under divisions (B)(3)(e) and (f) of section 3317.03 of 29041
the Revised Code. 29042

Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and 29043
(C) of this section, any student enrolled in kindergarten more 29044
than half time shall be reported as one-half student under this 29045
section. 29046

(A) The superintendent of each city and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, which shall consist of the average daily membership during such week of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 29077
3313.979 of the Revised Code as described in division (I)(2)(a) or 29078
(b) of this section; 29079

(c) A college pursuant to Chapter 3365. of the Revised Code, 29080
except when the student is enrolled in the college while also 29081
enrolled in a community school pursuant to Chapter 3314. of the 29082
Revised Code; 29083

(d) An adjacent or other school district under an open 29084
enrollment policy adopted pursuant to section 3313.98 of the 29085
Revised Code; 29086

(e) An educational service center or cooperative education 29087
district; 29088

(f) Another school district under a cooperative education 29089
agreement, compact, or contract; 29090

(g) A chartered nonpublic school with a scholarship paid 29091
under section 3310.08 of the Revised Code. 29092

(3) Twenty per cent of the number of students enrolled in a 29093
joint vocational school district or under a vocational education 29094
compact, excluding any students entitled to attend school in the 29095
district under section 3313.64 or 3313.65 of the Revised Code who 29096
are enrolled in another school district through an open enrollment 29097
policy as reported under division (A)(2)(d) of this section and 29098
then enroll in a joint vocational school district or under a 29099
vocational education compact; 29100

(4) The number of handicapped children, other than 29101
handicapped preschool children, entitled to attend school in the 29102
district pursuant to section 3313.64 or 3313.65 of the Revised 29103
Code who are placed with a county MR/DD board, minus the number of 29104
such children placed with a county MR/DD board in fiscal year 29105
1998. If this calculation produces a negative number, the number 29106

reported under division (A)(4) of this section shall be zero. 29107

(B) To enable the department of education to obtain the data 29108
needed to complete the calculation of payments pursuant to this 29109
chapter, in addition to the formula ADM, each superintendent shall 29110
report separately the following student counts for the same week 29111
for which formula ADM is certified: 29112

(1) The total average daily membership in regular day classes 29113
included in the report under division (A)(1) or (2) of this 29114
section for kindergarten, and each of grades one through twelve in 29115
schools under the superintendent's supervision; 29116

(2) The number of all handicapped preschool children enrolled 29117
as of the first day of December in classes in the district that 29118
are eligible for approval under division (B) of section 3317.05 of 29119
the Revised Code and the number of those classes, which shall be 29120
reported not later than the fifteenth day of December, in 29121
accordance with rules adopted under that section; 29122

(3) The number of children entitled to attend school in the 29123
district pursuant to section 3313.64 or 3313.65 of the Revised 29124
Code who are participating: 29125

(a) Participating in a pilot project scholarship program 29126
established under sections 3313.974 to 3313.979 of the Revised 29127
Code as described in division (I)(2)(a) or (b) of this section, 29128
~~are enrolled;~~ 29129

(b) Enrolled in a college under Chapter 3365. of the Revised 29130
Code, except when the student is enrolled in the college while 29131
also enrolled in a community school pursuant to Chapter 3314. of 29132
the Revised Code, ~~are enrolled;~~ 29133

(c) Enrolled in an adjacent or other school district under 29134
section 3313.98 of the Revised Code, ~~are enrolled;~~ 29135

(d) Enrolled in a community school established under Chapter 29136

3314. of the Revised Code <u>that is not an internet- or</u>	29137
<u>computer-based community school as defined in section 3314.02 of</u>	29138
<u>the Revised Code</u> , including any participation in a college	29139
pursuant to Chapter 3365. of the Revised Code while enrolled in	29140
such community school, or are participating;	29141
<u>(e) Enrolled in an internet- or computer-based community</u>	29142
<u>school, as defined in section 3314.02 of the Revised Code,</u>	29143
<u>including any participation in a college pursuant to Chapter 3365.</u>	29144
<u>of the Revised Code while enrolled in the school;</u>	29145
<u>(f) Enrolled in a chartered nonpublic school with a</u>	29146
<u>scholarship paid under section 3310.08 of the Revised Code;</u>	29147
<u>(g) Participating</u> in a program operated by a county MR/DD	29148
board or a state institution;	29149
(4) The number of pupils enrolled in joint vocational	29150
schools;	29151
(5) The average daily membership of handicapped children	29152
reported under division (A)(1) or (2) of this section receiving	29153
special education services for the category one handicap described	29154
in division (A) of section 3317.013 of the Revised Code;	29155
(6) The average daily membership of handicapped children	29156
reported under division (A)(1) or (2) of this section receiving	29157
special education services for category two handicaps described in	29158
division (B) of section 3317.013 of the Revised Code;	29159
(7) The average daily membership of handicapped children	29160
reported under division (A)(1) or (2) of this section receiving	29161
special education services for category three handicaps described	29162
in division (C) of section 3317.013 of the Revised Code;	29163
(8) The average daily membership of handicapped children	29164
reported under division (A)(1) or (2) of this section receiving	29165
special education services for category four handicaps described	29166

in division (D) of section 3317.013 of the Revised Code;	29167
(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;	29168 29169 29170 29171
(10) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;	29172 29173 29174 29175
(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center, <u>excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;</u>	29176 29177 29178 29179 29180 29181 29182 29183 29184 29185
(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, <u>excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;</u>	29186 29187 29188 29189 29190 29191 29192 29193 29194 29195
(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses,	29196 29197

reported in accordance with rules adopted by the department of education;	29198 29199
(14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998;	29200 29201 29202
(b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	29203 29204 29205 29206 29207
(c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;	29208 29209 29210 29211 29212
(d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	29213 29214 29215 29216 29217
(e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;	29218 29219 29220 29221 29222
(f) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;	29223 29224 29225 29226 29227

(g) The number of handicapped children, other than 29228
handicapped preschool children, placed with a county MR/DD board 29229
in the current fiscal year to receive special education services 29230
for category six handicaps described in division (F) of section 29231
3317.013 of the Revised Code. 29232

(C)(1) Except as otherwise provided in this section for 29233
kindergarten students, the average daily membership in divisions 29234
(B)(1) to (12) of this section shall be based upon the number of 29235
full-time equivalent students. The state board of education shall 29236
adopt rules defining full-time equivalent students and for 29237
determining the average daily membership therefrom for the 29238
purposes of divisions (A), (B), and (D) of this section. 29239

(2) A student enrolled in a community school established 29240
under Chapter 3314. of the Revised Code shall be counted in the 29241
formula ADM and, if applicable, the category one, two, three, 29242
four, five, or six special education ADM of the school district in 29243
which the student is entitled to attend school under section 29244
3313.64 or 3313.65 of the Revised Code for the same proportion of 29245
the school year that the student is counted in the enrollment of 29246
the community school for purposes of section 3314.08 of the 29247
Revised Code. 29248

(3) No child shall be counted as more than a total of one 29249
child in the sum of the average daily memberships of a school 29250
district under division (A), divisions (B)(1) to (12), or division 29251
(D) of this section, except as follows: 29252

(a) A child with a handicap described in section 3317.013 of 29253
the Revised Code may be counted both in formula ADM and in 29254
category one, two, three, four, five, or six special education ADM 29255
and, if applicable, in category one or two vocational education 29256
ADM. As provided in division (C) of section 3317.02 of the Revised 29257
Code, such a child shall be counted in category one, two, three, 29258

four, five, or six special education ADM in the same proportion 29259
that the child is counted in formula ADM. 29260

(b) A child enrolled in vocational education programs or 29261
classes described in section 3317.014 of the Revised Code may be 29262
counted both in formula ADM and category one or two vocational 29263
education ADM and, if applicable, in category one, two, three, 29264
four, five, or six special education ADM. Such a child shall be 29265
counted in category one or two vocational education ADM in the 29266
same proportion as the percentage of time that the child spends in 29267
the vocational education programs or classes. 29268

(4) Based on the information reported under this section, the 29269
department of education shall determine the total student count, 29270
as defined in section 3301.011 of the Revised Code, for each 29271
school district. 29272

(D)(1) The superintendent of each joint vocational school 29273
district shall certify to the superintendent of public instruction 29274
on or before the fifteenth day of October in each year for the 29275
first full school week in October the formula ADM, which, except 29276
as otherwise provided in this division, shall consist of the 29277
average daily membership during such week, on an FTE basis, of the 29278
number of students receiving any educational services from the 29279
district, including students enrolled in a community school 29280
established under Chapter 3314. of the Revised Code who are 29281
attending the joint vocational district under an agreement between 29282
the district board of education and the governing authority of the 29283
community school and are entitled to attend school in a city, 29284
local, or exempted village school district whose territory is part 29285
of the territory of the joint vocational district. 29286

The following categories of students shall not be included in 29287
the determination made under division (D)(1) of this section: 29288

(a) Students enrolled in adult education classes; 29289

(b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;	29290 29291 29292
(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;	29293 29294 29295 29296 29297
(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.	29298 29299
(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students <u>for the same week for which formula ADM is certified</u> :	29300 29301 29302 29303 29304 29305 29306
(a) Students enrolled in each grade included in the joint vocational district schools;	29307 29308
(b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;	29309 29310 29311
(c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;	29312 29313 29314
(d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;	29315 29316 29317
(e) Handicapped children receiving special education services for category four handicaps described in division (D) of section	29318 29319

3317.013 of the Revised Code;	29320
(f) Handicapped children receiving special education services	29321
for the category five handicap described in division (E) of	29322
section 3317.013 of the Revised Code;	29323
(g) Handicapped children receiving special education services	29324
for category six handicaps described in division (F) of section	29325
3317.013 of the Revised Code;	29326
(h) Students receiving category one vocational education	29327
services, described in division (A) of section 3317.014 of the	29328
Revised Code;	29329
(i) Students receiving category two vocational education	29330
services, described in division (B) of section 3317.014 of the	29331
Revised Code.	29332
The superintendent of each joint vocational school district	29333
shall also indicate the city, local, or exempted village school	29334
district in which each joint vocational district pupil is entitled	29335
to attend school pursuant to section 3313.64 or 3313.65 of the	29336
Revised Code.	29337
(E) In each school of each city, local, exempted village,	29338
joint vocational, and cooperative education school district there	29339
shall be maintained a record of school membership, which record	29340
shall accurately show, for each day the school is in session, the	29341
actual membership enrolled in regular day classes. For the purpose	29342
of determining average daily membership, the membership figure of	29343
any school shall not include any pupils except those pupils	29344
described by division (A) of this section. The record of	29345
membership for each school shall be maintained in such manner that	29346
no pupil shall be counted as in membership prior to the actual	29347
date of entry in the school and also in such manner that where for	29348
any cause a pupil permanently withdraws from the school that pupil	29349
shall not be counted as in membership from and after the date of	29350

such withdrawal. There shall not be included in the membership of
any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a
public high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district
during the previous school year when tests were administered under
section 3301.0711 of the Revised Code but did not take one or more
of the tests required by that section and was not excused pursuant
to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years,
except for veterans of the armed services whose attendance was
interrupted before completing the recognized twelve-year course of
the public schools by reason of induction or enlistment in the
armed forces and who apply for reenrollment in the public school
system of their residence not later than four years after
termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this
section elects to enroll in special courses organized for veterans
for whom tuition is paid under the provisions of federal laws, or
otherwise, that veteran shall not be included in average daily
membership.

Notwithstanding division (E)(3) of this section, the
membership of any school may include a pupil who did not take a
test required by section 3301.0711 of the Revised Code if the
superintendent of public instruction grants a waiver from the
requirement to take the test to the specific pupil. The
superintendent may grant such a waiver only for good cause in
accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this

section, the average daily membership figure of any local, city, 29381
exempted village, or joint vocational school district shall be 29382
determined by dividing the figure representing the sum of the 29383
number of pupils enrolled during each day the school of attendance 29384
is actually open for instruction during the ~~first full school~~ week 29385
~~in October~~ for which the formula ADM is being certified by the 29386
total number of days the school was actually open for instruction 29387
during that week. For purposes of state funding, "enrolled" 29388
persons are only those pupils who are attending school, those who 29389
have attended school during the current school year and are absent 29390
for authorized reasons, and those handicapped children currently 29391
receiving home instruction. 29392

The average daily membership figure of any cooperative 29393
education school district shall be determined in accordance with 29394
rules adopted by the state board of education. 29395

(F)(1) If the formula ADM for the first full school week in 29396
February is at least three per cent greater than that certified 29397
for the first full school week in the preceding October, the 29398
superintendent of schools of any city, exempted village, or joint 29399
vocational school district or educational service center shall 29400
certify such increase to the superintendent of public instruction. 29401
Such certification shall be submitted no later than the fifteenth 29402
day of February. For the balance of the fiscal year, beginning 29403
with the February payments, the superintendent of public 29404
instruction shall use the increased formula ADM in calculating or 29405
recalculating the amounts to be allocated in accordance with 29406
section 3317.022 or 3317.16 of the Revised Code. In no event shall 29407
the superintendent use an increased membership certified to the 29408
superintendent after the fifteenth day of February. 29409

(2) If on the first school day of April the total number of 29410
classes or units for handicapped preschool children that are 29411
eligible for approval under division (B) of section 3317.05 of the 29412

Revised Code exceeds the number of units that have been approved 29413
for the year under that division, the superintendent of schools of 29414
any city, exempted village, or cooperative education school 29415
district or educational service center shall make the 29416
certifications required by this section for that day. If the 29417
department determines additional units can be approved for the 29418
fiscal year within any limitations set forth in the acts 29419
appropriating moneys for the funding of such units, the department 29420
shall approve additional units for the fiscal year on the basis of 29421
such average daily membership. For each unit so approved, the 29422
department shall pay an amount computed in the manner prescribed 29423
in section 3317.052 or 3317.19 and section 3317.053 of the Revised 29424
Code. 29425

(3) If a student attending a community school under Chapter 29426
3314. of the Revised Code is not included in the formula ADM 29427
certified for the first full school week of October for the school 29428
district in which the student is entitled to attend school under 29429
section 3313.64 or 3313.65 of the Revised Code, the department of 29430
education shall adjust the formula ADM of that school district to 29431
include the community school student in accordance with division 29432
(C)(2) of this section, and shall recalculate the school 29433
district's payments under this chapter for the entire fiscal year 29434
on the basis of that adjusted formula ADM. This requirement 29435
applies regardless of whether the student was enrolled, as defined 29436
in division (E) of this section, in the community school during 29437
the first full school week in October. 29438

(G)(1)~~(a)~~ The superintendent of an institution operating a 29439
special education program pursuant to section 3323.091 of the 29440
Revised Code shall, for the programs under such superintendent's 29441
supervision, certify to the state board of education ~~the, in the~~ 29442
manner prescribed by the superintendent of public instruction, 29443
both of the following: 29444

(a) The average daily membership of all handicapped children other than handicapped preschool children receiving services at the institution for each category of handicap described in divisions (A) to (F) of section 3317.013 of the Revised Code; 29445
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(b) The average daily membership of all handicapped preschool children in classes or programs approved annually by the department of education, in the manner prescribed by the superintendent of public instruction for unit funding under section 3317.05 of the Revised Code. 29449
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~~(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.~~ 29454
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(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following: 29460
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(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes; 29464
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(b) Certify to the state board, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes. 29468
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(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under 29473
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division (B) of section 3317.05 of the Revised Code is greater
than the number of units approved for the year under that
division, the superintendent shall make the certification required
by this section for that day.

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(b) If the department determines that additional classes or
units can be approved for the fiscal year within any limitations
set forth in the acts appropriating moneys for the funding of the
classes and units described in division (G)(3)(a) of this section,
the department shall approve and fund additional units for the
fiscal year on the basis of such average daily membership. For
each unit so approved, the department shall pay an amount computed
in the manner prescribed in sections 3317.052 and 3317.053 of the
Revised Code.

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(H) Except as provided in division (I) of this section, when
any city, local, or exempted village school district provides
instruction for a nonresident pupil whose attendance is
unauthorized attendance as defined in section 3327.06 of the
Revised Code, that pupil's membership shall not be included in
that district's membership figure used in the calculation of that
district's formula ADM or included in the determination of any
unit approved for the district under section 3317.05 of the
Revised Code. The reporting official shall report separately the
average daily membership of all pupils whose attendance in the
district is unauthorized attendance, and the membership of each
such pupil shall be credited to the school district in which the
pupil is entitled to attend school under division (B) of section
3313.64 or section 3313.65 of the Revised Code as determined by
the department of education.

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(I)(1) A city, local, exempted village, or joint vocational
school district admitting a scholarship student of a pilot project
district pursuant to division (C) of section 3313.976 of the
Revised Code may count such student in its average daily

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membership. 29508

(2) In any year for which funds are appropriated for pilot 29509
project scholarship programs, a school district implementing a 29510
state-sponsored pilot project scholarship program that year 29511
pursuant to sections 3313.974 to 3313.979 of the Revised Code may 29512
count in average daily membership: 29513

(a) All children residing in the district and utilizing a 29514
scholarship to attend kindergarten in any alternative school, as 29515
defined in section 3313.974 of the Revised Code; 29516

(b) All children who were enrolled in the district in the 29517
preceding year who are utilizing a scholarship to attend any such 29518
alternative school. 29519

(J) The superintendent of each cooperative education school 29520
district shall certify to the superintendent of public 29521
instruction, in a manner prescribed by the state board of 29522
education, the applicable average daily memberships for all 29523
students in the cooperative education district, also indicating 29524
the city, local, or exempted village district where each pupil is 29525
entitled to attend school under section 3313.64 or 3313.65 of the 29526
Revised Code. 29527

Sec. 3317.031. A membership record shall be kept by grade 29528
level in each city, local, exempted village, joint vocational, and 29529
cooperative education school district and such a record shall be 29530
kept by grade level in each educational service center that 29531
provides academic instruction to pupils, classes for handicapped 29532
pupils, or any other direct instructional services to pupils. Such 29533
membership record shall show the following information for each 29534
pupil enrolled: Name, date of birth, name of parent, date entered 29535
school, date withdrawn from school, days present, days absent, and 29536
the number of days school was open for instruction while the pupil 29537

was enrolled. At the end of the school year this membership record 29538
shall show the total days present, the total days absent, and the 29539
total days due for all pupils in each grade. Such membership 29540
record shall show the pupils that are transported to and from 29541
school and it shall also show the pupils that are transported 29542
living within one mile of the school attended. This membership 29543
record shall also show any other information prescribed by the 29544
state board of education. 29545

This membership record shall be kept intact for at least five 29546
years and shall be made available to the state board of education 29547
or its representative in making an audit of the average daily 29548
membership or the transportation of the district or educational 29549
service center. The membership records of local school districts 29550
shall be filed at the close of each school year in the office of 29551
the educational service center superintendent. 29552

The state board of education may withhold any money due any 29553
school district or educational service center under sections 29554
3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16, 3317.17, or 29555
3317.19 of the Revised Code until it has satisfactory evidence 29556
that the board of education or educational service center 29557
governing board has fully complied with all of the provisions of 29558
this section. 29559

Nothing in this section shall require any person to release, 29560
or to permit access to, public school records in violation of 29561
section 3319.321 of the Revised Code. 29562

Sec. 3317.05. (A) ~~For~~ The department of education shall 29563
assign units under this division until July 1, 2005. 29564

For the purpose of calculating payments under sections 29565
3317.052 and 3317.053 of the Revised Code, the department of 29566
education shall determine for each institution, by the last day of 29567
January of each year and based on information certified under 29568

section 3317.03 of the Revised Code, the number of vocational 29569
education units or fractions of units approved by the department 29570
on the basis of standards and rules adopted by the state board of 29571
education. As used in this division, "institution" means an 29572
institution operated by a department specified in section 3323.091 29573
of the Revised Code and that provides vocational education 29574
programs under the supervision of the division of vocational 29575
education of the department that meet the standards and rules for 29576
these programs, including licensure of professional staff involved 29577
in the programs, as established by the state board. 29578

(B) For the purpose of calculating payments under sections 29579
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 29580
department shall determine, based on information certified under 29581
section 3317.03 of the Revised Code, the following by the last day 29582
of January of each year for each educational service center, for 29583
each school district, including each cooperative education school 29584
district, for each institution eligible for payment under section 29585
3323.091 of the Revised Code, and for each county MR/DD board: the 29586
number of classes operated by the school district, service center, 29587
institution, or county MR/DD board for handicapped preschool 29588
children, or fraction thereof, including in the case of a district 29589
or service center that is a funding agent, classes taught by a 29590
licensed teacher employed by that district or service center under 29591
section 3313.841 of the Revised Code, approved annually by the 29592
department on the basis of standards and rules adopted by the 29593
state board. 29594

(C) For the purpose of calculating payments under sections 29595
3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the 29596
department shall determine, based on information certified under 29597
section 3317.03 of the Revised Code, the following by the last day 29598
of January of each year for each school district, including each 29599
cooperative education school district, for each institution 29600

eligible for payment under section 3323.091 of the Revised Code, 29601
and for each county MR/DD board: the number of preschool 29602
handicapped ~~related services~~ units for ~~child study, occupational,~~ 29603
~~physical, or speech and hearing therapy, special education~~ 29604
~~supervisors, and special education coordinators~~ related services, 29605
as defined in section 3323.01 of the Revised Code, approved 29606
annually by the department on the basis of standards and rules 29607
adopted by the state board. 29608

(D) ~~For the purpose of calculating payments under sections~~ 29609
~~3317.052 and 3317.053 of the Revised Code, the department shall~~ 29610
~~determine, based on information certified under section 3317.03 of~~ 29611
~~the Revised Code, the following by the last day of January of each~~ 29612
~~year for each institution eligible for payment under section~~ 29613
~~3323.091 of the Revised Code:~~ 29614

(1) ~~The number of classes operated by an institution for~~ 29615
~~handicapped children other than handicapped preschool children, or~~ 29616
~~fraction thereof, approved annually by the department on the basis~~ 29617
~~of standards and rules adopted by the state board;~~ 29618

(2) ~~The number of related services units for children other~~ 29619
~~than handicapped preschool children for child study, occupational,~~ 29620
~~physical, or speech and hearing therapy, special education~~ 29621
~~supervisors, and special education coordinators approved annually~~ 29622
~~by the department on the basis of standards and rules adopted by~~ 29623
~~the state board.~~ 29624

(E) All of the arithmetical calculations made under this 29625
section shall be carried to the second decimal place. The total 29626
number of units for school districts, service centers, and 29627
institutions approved annually under this section shall not exceed 29628
the number of units included in the estimate of cost for these 29629
units and appropriations made for them by the general assembly. 29630

~~In the case of units described in division (D)(1) of this~~ 29631

~~section operated by institutions eligible for payment under~~ 29632
~~section 3323.091 of the Revised Code, the department shall approve~~ 29633
~~only units for persons who are under age twenty two on the first~~ 29634
~~day of the academic year, but not less than six years of age on~~ 29635
~~the thirtieth day of September of that year, except that such a~~ 29636
~~unit may include one or more children who are under six years of~~ 29637
~~age on the thirtieth day of September if such children have been~~ 29638
~~admitted to the unit pursuant to rules of the state board. In the~~ 29639
case of handicapped preschool units described in division (B) of 29640
this section, the department shall approve only preschool units 29641
for children who are under age six on the thirtieth day of 29642
September of the academic year, or on the first day of August of 29643
the academic year if the school district in which the child is 29644
enrolled has adopted a resolution under division (A)(3) of section 29645
3321.01 of the Revised Code, but not less than age three on the 29646
first day of December of the academic year, except that such a 29647
unit may include one or more children who are under age three or 29648
are age six or over on the ~~first day of December~~ applicable date, 29649
as reported under division (B)(2) or (G)(2)(b) of section 3317.03 29650
of the Revised Code, if such children have been admitted to the 29651
unit pursuant to rules of the state board. The number of units for 29652
county MR/DD boards and institutions eligible for payment under 29653
section 3323.091 of the Revised Code approved under this section 29654
shall not exceed the number that can be funded with appropriations 29655
made for such purposes by the general assembly. 29656

No unit shall be approved under divisions (B) ~~to (D)~~ and (C) 29657
of this section unless a plan has been submitted and approved 29658
under Chapter 3323. of the Revised Code. 29659

~~(F)~~(E) The department shall approve units or fractions 29660
thereof for gifted children on the basis of standards and rules 29661
adopted by the state board. 29662

Sec. 3317.052. As used in this section, "institution" means 29663
an institution operated by a department specified in division (A) 29664
of section 3323.091 of the Revised Code. 29665

(A)(1) The department of education shall pay each school 29666
district, educational service center, institution eligible for 29667
payment under section 3323.091 of the Revised Code, or county 29668
MR/DD board an amount for the total of all classroom units for 29669
handicapped preschool children approved under division (B) of 29670
section 3317.05 of the Revised Code. For each unit, the amount 29671
shall be the sum of the minimum salary for the teacher of the 29672
unit, calculated on the basis of the teacher's training level and 29673
years of experience pursuant to the salary schedule prescribed in 29674
the version of section 3317.13 of the Revised Code in effect prior 29675
to ~~the effective date of this amendment~~ July 1, 2001, plus fifteen 29676
per cent of that minimum salary amount, and eight thousand 29677
twenty-three dollars. 29678

(2) The department shall pay each school district, 29679
educational service center, institution eligible for payment under 29680
section 3323.091 of the Revised Code, or county MR/DD board an 29681
amount for the total of all related services units for handicapped 29682
preschool children approved under division (C) of section 3317.05 29683
of the Revised Code. For each such unit, the amount shall be the 29684
sum of the minimum salary for the teacher of the unit calculated 29685
on the basis of the teacher's training level and years of 29686
experience pursuant to the salary schedule prescribed in the 29687
version of section 3317.13 of the Revised Code in effect prior to 29688
~~the effective date of this amendment~~ July 1, 2001, fifteen per 29689
cent of that minimum salary amount, and two thousand one hundred 29690
thirty-two dollars. 29691

(B) If a school district, educational service center, or 29692
county MR/DD board has had additional handicapped preschool units 29693

approved for the year under division (F)(2) or (G)(3) of section 3317.03 of the Revised Code, the district, educational service center, or board shall receive an additional amount during the last half of the fiscal year. For each district, center, or board, the additional amount for each unit shall equal fifty per cent of the amounts computed for the unit in the manner prescribed by division (A) of this section and division (C) of section 3317.053 of the Revised Code.

~~(C)(1) The department shall pay each institution eligible for payment under section 3323.091 of the Revised Code or county MR/DD board an amount for the total of all special education units approved under division (D)(1) of section 3317.05 of the Revised Code. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to the effective date of this amendment, plus fifteen per cent of that minimum salary amount, and eight thousand twenty three dollars.~~

~~(2) The department shall pay each institution eligible for payment under section 3323.091 of the Revised Code an amount for the total of all related services units approved under division (D)(2) of section 3317.05 of the Revised Code. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to the effective date of this amendment, plus fifteen per cent of that minimum salary amount, and two thousand one hundred thirty two dollars.~~

~~(D) The department shall may pay each institution approved for vocational education units under division (A) of section~~

~~3317.05 of the Revised Code an amount for the total of all the units approved under that division. The amount for each unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to the effective date of this amendment, plus fifteen per cent of that minimum salary amount, and nine thousand five hundred ten dollars a grant amount based on the institution's submission of a comprehensive plan for a program to provide vocational education services. Each institution that receives a grant under this division annually shall report to the department on the delivery of services and the performance of students and any other information required by the department to evaluate the institution's vocational education program.~~

Sec. 3317.053. (A) As used in this section:

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

(2) "Dollar amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	DOLLAR AMOUNT
Division (B) of section 3317.05 of the Revised Code	\$8,334
Division (C) of that section	\$3,234
Division (F) (E) of that section	\$5,550

(3) "Average unit amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	AVERAGE UNIT AMOUNT
Division (B) of section 3317.05 of the Revised Code	\$7,799

Division (C) of that section	\$2,966	29757
Division (F) (E) of that section	\$5,251	29758

(B) In the case of each unit described in division (B), (C), 29759
or ~~(F)~~(E) of section 3317.05 of the Revised Code and allocated to 29760
a city, local, or exempted village school district, the department 29761
of education, in addition to the amounts specified in division (P) 29762
of section 3317.024 and sections 3317.052 and 3317.19 of the 29763
Revised Code, shall pay a supplemental unit allowance equal to the 29764
sum of the following amounts: 29765

(1) An amount equal to 50% of the average unit amount for the 29766
unit; 29767

(2) An amount equal to the percentage of the dollar amount 29768
for the unit that equals the district's state share percentage. 29769

If, prior to the fifteenth day of May of a fiscal year, a 29770
school district's aid computed under section 3317.022 of the 29771
Revised Code is recomputed pursuant to section 3317.027 or 29772
3317.028 of the Revised Code, the department shall also recompute 29773
the district's entitlement to payment under this section utilizing 29774
a new state share percentage. Such new state share percentage 29775
shall be determined using the district's recomputed basic aid 29776
amount pursuant to section 3317.027 or 3317.028 of the Revised 29777
Code. During the last six months of the fiscal year, the 29778
department shall pay the district a sum equal to one-half of the 29779
recomputed payment in lieu of one-half the payment otherwise 29780
calculated under this section. 29781

(C)(1) In the case of each unit allocated to an institution 29782
pursuant to division (A) of section 3317.05 of the Revised Code, 29783
the department, in addition to the amount specified in section 29784
3317.052 of the Revised Code, shall pay a supplemental unit 29785
allowance of \$7,227. 29786

(2) In the case of each unit described in division (B) ~~or~~ 29787

~~(D)~~(1) of section 3317.05 of the Revised Code that is allocated to 29788
any entity other than a city, exempted village, or local school 29789
district, the department, in addition to the amount specified in 29790
section 3317.052 of the Revised Code, shall pay a supplemental 29791
unit allowance of \$7,799. 29792

(3) In the case of each unit described in division (C) ~~or~~ 29793
~~(D)~~(2) of section 3317.05 of the Revised Code and allocated to any 29794
entity other than a city, exempted village, or local school 29795
district, the department, in addition to the amounts specified in 29796
section 3317.052 of the Revised Code, shall pay a supplemental 29797
unit allowance of \$2,966. 29798

(4) In the case of each unit described in division ~~(F)~~(E) of 29799
section 3317.05 of the Revised Code and allocated to an 29800
educational service center, the department, in addition to the 29801
amounts specified in division (P) of section 3317.024 of the 29802
Revised Code, shall pay a supplemental unit allowance of \$5,251. 29803

Sec. 3317.06. Moneys paid to school districts under division 29804
(L) of section 3317.024 of the Revised Code shall be used for the 29805
following independent and fully severable purposes: 29806

(A) To purchase such secular textbooks or electronic 29807
textbooks as have been approved by the superintendent of public 29808
instruction for use in public schools in the state and to loan 29809
such textbooks or electronic textbooks to pupils attending 29810
nonpublic schools within the district or to their parents and to 29811
hire clerical personnel to administer such lending program. Such 29812
loans shall be based upon individual requests submitted by such 29813
nonpublic school pupils or parents. Such requests shall be 29814
submitted to the school district in which the nonpublic school is 29815
located. Such individual requests for the loan of textbooks or 29816
electronic textbooks shall, for administrative convenience, be 29817
submitted by the nonpublic school pupil or the pupil's parent to 29818

the nonpublic school, which shall prepare and submit collective
summaries of the individual requests to the school district. As
used in this section:

(1) "Textbook" means any book or book substitute that a pupil
uses as a consumable or nonconsumable text, text substitute, or
text supplement in a particular class or program in the school the
pupil regularly attends.

(2) "Electronic textbook" means computer software,
interactive videodisc, magnetic media, CD-ROM, computer
courseware, local and remote computer assisted instruction,
on-line service, electronic medium, or other means of conveying
information to the student or otherwise contributing to the
learning process through electronic means.

(B) To provide speech and hearing diagnostic services to
pupils attending nonpublic schools within the district. Such
service shall be provided in the nonpublic school attended by the
pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric
services to pupils attending nonpublic schools within the
district. Such services shall be provided in the school attended
by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils
attending nonpublic schools within the district. Such services
shall be provided in the school attended by the pupil receiving
the service.

(E) To provide therapeutic psychological and speech and
hearing services to pupils attending nonpublic schools within the
district. Such services shall be provided in the public school, in
nonpublic schools, in public centers, or in mobile units located
on or off of the nonpublic premises. If such services are provided
in the public school or in public centers, transportation to and

from such facilities shall be provided by the school district in 29850
which the nonpublic school is located. 29851

(F) To provide guidance and counseling services to pupils 29852
attending nonpublic schools within the district. Such services 29853
shall be provided in the public school, in nonpublic schools, in 29854
public centers, or in mobile units located on or off of the 29855
nonpublic premises. If such services are provided in the public 29856
school or in public centers, transportation to and from such 29857
facilities shall be provided by the school district in which the 29858
nonpublic school is located. 29859

(G) To provide remedial services to pupils attending 29860
nonpublic schools within the district. Such services shall be 29861
provided in the public school, in nonpublic schools, in public 29862
centers, or in mobile units located on or off of the nonpublic 29863
premises. If such services are provided in the public school or in 29864
public centers, transportation to and from such facilities shall 29865
be provided by the school district in which the nonpublic school 29866
is located. 29867

(H) To supply for use by pupils attending nonpublic schools 29868
within the district such standardized tests and scoring services 29869
as are in use in the public schools of the state; 29870

(I) To provide programs for children who attend nonpublic 29871
schools within the district and are handicapped children as 29872
defined in division (A) of section 3323.01 of the Revised Code or 29873
gifted children. Such programs shall be provided in the public 29874
school, in nonpublic schools, in public centers, or in mobile 29875
units located on or off of the nonpublic premises. If such 29876
programs are provided in the public school or in public centers, 29877
transportation to and from such facilities shall be provided by 29878
the school district in which the nonpublic school is located. 29879

(J) To hire clerical personnel to assist in the 29880

administration of programs pursuant to divisions (B), (C), (D), 29881
(E), (F), (G), and (I) of this section and to hire supervisory 29882
personnel to supervise the providing of services and textbooks 29883
pursuant to this section. 29884

(K) To purchase or lease any secular, neutral, and 29885
nonideological computer software (including site-licensing), 29886
prerecorded video laserdiscs, digital video on demand (DVD), 29887
compact discs, and video cassette cartridges, wide area 29888
connectivity and related technology as it relates to internet 29889
access, mathematics or science equipment and materials, 29890
instructional materials, and school library materials that are in 29891
general use in the public schools of the state and loan such items 29892
to pupils attending nonpublic schools within the district or to 29893
their parents, and to hire clerical personnel to administer the 29894
lending program. Only such items that are incapable of diversion 29895
to religious use and that are susceptible of loan to individual 29896
pupils and are furnished for the use of individual pupils shall be 29897
purchased and loaned under this division. As used in this section, 29898
"instructional materials" means prepared learning materials that 29899
are secular, neutral, and nonideological in character and are of 29900
benefit to the instruction of school children, and may include 29901
educational resources and services developed by the eTech Ohio 29902
~~schoolnet~~ commission. 29903

(L) To purchase or lease instructional equipment, including 29904
computer hardware and related equipment in general use in the 29905
public schools of the state, for use by pupils attending nonpublic 29906
schools within the district and to loan such items to pupils 29907
attending nonpublic schools within the district or to their 29908
parents, and to hire clerical personnel to administer the lending 29909
program. 29910

(M) To purchase mobile units to be used for the provision of 29911
services pursuant to divisions (E), (F), (G), and (I) of this 29912

section and to pay for necessary repairs and operating costs 29913
associated with these units. 29914

Clerical and supervisory personnel hired pursuant to division 29915
(J) of this section shall perform their services in the public 29916
schools, in nonpublic schools, public centers, or mobile units 29917
where the services are provided to the nonpublic school pupil, 29918
except that such personnel may accompany pupils to and from the 29919
service sites when necessary to ensure the safety of the children 29920
receiving the services. 29921

All services provided pursuant to this section may be 29922
provided under contract with educational service centers, the 29923
department of health, city or general health districts, or private 29924
agencies whose personnel are properly licensed by an appropriate 29925
state board or agency. 29926

Transportation of pupils provided pursuant to divisions (E), 29927
(F), (G), and (I) of this section shall be provided by the school 29928
district from its general funds and not from moneys paid to it 29929
under division (L) of section 3317.024 of the Revised Code unless 29930
a special transportation request is submitted by the parent of the 29931
child receiving service pursuant to such divisions. If such an 29932
application is presented to the school district, it may pay for 29933
the transportation from moneys paid to it under division (L) of 29934
section 3317.024 of the Revised Code. 29935

No school district shall provide health or remedial services 29936
to nonpublic school pupils as authorized by this section unless 29937
such services are available to pupils attending the public schools 29938
within the district. 29939

Materials, equipment, computer hardware or software, 29940
textbooks, electronic textbooks, and health and remedial services 29941
provided for the benefit of nonpublic school pupils pursuant to 29942
this section and the admission of pupils to such nonpublic schools 29943

shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers. 29944
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No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity. 29946
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As used in this section, "parent" includes a person standing in loco parentis to a child. 29950
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Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools and any payments made to school districts under division (L) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board. 29952
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The allocation of payments for materials, equipment, textbooks, electronic textbooks, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district. 29959
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Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used. 29965
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The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and 29971
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services, and under which any unexpended balance of the amounts 29975
appropriated by the general assembly to implement this section may 29976
be transferred to the auxiliary services personnel unemployment 29977
compensation fund established pursuant to section 4141.47 of the 29978
Revised Code. The department shall also adopt guidelines and 29979
procedures limiting the purchase and loan of the items described 29980
in division (K) of this section to items that are in general use 29981
in the public schools of the state, that are incapable of 29982
diversion to religious use, and that are susceptible to individual 29983
use rather than classroom use. Within thirty days after the end of 29984
each biennium, each board of education shall remit to the 29985
department all moneys paid to it under division (L) of section 29986
3317.024 of the Revised Code and any interest earned on those 29987
moneys that are not required to pay expenses incurred under this 29988
section during the biennium for which the money was appropriated 29989
and during which the interest was earned. If a board of education 29990
subsequently determines that the remittal of moneys leaves the 29991
board with insufficient money to pay all valid expenses incurred 29992
under this section during the biennium for which the remitted 29993
money was appropriated, the board may apply to the department of 29994
education for a refund of money, not to exceed the amount of the 29995
insufficiency. If the department determines the expenses were 29996
lawfully incurred and would have been lawful expenditures of the 29997
refunded money, it shall certify its determination and the amount 29998
of the refund to be made to the director of job and family 29999
services who shall make a refund as provided in section 4141.47 of 30000
the Revised Code. 30001

Sec. 3317.063. The superintendent of public instruction, in 30002
accordance with rules adopted by the department of education, 30003
shall annually reimburse each chartered nonpublic school for the 30004
actual mandated service administrative and clerical costs incurred 30005
by such school during the preceding school year in preparing, 30006

maintaining, and filing reports, forms, and records, and in 30007
providing such other administrative and clerical services that are 30008
not an integral part of the teaching process as may be required by 30009
state law or rule or by requirements duly promulgated by city, 30010
exempted village, or local school districts. The mandated service 30011
costs reimbursed pursuant to this section shall include, but are 30012
not limited to, the preparation, filing and maintenance of forms, 30013
reports, or records and other clerical and administrative services 30014
relating to state chartering or approval of the nonpublic school, 30015
pupil attendance, pupil health and health testing, transportation 30016
of pupils, federally funded education programs, pupil appraisal, 30017
pupil progress, educator licensure, unemployment and workers' 30018
compensation, transfer of pupils, and such other education related 30019
data which are now or hereafter shall be required of such 30020
nonpublic school by state law or rule, or by requirements of the 30021
state department of education, other state agencies, or city, 30022
exempted village, or local school districts. 30023

The reimbursement required by this section shall be for 30024
school years beginning on or after July 1, 1981. 30025

Each nonpublic school which seeks reimbursement pursuant to 30026
this section shall submit to the superintendent of public 30027
instruction an application together with such additional reports 30028
and documents as the department of education may require. Such 30029
application, reports, and documents shall contain such information 30030
as the department of education may prescribe in order to carry out 30031
the purposes of this section. No payment shall be made until the 30032
superintendent of public instruction has approved such 30033
application. 30034

Each nonpublic school which applies for reimbursement 30035
pursuant to this section shall maintain a separate account or 30036
system of accounts for the expenses incurred in rendering the 30037

required services for which reimbursement is sought. Such accounts 30038
shall contain such information as is required by the department of 30039
education and shall be maintained in accordance with rules adopted 30040
by the department of education. 30041

Reimbursement payments to a nonpublic school pursuant to this 30042
section shall not exceed an amount for each school year equal to 30043
two hundred ~~fifty~~ seventy-five dollars per pupil enrolled in that 30044
nonpublic school. 30045

The superintendent of public instruction may, from time to 30046
time, examine any and all accounts and records of a nonpublic 30047
school which have been maintained pursuant to this section in 30048
support of an application for reimbursement, for the purpose of 30049
determining the costs to such school of rendering the services for 30050
which reimbursement is sought. If after such audit it is 30051
determined that any school has received funds in excess of the 30052
actual cost of providing such services, said school shall 30053
immediately reimburse the state in such excess amount. 30054

Any payments made to chartered nonpublic schools under this 30055
section may be disbursed without submission to and approval of the 30056
controlling board. 30057

Sec. 3317.07. The state board of education shall establish 30058
rules for the purpose of distributing subsidies for the purchase 30059
of school buses under division (E) of section 3317.024 of the 30060
Revised Code. 30061

No school bus subsidy payments shall be paid to any district 30062
unless such district can demonstrate that pupils residing more 30063
than one mile from the school could not be transported without 30064
such additional aid. 30065

The amount paid to a county MR/DD board for buses purchased 30066
for transportation of children in special education programs 30067

operated by the board shall be ~~one hundred per cent of the board's~~ 30068
~~net cost~~ based on a per pupil allocation for eligible students. 30069

The amount paid to a school district for buses purchased for 30070
transportation of handicapped and nonpublic school pupils shall be 30071
~~one hundred per cent of the school district's net cost~~ determined 30072
by a per pupil allocation based on the number of special education 30073
and nonpublic school pupils for whom transportation is provided. 30074

The state board of education shall adopt a formula to 30075
determine the amount of payments that shall be distributed to 30076
school districts to purchase school buses for pupils other than 30077
handicapped or nonpublic school pupils. 30078

If any district or MR/DD board obtains bus services for pupil 30079
transportation pursuant to a contract, such district or board may 30080
use payments received under this section to defray the costs of 30081
contracting for bus services in lieu of for purchasing buses. 30082

If the department of education determines that a county MR/DD 30083
board no longer needs a school bus because the board no longer 30084
transports children to a special education program operated by the 30085
board, or if the department determines that a school district no 30086
longer needs a school bus to transport pupils to a nonpublic 30087
school or special education program, the department may reassign a 30088
bus that was funded with payments provided pursuant to this 30089
section for the purpose of transporting such pupils. The 30090
department may reassign a bus to a county MR/DD board or school 30091
district that transports children to a special education program 30092
designated in the children's individualized education plans, or to 30093
a school district that transports pupils to a nonpublic school, 30094
and needs an additional school bus. 30095

Sec. 3317.081. (A) Tuition shall be computed in accordance 30096
with this section if: 30097

(1) The tuition is required by division (C)(3)(b) of section 3313.64 of the Revised Code; or

(2) Neither the child nor the child's parent resides in this state and tuition is required by section 3327.06 of the Revised Code.

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount that district would have received for the child pursuant to sections 3317.022, 3317.023, and 3317.025 to ~~3317.0213~~ 3317.0211 of the Revised Code during the school year had the attendance district been authorized to count the child in its formula ADM for that school year under section 3317.03 of the Revised Code.

Sec. 3317.09. All moneys distributed to a school district, including any cooperative education or joint vocational school district and all moneys distributed to any educational service center, by the state whether from a state or federal source, shall be accounted for by the division of school finance of the department of education. All moneys distributed shall be coded as to county, school district or educational service center, source, and other pertinent information, and at the end of each month, a report of such distribution shall be made by such division of school finance ~~to the clerk of the senate and the chief administrative officer of the house of representatives, to the Ohio legislative service commission to be available for examination by any member of either house,~~ to each school district and educational service center, ~~and to the governor.~~

~~On or before the first day of September in each year, a copy of the annual statistical report required in section 3319.33 of the Revised Code shall be filed by the state board of education with the clerk of the senate and the chief administrative officer~~

~~of the house of representatives, the Ohio legislative service~~ 30129
~~commission, the governor, and the auditor of state. The report~~ 30130
~~shall contain an analysis for the prior fiscal year on an accrual~~ 30131
~~basis of revenue receipts from all sources and expenditures for~~ 30132
~~all purposes for each school district, including each joint~~ 30133
~~vocational and cooperative education school district, in the~~ 30134
~~state. If any board of education fails to make the report required~~ 30135
~~in section 3319.33 of the Revised Code, the superintendent of~~ 30136
~~public instruction shall be without authority to distribute funds~~ 30137
~~to that school district or educational service center pursuant to~~ 30138
~~sections 3317.022 to ~~3317.0212~~ 3317.0211, 3317.11, 3317.16,~~ 30139
~~3317.17, or 3317.19 of the Revised Code until such time as the~~ 30140
~~required reports are filed with all specified officers, boards, or~~ 30141
~~agencies.~~ 30142

Sec. 3317.10. (A) On or before the first day of March of each 30143
year, the department of job and family services shall certify to 30144
the state board of education the unduplicated number of children 30145
ages five through seventeen residing in each school district and 30146
living in a family that, during the preceding October, ~~had family~~ 30147
~~income not exceeding the federal poverty guidelines as defined in~~ 30148
~~section 5101.46 of the Revised Code and participated in one of the~~ 30149
~~following:~~ 30150

~~(1) Ohio works first;~~ 30151

~~(2) The food stamp program;~~ 30152

~~(3) The medical assistance program, including the healthy~~ 30153
~~start program, established under Chapter 5111. of the Revised~~ 30154
~~Code;~~ 30155

~~(4) The children's health insurance program part I~~ 30156
~~established under section 5101.50 of the Revised Code;~~ 30157

~~(5) The disability financial assistance program established~~ 30158

under Chapter 5115. of the Revised Code;	30159
(6) The disability medical assistance program established	30160
under Chapter 5115. of the Revised Code.	30161
The department of job and family services shall certify this	30162
information according to the school district of residence for each	30163
child. Except as provided under division (B) of this section, the	30164
number of children so certified in any year shall be used by the	30165
department of education in calculating the distribution of moneys	30166
for the ensuing fiscal year as provided in section 3317.029 of the	30167
Revised Code.	30168
(B) Upon the transfer of part of the territory of one school	30169
district to the territory of one or more other school districts,	30170
the department of education may adjust the number of children	30171
certified under division (A) of this section for any district	30172
gaining or losing territory in such a transfer in order to take	30173
into account the effect of the transfer on the number of such	30174
children who reside in the district. Within sixty days of receipt	30175
of a request for information from the department of education, the	30176
department of job and family services shall provide any	30177
information the department of education determines is necessary to	30178
make such adjustments. The department of education may use the	30179
adjusted number for any district for the applicable fiscal year,	30180
in lieu of the number certified for the district for that fiscal	30181
year under division (A) of this section, in the calculation of the	30182
distribution of moneys provided in section 3317.029 of the Revised	30183
Code.	30184
Sec. 3317.16. (A) As used in this section:	30185
(1) "State share percentage" means the percentage calculated	30186
for a joint vocational school district as follows:	30187
(a) Calculate the state base cost funding amount for the	30188

district under division (B) of this section. If the district would not receive any base cost funding for that year under that division, the district's state share percentage is zero. 30189
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(b) If the district would receive base cost funding under that division, divide that base cost amount by an amount equal to the following: 30192
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cost-of-doing-business factor X 30195
the formula amount X 30196
formula ADM 30197

The resultant number is the district's state share percentage. 30198
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(2) The "total special education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in division (B)(1) of section 3317.022 of the Revised Code. 30200
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(3) The "total vocational education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in division (B)(4) of section 3317.022 of the Revised Code. 30204
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(4) The "total recognized valuation" of a joint vocational school district shall be determined by adding the recognized valuations of all its constituent school districts for the applicable fiscal year. 30208
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(5) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code. 30212
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(6) "Community school" means a community school established under Chapter 3314. of the Revised Code. 30215
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(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district 30217
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for the fiscal year in accordance with <u>division (B) of this</u>	30219
<u>section.</u>	30220
<u>(1) Compute the following formula for each eligible district:</u>	30221
(cost-of-doing-business factor X	30222
formula amount X	30223
formula ADM) -	30224
(.0005 X total recognized valuation)	30225
If the difference obtained under this division is a negative	30226
number, the district's computation shall be zero.	30227
<u>(2) Compute both of the following for each district:</u>	30228
<u>(a) The difference of (i) the district's fiscal year 2005</u>	30229
<u>base cost payment under the version of division (B) of this</u>	30230
<u>section in effect in fiscal year 2005, minus (ii) the amount</u>	30231
<u>computed for the district for the current fiscal year under</u>	30232
<u>current division (B)(1) of this section;</u>	30233
<u>(b) The following amount:</u>	30234
<u>[(fiscal year 2005 base cost payment/fiscal year 2005 formula</u>	30235
<u>ADM) X current year formula ADM] minus the amount computed for</u>	30236
<u>the district under current division (B)(1) of this section</u>	30237
<u>If one of the amounts computed under division (B)(2)(a) or</u>	30238
<u>(b) of this section is a positive amount, the department shall pay</u>	30239
<u>the district that amount in addition to the amount calculated</u>	30240
<u>under division (B)(1) of this section. If both amounts are</u>	30241
<u>positive amounts, the department shall pay the district the lesser</u>	30242
<u>of the two amounts in addition to the amount calculated under</u>	30243
<u>division (B)(1) of this section.</u>	30244
(C)(1) The department shall compute and distribute state	30245
vocational education additional weighted costs funds to each joint	30246
vocational school district in accordance with the following	30247
formula:	30248

state share percentage X formula amount X 30249
total vocational education weight 30250

In each fiscal year, a joint vocational school district 30251
receiving funds under division (C)(1) of this section shall spend 30252
those funds only for the purposes the department designates as 30253
approved for vocational education expenses. Vocational educational 30254
expenses approved by the department shall include only expenses 30255
connected to the delivery of career-technical programming to 30256
career-technical students. The department shall require the joint 30257
vocational school district to report data annually so that the 30258
department may monitor the district's compliance with the 30259
requirements regarding the manner in which funding received under 30260
division (C)(1) of this section may be spent. 30261

(2) The department shall compute for each joint vocational 30262
school district state funds for vocational education associated 30263
services costs in accordance with the following formula: 30264

state share percentage X .05 X 30265
the formula amount X the sum of 30266
categories one and two vocational 30267
education ADM 30268

In any fiscal year, a joint vocational school district 30269
receiving funds under division (C)(2) of this section, or through 30270
a transfer of funds pursuant to division (L) of section 3317.023 30271
of the Revised Code, shall spend those funds only for the purposes 30272
that the department designates as approved for vocational 30273
education associated services expenses, which may include such 30274
purposes as apprenticeship coordinators, coordinators for other 30275
vocational education services, vocational evaluation, and other 30276
purposes designated by the department. The department may deny 30277
payment under division (C)(2) of this section to any district that 30278
the department determines is not operating those services or is 30279
using funds paid under division (C)(2) of this section, or through 30280

a transfer of funds pursuant to division (L) of section 3317.023 30281
of the Revised Code, for other purposes. 30282

(D)(1) The department shall compute and distribute state 30283
special education and related services additional weighted costs 30284
funds to each joint vocational school district in accordance with 30285
the following formula: 30286

state share percentage X formula amount X 30287
total special education weight 30288

(2)(a) As used in this division, the "personnel allowance" 30289
means thirty thousand dollars in fiscal years 2002, 2003, 2004, 30290
~~and~~ 2005, 2006, and 2007. 30291

(b) For the provision of speech language pathology services 30292
to students, including students who do not have individualized 30293
education programs prepared for them under Chapter 3323. of the 30294
Revised Code, and for no other purpose, the department shall pay 30295
each joint vocational school district an amount calculated under 30296
the following formula: 30297

(formula ADM divided by 2000) X the personnel 30298
allowance X state share percentage 30299

(3) In any fiscal year, a joint vocational school district 30300
shall spend for purposes that the department designates as 30301
approved for special education and related services expenses at 30302
least the amount calculated as follows: 30303

(cost-of-doing-business factor X formula amount 30304
X the sum of categories one through 30305
six special education ADM) + 30306
(total special education weight X 30307
formula amount) 30308

The purposes approved by the department for special education 30309
expenses shall include, but shall not be limited to, compliance 30310
with state rules governing the education of handicapped children, 30311

providing services identified in a student's individualized 30312
education program as defined in section 3323.01 of the Revised 30313
Code, provision of speech language pathology services, and the 30314
portion of the district's overall administrative and overhead 30315
costs that are attributable to the district's special education 30316
student population. 30317

The department shall require joint vocational school 30318
districts to report data annually to allow for monitoring 30319
compliance with division (D)(3) of this section. The department 30320
shall annually report to the governor and the general assembly the 30321
amount of money spent by each joint vocational school district for 30322
special education and related services. 30323

(4) In any fiscal year, a joint vocational school district 30324
shall spend for the provision of speech language pathology 30325
services not less than the sum of the amount calculated under 30326
division (D)(1) of this section for the students in the district's 30327
category one special education ADM and the amount calculated under 30328
division (D)(2) of this section. 30329

(E)(1) If a joint vocational school district's costs for a 30330
fiscal year for a student in its categories two through six 30331
special education ADM exceed the threshold catastrophic cost for 30332
serving the student, as specified in division (C)(3)(b) of section 30333
3317.022 of the Revised Code, the district may submit to the 30334
superintendent of public instruction documentation, as prescribed 30335
by the superintendent, of all of its costs for that student. Upon 30336
submission of documentation for a student of the type and in the 30337
manner prescribed, the department shall pay to the district an 30338
amount equal to the sum of the following: 30339

(a) One-half of the district's costs for the student in 30340
excess of the threshold catastrophic cost; 30341

(b) The product of one-half of the district's costs for the 30342

student in excess of the threshold catastrophic cost multiplied by 30343
the district's state share percentage. 30344

(2) The district shall only report under division (E)(1) of 30345
this section, and the department shall only pay for, the costs of 30346
educational expenses and the related services provided to the 30347
student in accordance with the student's individualized education 30348
program. Any legal fees, court costs, or other costs associated 30349
with any cause of action relating to the student may not be 30350
included in the amount. 30351

(F) Each fiscal year, the department shall pay each joint 30352
vocational school district an amount for adult technical and 30353
vocational education and specialized consultants. 30354

(G)(1) A joint vocational school district's local share of 30355
special education and related services additional weighted costs 30356
equals: 30357

(1 - state share percentage) X 30358
Total special education weight X 30359
the formula amount 30360

(2) For each handicapped student receiving special education 30361
and related services under an individualized education program, as 30362
defined in section 3323.01 of the Revised Code, at a joint 30363
vocational district, the resident district or, if the student is 30364
enrolled in a community school, the community school shall be 30365
responsible for the amount of any costs of providing those special 30366
education and related services to that student that exceed the sum 30367
of the amount calculated for those services attributable to that 30368
student under divisions (B), (D), (E), and (G)(1) of this section. 30369

Those excess costs shall be calculated by subtracting the sum 30370
of the following from the actual cost to provide special education 30371
and related services to the student: 30372

(a) The product of the formula amount times the 30373

cost-of-doing-business factor;	30374
(b) The product of the formula amount times the applicable multiple specified in section 3317.013 of the Revised Code;	30375 30376
(c) Any funds paid under division (E) of this section for the student;	30377 30378
(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.	30379 30380 30381 30382
(3) The board of education of the joint vocational school district shall <u>may</u> report the excess costs calculated under division (G)(2) of this section to the department of education.	30383 30384 30385
(4) The <u>If the board of education of the joint vocational school district reports excess costs under division (G)(3) of this section, the</u> department shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (G)(4)(a) or (b) of this section, as applicable:	30386 30387 30388 30389 30390 30391 30392
(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division (M) of section 3317.023 of the Revised Code.	30393 30394 30395 30396
(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.	30397 30398 30399
(H) In any fiscal year, if the total of all payments made to a joint vocational school district under divisions (B) to (D) of this section and division (R) of section 3317.024 of the Revised Code is less than the amount that district received in fiscal year	30400 30401 30402 30403

1999 under the version of this section in effect that year, plus
the amount that district received under the version of section
3317.162 of the Revised Code in effect that year and minus the
amounts received that year for driver education and adult
education, the department shall pay the district an additional
amount equal to the difference between those two amounts.

Sec. 3317.20. This section does not apply to handicapped
preschool children.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in
section 3317.013 of the Revised Code for a handicap described in
that section.

(2) "Child's school district" means the school district in
which a child is entitled to attend school pursuant to section
3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" means the state share percentage
of the child's school district as defined in section 3317.022 of
the Revised Code.

(B) Except as provided in division (C) of this section, the
department shall annually pay each county MR/DD board ~~an amount~~
~~calculated under the following formula~~ for each handicapped child,
other than a handicapped preschool child, for whom the county
MR/DD board provides special education and related services the
greater of the amount calculated under division (B)(1) or (2) of
this section:

~~(formula amount X the cost of doing business factor~~
~~for the child's school district) +~~
~~(state share percentage X formula amount X~~
~~the applicable weight)~~

(1) (The formula amount for fiscal year 2005 X the

cost-of-doing-business factor for the child's school district for 30434
fiscal year 2005) + (state share percentage for fiscal year 2005 X 30435
formula amount for fiscal year 2005 X the applicable weight); 30436

(2) (The current formula amount times the current 30437
cost-of-doing-business factor for the child's school district) + 30438
(state share percentage X current formula amount X the applicable 30439
weight). 30440

(C) If any school district places with a county MR/DD board 30441
more handicapped children than it had placed with a county MR/DD 30442
board in fiscal year 1998, the department shall not make a payment 30443
under division (B) of this section for the number of children 30444
exceeding the number placed in fiscal year 1998. The department 30445
instead shall deduct from the district's payments under this 30446
chapter, and pay to the county MR/DD board, an amount calculated 30447
in accordance with the formula prescribed in division (B) of this 30448
section for each child over the number of children placed in 30449
fiscal year 1998. 30450

(D) The department shall calculate for each county MR/DD 30451
board receiving payments under divisions (B) and (C) of this 30452
section the following amounts: 30453

(1) The amount received by the county MR/DD board for 30454
approved special education and related services units, other than 30455
preschool handicapped units, in fiscal year 1998, divided by the 30456
total number of children served in the units that year; 30457

(2) The product of the quotient calculated under division 30458
(D)(1) of this section times the number of children for whom 30459
payments are made under divisions (B) and (C) of this section. 30460

If the amount calculated under division (D)(2) of this 30461
section is greater than the total amount calculated under 30462
divisions (B) and (C) of this section, the department shall pay 30463
the county MR/DD board one hundred per cent of the difference in 30464

addition to the payments under divisions (B) and (C) of this section. 30465
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Sec. 3317.201. This section does not apply to handicapped preschool children. 30467
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(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts: 30469
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(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (A) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division; 30471
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(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (B) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division; 30476
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(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (C) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division; 30481
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(4) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (D) of section 3317.013 of the Revised Code multiplied by the multiple specified in that division; 30486
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(5) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a handicap described in division (E) of section 3317.013 of the Revised Code multiplied by the multiple 30491
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specified in that division; 30495

(6) The number of children reported by the institution under 30496
division (G)(1)(a)(i) of section 3317.03 of the Revised Code as 30497
receiving services for a handicap described in division (F) of 30498
section 3317.013 of the Revised Code multiplied by the multiple 30499
specified in that division. 30500

(B) The department of education annually shall pay each state 30501
institution required to provide special education services under 30502
division (A) of section 3323.091 of the Revised Code an amount 30503
equal to the greater of: 30504

(1) The formula amount times the institution's total special 30505
education weight; 30506

(2) The aggregate amount of special education and related 30507
services unit funding the institution received for all handicapped 30508
children other than handicapped preschool children in fiscal year 30509
2005 under sections 3317.052 and 3317.053 of the Revised Code, as 30510
those sections existed prior to the effective date of this 30511
section. 30512

Sec. 3317.50. The eTech Ohio ~~schoolnet~~ telecommunity 30513
education fund is hereby created in the state treasury. The fund 30514
shall consist of certain excess local exchange telephone company 30515
contributions transferred from the reserve fund of the Ohio 30516
telecommunications advisory board pursuant to an agreement between 30517
the public utilities commission of Ohio and the Ohio department of 30518
education. The fund shall be used to finance technology grants to 30519
state-chartered elementary and secondary schools. Investment 30520
earnings of the fund shall be credited to the fund. 30521

Sec. 3317.51. (A) The distance learning fund is hereby 30522
created in the state treasury. The fund shall consist of moneys 30523
paid to the eTech Ohio ~~SchoolNet~~ commission by any telephone 30524

company as a part of a settlement agreement between such company 30525
and the public utilities commission in fiscal year 1995 in part to 30526
establish distance learning throughout the state. The ~~authority~~ 30527
commission shall administer the fund and expend moneys from it to 30528
finance technology grants to eligible schools chartered by the 30529
state board of education to establish distance learning in those 30530
schools. Chartered schools are eligible for funds if they are 30531
within the service area of the telephone company. Investment 30532
earnings of the fund shall be credited to the fund. 30533

(B) For purposes of this section, "distance learning" means 30534
the creation of a learning environment involving a school setting 30535
and at least one other location outside of the school which allows 30536
for information available at one site to be accessed at the other 30537
through the use of such educational applications as one-way or 30538
two-way transmission of data, voice, and video, singularly or in 30539
appropriate combinations. 30540

Sec. 3318.091. (A) Promptly after the written agreement 30541
between the school district board and the Ohio school facilities 30542
commission has been entered into, the school district board shall 30543
proceed with the issuance of its bonds or notes in anticipation 30544
thereof pursuant to the provision of such agreement required by 30545
division (A) of section 3318.08 of the Revised Code and the 30546
deposit of the proceeds thereof in the school district's project 30547
construction fund pursuant to the provision of such agreement 30548
required by division (B) of section 3318.08 of the Revised Code, 30549
and the school district board, with the approval of the commission 30550
shall employ a qualified professional person or firm to prepare 30551
preliminary plans, working drawings, specifications, estimates of 30552
cost, and such data as the school district board and the 30553
commission consider necessary for the project. When the 30554
preliminary plans and preliminary estimates of cost have been 30555
prepared, and approved by the school district board, they shall be 30556

submitted to the commission for approval, modification, or 30557
rejection. The commission shall ensure that the plans and 30558
materials proposed for use in the project comply with 30559
specifications for plans and materials that shall be established 30560
by the commission. When such preliminary plans and preliminary 30561
estimates of cost and any modifications thereof have been approved 30562
by the commission and the school district board, the school 30563
district board shall cause such qualified professional person or 30564
firm to prepare the working drawings, specifications, and 30565
estimates of cost. 30566

(B) Whenever project plans submitted to the commission for 30567
approval under division (A) of this section propose to locate a 30568
facility on a state route or United States highway or within one 30569
mile of a state route or United States highway, the commission 30570
shall send a copy of the plans to the director of transportation. 30571
The director of transportation shall review the plans to determine 30572
the feasibility of the proposed ingress and egress to the 30573
facility, the traffic circulation pattern on roadways around the 30574
facility, and any improvements that would be necessary to conform 30575
the roadways to provisions of the manual adopted by the department 30576
of transportation pursuant to section 4511.09 of the Revised Code 30577
or state or federal law. The director of transportation shall 30578
provide a written summary of the director's findings to the 30579
commission in a timely manner. The commission shall consider the 30580
findings in deciding whether to approve the plans. 30581

Sec. 3318.18. (A) As used in this section: 30582

(1) "Valuation" of a school district means the sum of the 30583
amounts described in divisions (A)(1) and (2) of section 3317.021 30584
of the Revised Code as most recently certified for the district 30585
before the annual computation is made under division (B) of this 30586
section. 30587

(2) "Valuation per pupil" of a school district means the district's valuation divided by the district's formula ADM as most recently reported for October under section 3317.03 of the Revised Code before the annual computation is made under division (B) of this section. 30588
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(3) "Statewide average valuation per pupil" means the total of the valuations of all school districts divided by the total of the formula ADMs of all school districts as most recently reported for October under section 3317.03 of the Revised Code before the annual computation is made under division (C) of this section. 30593
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(4) "Maintenance levy requirement" means the tax required to be levied pursuant to division (C)(2)(a) of section 3318.08 and division (B) of section 3318.05 of the Revised Code or the application of proceeds of another levy to paying the costs of maintaining classroom facilities pursuant to division (A)(2) of section 3318.052, division (C)(1) or (C)(2)(b) of section 3318.08, or division (D)(2) of section 3318.36 of the Revised Code, or a combination thereof. 30598
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(5) "Project agreement" means an agreement between a school district and the Ohio school facilities commission under section 3318.08 or division (B)(1) of section 3318.36 of the Revised Code. 30606
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(B) On or before July 1, 2006, the department of education shall compute the statewide average valuation per pupil and the valuation per pupil of each school district, and provide them to the Ohio school facilities commission. On or before the first day of July each year beginning in 2007, the department of education shall compute the statewide average valuation per pupil and the valuation per pupil of each school district that has not already entered into a project agreement, and provide the results of those computations to the commission. 30609
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(C)(1) At the time the Ohio school facilities commission 30618

enters into a project agreement with a school district, the 30619
commission shall compute the difference between the district's 30620
valuation per pupil and the statewide average valuation per pupil 30621
as most recently provided to the commission under division (B) of 30622
this section. If the school district's valuation per pupil is less 30623
than the average statewide valuation per pupil, the commission 30624
shall multiply the difference between those amounts by one-half 30625
mill times the formula ADM of the district as most recently 30626
reported to the department of education for October under division 30627
(A) of section 3317.03 of the Revised Code. The commission shall 30628
certify the resulting product to the department of education, 30629
along with the date on which the maintenance levy requirement 30630
terminates as provided in the project agreement between the school 30631
district board and the commission. 30632

(2) In the case of a school district that entered into a 30633
project agreement after July 1, 1997, but before July 1, 2006, the 30634
commission shall make the computation described in division (C)(1) 30635
of this section on the basis of the district's valuation per pupil 30636
and the statewide average valuation per pupil computed as of 30637
September 1, 2006, and the district's formula ADM reported for 30638
October 2005. 30639

(3) The amount computed for a school district under division 30640
(C)(1) or (2) of this section shall not change for the period 30641
during which payments are made to the district under division (D) 30642
of this section. 30643

(4) A computation need not be made under division (C)(1) or 30644
(2) of this section for a school district that certified a 30645
resolution to the commission under division (D)(3) of section 30646
3318.36 of the Revised Code until the district becomes eligible 30647
for state assistance as provided in that division. 30648

(D) In the fourth quarter of each fiscal year, for each 30649

school district for which a computation has been made under 30650
division (C) of this section, the department of education shall 30651
pay the amount computed to each such school district. Payments 30652
shall be made to a school district each year until and including 30653
the tax year in which the district's maintenance levy requirement 30654
terminates. Payments shall be paid from the half-mill equalization 30655
fund, subject to appropriation by the general assembly. 30656

(E) Payments made to a school district under this section 30657
shall be credited to the district's classroom facilities 30658
maintenance fund and shall be used only for the purpose of 30659
maintaining facilities constructed or renovated under the project 30660
agreement. 30661

(F) There is hereby created in the state treasury the 30662
half-mill equalization fund. The fund shall receive transfers 30663
pursuant to section 5727.85 of the Revised Code. The fund shall be 30664
used first to make annual payments under division (D) of this 30665
section. If a balance remains in the fund after such payments are 30666
made in full for a year, the Ohio school facilities commission may 30667
request the controlling board to transfer a reasonable amount from 30668
such remaining balance to the public school building fund created 30669
under section 3318.15 of the Revised Code for the purposes of this 30670
chapter. 30671

All investment earnings arising from investment of money in 30672
the half-mill equalization fund shall be credited to the fund. 30673

Sec. 3318.33. (A) There is hereby created in the state 30674
treasury the Ohio school facilities commission fund, which shall 30675
consist of transfers of moneys authorized by the general assembly 30676
and revenues received by the Ohio school facilities commission 30677
under section 3318.31 of the Revised Code. Investment earnings on 30678
moneys in the fund shall be credited to the fund. Moneys in the 30679
fund may be used by the commission to pay personnel and other 30680

administrative expenses, to pay the cost of conducting evaluations 30681
of classroom facilities, to pay the cost of preparing building 30682
design specifications, to pay the cost of providing project 30683
management services, and for other purposes determined by the 30684
commission to be necessary to fulfill its duties under ~~Chapter~~ 30685
~~3318. of the Revised Code~~ this chapter. 30686

(B) The director of budget and management may transfer to the 30687
Ohio school facilities commission fund the investment earnings on 30688
the public school building fund, created in section 3318.15 of the 30689
Revised Code, the investment earnings on the education facilities 30690
trust fund created in section 183.26 of the Revised Code, or both. 30691
The director of budget and management may transfer to the Ohio 30692
school facilities commission fund the investment earnings on the 30693
school building program assistance fund, created under section 30694
3318.25 of the Revised Code, in excess of the amounts needed to 30695
meet estimated federal arbitrage rebate requirements. 30696

Sec. ~~3317.21~~ 3318.47. There is hereby created in the state 30697
treasury the ~~vocational~~ career-technical school building 30698
assistance fund. Money in the fund shall be used solely to provide 30699
interest-free loans to school districts, including joint 30700
vocational school districts, under sections ~~3317.22~~ 3318.48 and 30701
~~3317.23~~ 3318.49 of the Revised Code to assist in financing the 30702
construction of new vocational classroom facilities, the 30703
renovation of existing vocational classroom facilities, or the 30704
purchase of vocational education equipment or facilities. Moneys 30705
in the fund shall consist of transfers made to the fund, any 30706
interest earned by the fund, and repayments of loans made under 30707
sections ~~3317.22~~ 3318.48 and ~~3317.23~~ 3318.49 of the Revised Code. 30708
Investment earnings of the fund shall be credited to the fund. 30709

Sec. ~~3317.22~~ 3318.48. The ~~state board of education~~ Ohio 30710
school facilities commission shall adopt rules in accordance with 30711

Chapter 119. of the Revised Code under which, in any fiscal year 30712
that funds are appropriated from the ~~vocational~~ career-technical 30713
school building assistance fund for such purpose, the ~~state board~~ 30714
commission may make interest-free loans to school districts. The 30715
rules shall include all of the following: 30716

(A) Application procedures, including the date by which 30717
applications shall be made; 30718

(B) Eligibility criteria, which shall include at least the 30719
following provisions: 30720

(1) A requirement that an applicant district demonstrate 30721
financial need for the loan. Indicators of need may include, but 30722
need not be limited to, levels of assessed valuation, enrollment 30723
levels and enrollment changes, ability of the district to maintain 30724
minimum educational standards, and demonstrated good faith efforts 30725
by the district to secure funds from sources other than the state. 30726

(2) A requirement that an applicant district demonstrate the 30727
ability to repay the loan within the maximum period permitted by 30728
division (D) of this section; 30729

(3) A requirement that an applicant district is not eligible 30730
for a loan, other than a loan for the purchase of any vocational 30731
education equipment that is not an approved project cost under 30732
this chapter, if the district, on the date of application for the 30733
loan, has at any time received any state assistance under sections 30734
3318.01 to 3318.20, section 3318.37 or 3318.38, or sections 30735
3318.40 to 3318.45 of the Revised Code or is reasonably expected 30736
to receive state assistance under any of those sections within 30737
three fiscal years; 30738

(4) A requirement that an applicant district agree to comply 30739
with all applicable design specifications and policies of the 30740
commission established pursuant to this chapter in the 30741
construction, renovation, or purchase of facilities or equipment 30742

paid for with the loan, unless such specifications or policies are 30743
waived by the commission. 30744

(C) Loan approval procedures and criteria, including criteria 30745
for prioritizing eligible applications. Criteria for such 30746
prioritization shall include: 30747

(1) Preference for applicant districts that demonstrate 30748
commitment and innovative approaches to the implementation of the 30749
department of education's vocational education modernization plan 30750
pursuant to section 3313.901 of the Revised Code; 30751

(2) Preference for applicant districts that have entered into 30752
or are in the process of entering into cooperative agreements with 30753
technical colleges or other institutions of higher education 30754
either to coordinate secondary vocational education and 30755
post-secondary technical education programs, or to share 30756
facilities and equipment. 30757

(D) Provisions governing the repayment of loans, including a 30758
provision that loans for construction, acquisition, or renovation 30759
of facilities shall be repaid within a maximum of fifteen years 30760
and loans for vocational education equipment shall be repaid 30761
within a maximum of five years; 30762

(E) A requirement that no loan shall be applied to the local 30763
resources a district expends as a condition of participation in a 30764
program established under section 3318.36 or 3318.46 of the 30765
Revised Code. 30766

Sec. ~~3317.23~~ 3318.49. The ~~state board of education~~ Ohio 30767
school facilities commission shall enter into a loan agreement 30768
with each school district it approves for a loan under section 30769
~~3317.22~~ 3318.48 of the Revised Code. The agreement shall specify 30770
the amount of the loan, the purposes for which it is to be used, 30771
the duration of the loan, and the repayment schedule. Every such 30772

agreement shall contain a provision ~~authorizing~~ directing the 30773
state board of education, upon the request of the executive 30774
director of the commission, to deduct from payments due to the 30775
district under Chapter 3317. of the Revised Code or from any other 30776
funds appropriated to the district by the general assembly, the 30777
amount of any scheduled loan payment due but not paid by the 30778
district and, within ten days, to transfer that amount to the 30779
commission. 30780

A copy of each loan agreement shall be furnished to the 30781
controlling board. No money shall be released from the ~~vocational~~ 30782
career-technical school building assistance fund without the 30783
approval of the controlling board. 30784

Sec. 3319.06. (A) The board of education of each city, 30785
exempted village, or local school district may create the position 30786
of internal auditor. Any person employed by the board as an 30787
internal auditor shall hold a valid permit issued under section 30788
4701.10 of the Revised Code to practice as a certified public 30789
accountant or a public accountant. 30790

(B) The board shall execute a written contract of employment 30791
with each internal auditor it employs. The contract shall specify 30792
the internal auditor's duties, the salary and other compensation 30793
to be paid for performance of those duties, the number of days to 30794
be worked, the number of days of vacation leave, if any, and any 30795
paid holidays in the contractual year. The salary and other 30796
compensation prescribed by the contract may be increased by the 30797
board during the term of the contract but shall not be reduced 30798
during that term unless such reduction is part of a uniform plan 30799
affecting employees of the entire district. The term of the 30800
initial contract shall not exceed three years. Any renewal of the 30801
contract shall be for a term of not less than two years and not 30802
more than five years. 30803

The internal auditor shall be directly responsible to the board for the performance of all duties outlined in the contract. If the board does not intend to renew the contract upon its expiration, the board shall provide written notice to the internal auditor of its intention not to renew the contract not later than the last day of March of the year in which the contract expires. If the board does not provide such notice by that date, the internal auditor shall be deemed reemployed for a term of one year at the same salary plus any increments that may be authorized by the board. Termination of an internal auditor's contract shall be pursuant to section 3319.16 of the Revised Code.

(C) Each board that employs an internal auditor shall adopt procedures for the evaluation of the internal auditor and shall evaluate the internal auditor in accordance with those procedures. The evaluation based upon the procedures shall be considered by the board in deciding whether to renew the internal auditor's contract of employment. The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in this section shall prevent the board from making the final determination regarding the renewal or nonrenewal of the contract of an internal auditor.

Sec. 3319.081. Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

(A) Newly hired regular nonteaching school employees, including regular hourly rate and per diem employees, shall enter into written contracts for their employment which shall be for a period of not more than one year. If such employees are rehired, their subsequent contract shall be for a period of two years.

(B) After the termination of the two-year contract provided 30835
in division (A) of this section, if the contract of a nonteaching 30836
employee is renewed, the employee shall be continued in 30837
employment, and the salary provided in the contract may be 30838
increased but not reduced unless such reduction is a part of a 30839
uniform plan affecting the nonteaching employees of the entire 30840
district. 30841

(C) The contracts as provided for in this section may be 30842
terminated by a majority vote of the board of education. ~~Such~~ 30843
Except as provided in sections 3319.0810 and 3319.172 of the 30844
Revised Code, the contracts may be terminated only for violation 30845
of written rules and regulations as set forth by the board of 30846
education or for incompetency, inefficiency, dishonesty, 30847
drunkenness, immoral conduct, insubordination, discourteous 30848
treatment of the public, neglect of duty, or any other acts of 30849
misfeasance, malfeasance, or nonfeasance. In addition to the right 30850
of the board of education to terminate the contract of an 30851
employee, the board may suspend an employee for a definite period 30852
of time or demote the employee for the reasons set forth in this 30853
division. The action of the board of education terminating the 30854
contract of an employee or suspending or demoting ~~him~~ the employee 30855
shall be served upon the employee by certified mail. Within ten 30856
days following the receipt of such notice by the employee, the 30857
employee may file an appeal, in writing, with the court of common 30858
pleas of the county in which such school board is situated. After 30859
hearing the appeal the common pleas court may affirm, disaffirm, 30860
or modify the action of the school board. 30861

A violation of division (A)(7) of section 2907.03 of the 30862
Revised Code is grounds for termination of employment of a 30863
nonteaching employee under this division. 30864

(D) All employees who have been employed by a school district 30865
where the provisions of Chapter 124. of the Revised Code do not 30866

apply, for a period of at least three years on November 24, 1967, 30867
shall hold continuing contracts of employment pursuant to this 30868
section. 30869

(E) Any nonteaching school employee may terminate ~~his~~ the 30870
nonteaching school employee's contract of employment thirty days 30871
subsequent to the filing of a written notice of such termination 30872
with the treasurer of the board. 30873

(F) A person hired exclusively for the purpose of replacing a 30874
nonteaching school employee while such employee is on leave of 30875
absence granted under section 3319.13 of the Revised Code is not a 30876
regular nonteaching school employee under this section. 30877

(G) All nonteaching employees employed pursuant to this 30878
section and Chapter 124. of the Revised Code shall be paid for all 30879
time lost when the schools in which they are employed are closed 30880
owing to an epidemic or other public calamity. Nothing in this 30881
division shall be construed as requiring payment in excess of an 30882
employee's regular wage rate or salary for any time worked while 30883
the school in which ~~he~~ the employee is employed is officially 30884
closed for the reasons set forth in this division. 30885

Sec. 3319.0810. (A) The board of education of any school 30886
district wherein the provisions of Chapter 124. of the Revised 30887
Code do not apply may terminate any of its transportation staff 30888
positions for reasons of economy and efficiency if the board 30889
instead of employing its own staff to transport some or all of the 30890
students enrolled in the district schools enters into a contract 30891
with an independent agent for the provision of transportation 30892
services for such students. Such a contract may be entered into 30893
only if all of the following conditions are satisfied: 30894

(1) Any collective bargaining agreement between the employee 30895
organization representing the employees whose positions are 30896

terminated under this section and the board has expired or will 30897
expire within sixty days and has not been renewed in conformance 30898
with provisions of that agreement and with Chapter 4117. of the 30899
Revised Code, or the agreement contains provisions permitting the 30900
termination of positions for reasons of economy and efficiency 30901
while the agreement is in force and the board is in conformance 30902
with those provisions. 30903

(2) The board permits any employee whose position is 30904
terminated under this section to fill any vacancy within the 30905
district's organization for which the employee is qualified. The 30906
board shall select from among similarly qualified employees to 30907
fill such vacancies pursuant to procedures established under any 30908
collective bargaining agreement between the employee organization 30909
representing the terminated employees and the board that is in 30910
force at the time of the termination, or in absence of such 30911
provisions on the basis of seniority of employment by the board 30912
with the employee with the greatest seniority having highest 30913
priority. 30914

(3) Unless a collective bargaining agreement between the 30915
employee organization representing the terminated employees and 30916
the board that is in force at the time of the termination provides 30917
otherwise, the board permits any employee whose position is 30918
terminated under this section to fill the employee's former 30919
position in the event that the board reinstates that position 30920
within one year after the date the position is terminated under 30921
this section. 30922

(4) The board permits any employee whose position is 30923
terminated under this section to appeal in accordance with section 30924
119.12 of the Revised Code the board's decision to terminate the 30925
employee's position, not to hire that employee for another 30926
position pursuant to division (A)(2) of this section, or not to 30927
rehire that employee for the position if it is reinstated within 30928

<u>one year after the position is terminated pursuant to division</u>	30929
<u>(A)(3) of this section.</u>	30930
<u>(5) The contract entered into by the board and an independent</u>	30931
<u>agent for the provision of transportation services contains a</u>	30932
<u>stipulation requiring the agent to consider hiring any employees</u>	30933
<u>of the school district whose positions are terminated under this</u>	30934
<u>section for similar positions within the agent's organization.</u>	30935
<u>(6) The contract entered into by the board and an independent</u>	30936
<u>agent for the provision of transportation services contains a</u>	30937
<u>stipulation requiring the agent to recognize for purposes of</u>	30938
<u>employee representation in collective bargaining any employee</u>	30939
<u>organization that represented the employees whose positions are</u>	30940
<u>terminated under this section in collective bargaining with the</u>	30941
<u>board at the time of the termination provided:</u>	30942
<u>(a) A majority of all employees in the bargaining unit agree</u>	30943
<u>to such representation;</u>	30944
<u>(b) Such representation is not prohibited by federal law,</u>	30945
<u>including any ruling of the national labor relations board;</u>	30946
<u>(c) The employee organization is not prohibited from</u>	30947
<u>representing nonpublic employees by other provisions of law or its</u>	30948
<u>own governing instruments.</u>	30949
<u>However, any employee whose position is terminated under this</u>	30950
<u>section shall not be compelled to be included in such bargaining</u>	30951
<u>unit if there is another bargaining unit within the agent's</u>	30952
<u>organization that is applicable to the employee.</u>	30953
<u>(B) If after terminating any positions of employment under</u>	30954
<u>this section the board fails to comply with any condition</u>	30955
<u>prescribed in division (A) of this section or fails to enforce on</u>	30956
<u>the agent its contractual obligations prescribed in divisions</u>	30957
<u>(A)(5) and (6) of this section, the terminations shall be void and</u>	30958

the board shall reinstate the positions and fill them with the 30959
employees who filled those positions just prior to the 30960
terminations. Such employees shall be compensated at a rate equal 30961
to their rate of compensation in those positions just prior to the 30962
terminations plus any increases paid since the terminations to 30963
other nonteaching employees. The employees shall also be entitled 30964
to back pay at such rate for the period from the date of the 30965
terminations to the date of the reinstatements minus any pay 30966
received by the employees during any time the board was in 30967
compliance with such conditions or during any time the board 30968
enforced those obligations. 30969

Any employee aggrieved by the failure of the board to comply 30970
with any condition prescribed in division (A) of this section or 30971
to enforce on the agent its contractual obligations prescribed in 30972
divisions (A)(5) and (6) of this section shall have the right to 30973
sue the board for reinstatement of the employee's former position 30974
as provided for in this division in the court of common pleas for 30975
the county in which the school district is located or, if the 30976
school district is located in more than one county, in the court 30977
of common pleas for the county in which the majority of the 30978
territory of the school district is located. 30979

Sec. 3319.17. (A) As used in this section, "interdistrict 30980
contract" means any contract or agreement entered into by an 30981
educational service center governing board and another board or 30982
other public entity pursuant to section 3313.17, 3313.841, 30983
3313.842, 3313.843, 3313.91, or 3323.08 of the Revised Code, 30984
including any such contract or agreement for the provision of 30985
services funded under division (L) of section 3317.024 of the 30986
Revised Code or provided in any unit approved under section 30987
3317.05 of the Revised Code. 30988

(B) When, for any of the following reasons that apply to any 30989

city, exempted village, local, or joint vocational school district 30990
or any educational service center, the board decides that it will 30991
be necessary to reduce the number of teachers it employs, it may 30992
make a reasonable reduction: 30993

(1) In the case of any district or service center, return to 30994
duty of regular teachers after leaves of absence including leaves 30995
provided pursuant to division (B) of section 3314.10 of the 30996
Revised Code, suspension of schools, ~~or~~ territorial changes 30997
affecting the district or center, or financial reasons; 30998

(2) In the case of any city, exempted village, local, or 30999
joint vocational school district, decreased enrollment of pupils 31000
in the district; 31001

(3) In the case of any governing board of a service center 31002
providing any particular service directly to pupils pursuant to 31003
one or more interdistrict contracts requiring such service, 31004
reduction in the total number of pupils the governing board is 31005
required to provide with the service under all interdistrict 31006
contracts as a result of the termination or nonrenewal of one or 31007
more of these interdistrict contracts; 31008

(4) In the case of any governing board providing any 31009
particular service that it does not provide directly to pupils 31010
pursuant to one or more interdistrict contracts requiring such 31011
service, reduction in the total level of the service the governing 31012
board is required to provide under all interdistrict contracts as 31013
a result of the termination or nonrenewal of one or more of these 31014
interdistrict contracts. 31015

(C) In making any such reduction, any city, exempted village, 31016
local, or joint vocational school board shall proceed to suspend 31017
contracts in accordance with the recommendation of the 31018
superintendent of schools who shall, within each teaching field 31019
affected, give preference first to teachers on continuing 31020

contracts and then to teachers who have greater seniority. In 31021
making any such reduction, any governing board of a service center 31022
shall proceed to suspend contracts in accordance with the 31023
recommendation of the superintendent who shall, within each 31024
teaching field or service area affected, give preference first to 31025
teachers on continuing contracts and then to teachers who have 31026
greater seniority. 31027

On a case-by-case basis, in lieu of suspending a contract in 31028
whole, a board may suspend a contract in part, so that an 31029
individual is required to work a percentage of the time the 31030
employee otherwise is required to work under the contract and 31031
receives a commensurate percentage of the full compensation the 31032
employee otherwise would receive under the contract. 31033

The teachers whose continuing contracts are suspended by any 31034
board pursuant to this section shall have the right of restoration 31035
to continuing service status by that board in the order of 31036
seniority of service in the district or service center if and when 31037
teaching positions become vacant or are created for which any of 31038
such teachers are or become qualified. No teacher whose continuing 31039
contract has been suspended pursuant to this section shall lose 31040
that right of restoration to continuing service status by reason 31041
of having declined recall to a position that is less than 31042
full-time or, if the teacher was not employed full-time just prior 31043
to suspension of the teacher's continuing contract, to a position 31044
requiring a lesser percentage of full-time employment than the 31045
position the teacher last held while employed in the district or 31046
service center. 31047

(D) Notwithstanding any provision to the contrary in Chapter 31048
4117. of the Revised Code, the requirements of this section 31049
prevail over any conflicting provisions of agreements between 31050
employee organizations and public employers entered into after the 31051
effective date of this amendment. 31052

Sec. 3319.172. The board of education of each school district wherein the provisions of Chapter 124. of the Revised Code do not apply and the governing board of each educational service center may adopt a resolution ordering reasonable reductions in the number of nonteaching employees for any of the reasons for which the board of education or governing board may make reductions in teaching employees, as set forth in division (B) of section 3319.17 of the Revised Code.

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In making any reduction under this section, the board of education or governing board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of the district or service center who shall, within each pay classification affected, give preference first to employees under continuing contracts and then to employees on the basis of seniority. On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract.

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Any nonteaching employee whose continuing contract is suspended under this section shall have the right of restoration to continuing service status by the board of education or governing board that suspended that contract in order of seniority of service in the district or service center, if and when a nonteaching position for which the employee is qualified becomes vacant or is created. No nonteaching employee whose continuing contract has been suspended under this section shall lose that right of restoration to continuing service status by reason of having declined recall to a position requiring fewer regularly scheduled hours of work than required by the position the employee

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<u>last held while employed in the district or service center.</u>	31084
<u>Notwithstanding any provision to the contrary in Chapter</u>	31085
<u>4117. of the Revised Code, the requirements of this section</u>	31086
<u>prevail over any conflicting provisions of agreements between</u>	31087
<u>employee organizations and public employers entered into after the</u>	31088
<u>effective date of this section.</u>	31089
Sec. 3319.22. (A)(1) The state board of education shall adopt	31090
rules establishing the standards and requirements for obtaining	31091
temporary, associate, provisional, and professional educator	31092
licenses of any categories, types, and levels the board elects to	31093
provide. However, no educator license shall be required for	31094
teaching children two years old or younger.	31095
(2) If the state board requires any examinations for educator	31096
licensure, the department of education shall provide the results	31097
of such examinations received by the department to the Ohio board	31098
of regents, in the manner and to the extent permitted by state and	31099
federal law.	31100
(B) Any rules the state board of education adopts, amends, or	31101
rescinds for educator licenses under this section, division (D) of	31102
section 3301.07 of the Revised Code, or any other law shall be	31103
adopted, amended, or rescinded under Chapter 119. of the Revised	31104
Code except as follows:	31105
(1) Notwithstanding division (D) of section 119.03 and	31106
division (A)(1) of section 119.04 of the Revised Code, in the case	31107
of the adoption of any rule or the amendment or rescission of any	31108
rule that necessitates institutions' offering teacher preparation	31109
programs that are approved by the state board of education under	31110
section 3319.23 of the Revised Code to revise the curriculum of	31111
those programs, the effective date shall not be as prescribed in	31112
division (D) of section 119.03 and division (A)(1) of section	31113

119.04 of the Revised Code. Instead, the effective date of such 31114
rules, or the amendment or rescission of such rules, shall be the 31115
date prescribed by section 3319.23 of the Revised Code. 31116

(2) Notwithstanding the authority to adopt, amend, or rescind 31117
emergency rules in division (F) of section 119.03 of the Revised 31118
Code, this authority shall not apply to the state board of 31119
education with regard to rules for educator licenses. 31120

(C)(1) The rules adopted under this section establishing 31121
standards requiring additional coursework for the renewal of any 31122
educator license shall require a school district and a chartered 31123
nonpublic school to establish local professional development 31124
committees. In a nonpublic school, the chief administrative 31125
officer shall establish the committees in any manner acceptable to 31126
such officer. The committees established under this division shall 31127
determine whether coursework that a district or chartered 31128
nonpublic school teacher proposes to complete meets the 31129
requirement of the rules. The department of education shall 31130
provide technical assistance and support to committees as the 31131
committees incorporate the professional development standards 31132
adopted by the state board of education pursuant to section 31133
3319.61 of the Revised Code into their review of coursework that 31134
is appropriate for license renewal. The rules shall establish a 31135
procedure by which a teacher may appeal the decision of a local 31136
professional development committee. 31137

(2) In any school district in which there is no exclusive 31138
representative established under Chapter 4117. of the Revised 31139
Code, the professional development committees shall be established 31140
as described in division (C)(2) of this section. 31141

Not later than the effective date of the rules adopted under 31142
this section, the board of education of each school district shall 31143
establish the structure for one or more local professional 31144

development committees to be operated by such school district. The 31145
committee structure so established by a district board shall 31146
remain in effect unless within thirty days prior to an anniversary 31147
of the date upon which the current committee structure was 31148
established, the board provides notice to all affected district 31149
employees that the committee structure is to be modified. 31150
Professional development committees may have a district-level or 31151
building-level scope of operations, and may be established with 31152
regard to particular grade or age levels for which an educator 31153
license is designated. 31154

Each professional development committee shall consist of at 31155
least three classroom teachers employed by the district, one 31156
principal employed by the district, and one other employee of the 31157
district appointed by the district superintendent. For committees 31158
with a building-level scope, the teacher and principal members 31159
shall be assigned to that building, and the teacher members shall 31160
be elected by majority vote of the classroom teachers assigned to 31161
that building. For committees with a district-level scope, the 31162
teacher members shall be elected by majority vote of the classroom 31163
teachers of the district, and the principal member shall be 31164
elected by a majority vote of the principals of the district, 31165
unless there are two or fewer principals employed by the district, 31166
in which case the one or two principals employed shall serve on 31167
the committee. If a committee has a particular grade or age level 31168
scope, the teacher members shall be licensed to teach such grade 31169
or age levels, and shall be elected by majority vote of the 31170
classroom teachers holding such a license and the principal shall 31171
be elected by all principals serving in buildings where any such 31172
teachers serve. The district superintendent shall appoint a 31173
replacement to fill any vacancy that occurs on a professional 31174
development committee, except in the case of vacancies among the 31175
elected classroom teacher members, which shall be filled by vote 31176

of the remaining members of the committee so selected. 31177

Terms of office on professional development committees shall 31178
be prescribed by the district board establishing the committees. 31179
The conduct of elections for members of professional development 31180
committees shall be prescribed by the district board establishing 31181
the committees. A professional development committee may include 31182
additional members, except that the majority of members on each 31183
such committee shall be classroom teachers employed by the 31184
district. Any member appointed to fill a vacancy occurring prior 31185
to the expiration date of the term for which a predecessor was 31186
appointed shall hold office as a member for the remainder of that 31187
term. 31188

The initial meeting of any professional development 31189
committee, upon election and appointment of all committee members, 31190
shall be called by a member designated by the district 31191
superintendent. At this initial meeting, the committee shall 31192
select a chairperson and such other officers the committee deems 31193
necessary, and shall adopt rules for the conduct of its meetings. 31194
Thereafter, the committee shall meet at the call of the 31195
chairperson or upon the filing of a petition with the district 31196
superintendent signed by a majority of the committee members 31197
calling for the committee to meet. 31198

(3) In the case of a school district in which an exclusive 31199
representative has been established pursuant to Chapter 4117. of 31200
the Revised Code, professional development committees shall be 31201
established in accordance with any collective bargaining agreement 31202
in effect in the district that includes provisions for such 31203
committees. 31204

If the collective bargaining agreement does not specify a 31205
different method for the selection of teacher members of the 31206
committees, the exclusive representative of the district's 31207

teachers shall select the teacher members. 31208

If the collective bargaining agreement does not specify a 31209
different structure for the committees, the board of education of 31210
the school district shall establish the structure, including the 31211
number of committees and the number of teacher and administrative 31212
members on each committee; the specific administrative members to 31213
be part of each committee; whether the scope of the committees 31214
will be district levels, building levels, or by type of grade or 31215
age levels for which educator licenses are designated; the lengths 31216
of terms for members; the manner of filling vacancies on the 31217
committees; and the frequency and time and place of meetings. 31218
However, in all cases, except as provided in division (C)(4) of 31219
this section, there shall be a majority of teacher members of any 31220
professional development committee, there shall be at least five 31221
total members of any professional development committee, and the 31222
exclusive representative shall designate replacement members in 31223
the case of vacancies among teacher members, unless the collective 31224
bargaining agreement specifies a different method of selecting 31225
such replacements. 31226

(4) Whenever an administrator's coursework plan is being 31227
discussed or voted upon, the local professional development 31228
committee shall, at the request of one of its administrative 31229
members, cause a majority of the committee to consist of 31230
administrative members by reducing the number of teacher members 31231
voting on the plan. 31232

(D)(1) The department of education, educational service 31233
centers, county boards of mental retardation and developmental 31234
disabilities, regional professional development centers, special 31235
education regional resource centers, college and university 31236
departments of education, head start programs, the eTech Ohio 31237
~~SchoolNet~~ commission, and the Ohio education computer network may 31238
establish local professional development committees to determine 31239

whether the coursework proposed by their employees who are 31240
licensed or certificated under this section or section 3319.222 of 31241
the Revised Code meet the requirements of the rules adopted under 31242
this section. They may establish local professional development 31243
committees on their own or in collaboration with a school district 31244
or other agency having authority to establish them. 31245

Local professional development committees established by 31246
county boards of mental retardation and developmental disabilities 31247
shall be structured in a manner comparable to the structures 31248
prescribed for school districts in divisions (C)(2) and (3) of 31249
this section, as shall the committees established by any other 31250
entity specified in division (D)(1) of this section that provides 31251
educational services by employing or contracting for services of 31252
classroom teachers licensed or certificated under this section or 31253
section 3319.222 of the Revised Code. All other entities specified 31254
in division (D)(1) of this section shall structure their 31255
committees in accordance with guidelines which shall be issued by 31256
the state board. 31257

(2) Any public agency that is not specified in division 31258
(D)(1) of this section but provides educational services and 31259
employs or contracts for services of classroom teachers licensed 31260
or certificated under this section or section 3319.222 of the 31261
Revised Code may establish a local professional development 31262
committee, subject to the approval of the department of education. 31263
The committee shall be structured in accordance with guidelines 31264
issued by the state board. 31265

Sec. 3319.235. (A) The standards for the preparation of 31266
teachers adopted under section 3319.23 of the Revised Code shall 31267
require any institution that provides a course of study for the 31268
training of teachers to ensure that graduates of such course of 31269
study are skilled at integrating educational technology in the 31270

instruction of children, as evidenced by the graduate having 31271
either demonstrated proficiency in such skills in a manner 31272
prescribed by the department of education or completed a course 31273
that includes training in such skills. 31274

(B) The ~~eTech Ohio SchoolNet~~ commission, ~~established pursuant~~ 31275
~~to section 3301.80 of the Revised Code,~~ shall establish model 31276
professional development programs to assist teachers who completed 31277
their teacher preparation prior to the effective date of division 31278
(A) of this section to become skilled at integrating educational 31279
technology in the instruction of children. The commission shall 31280
provide technical assistance to school districts wishing to 31281
establish such programs. 31282

Sec. 3319.55. (A) A grant program is hereby established to 31283
recognize and reward teachers in public and chartered nonpublic 31284
schools who hold valid teaching certificates or licenses issued by 31285
the national board for professional teaching standards. The 31286
superintendent of public instruction shall administer this program 31287
in accordance with this section and rules which the state board of 31288
education shall adopt in accordance with Chapter 119. of the 31289
Revised Code. 31290

In each fiscal year that the general assembly appropriates 31291
funds for purposes of this section, the superintendent of public 31292
instruction shall award a grant to each person who, by the first 31293
day of April of that year and in accordance with the rules adopted 31294
under this section, submits to the superintendent evidence 31295
indicating all of the following: 31296

(1) The person holds a valid certificate or license issued by 31297
the national board for professional teaching standards; 31298

(2) The person has been employed full-time as a teacher by 31299
the board of education of a school district or by a chartered 31300
nonpublic school in this state during the current school year; 31301

(3) The date the person was accepted into the national board certification or licensure program. 31302
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An individual may receive a grant under this section in each fiscal year the person is eligible for a grant and submits evidence of that eligibility in accordance with this section. No person may receive a grant after the expiration of the person's initial certification or license issued by the national board. 31304
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(B) The amount of the grant awarded to each eligible person under division (A) of this section in any fiscal year shall equal the following: 31309
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(1) Two thousand five hundred dollars for any teacher accepted as a candidate for certification or licensure by the national board on or before May 31, 2003, and issued a certificate or license by the national board on or before December 31, 2004; 31312
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(2) One thousand dollars for any other teacher issued a certificate or license by the national board. 31316
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However, if the funds appropriated for purposes of this section in any fiscal year are not sufficient to award the full grant amount to each person who is eligible in that fiscal year, the superintendent shall prorate the amount of the grant awarded in that fiscal year to each eligible person. 31318
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Sec. 3323.021. As used in this section, "participating county MR/DD board" means a county board of mental retardation and developmental disabilities electing to participate in the provision of or contracting for educational services for children under division (D) of section 5126.05 of the Revised Code. 31323
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(A) When a school district, educational service center, or participating county MR/DD board enters into an agreement or contract with another school district, educational service center, or participating county MR/DD board to provide educational 31328
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services to a disabled child during a school year, both of the 31332
following shall apply: 31333

(1) Beginning with fiscal year 1999, if the provider of the 31334
services intends to increase the amount it charges for some or all 31335
of those services during the next school year or if the provider 31336
intends to cease offering all or part of those services during the 31337
next school year, the provider shall notify the entity for which 31338
the services are provided of these intended changes no later than 31339
the first day of March of the current fiscal year. 31340

(2) Beginning with fiscal year 1999, if the entity for which 31341
services are provided intends to cease obtaining those services 31342
from the provider for the next school year or intends to change 31343
the type or amount of services it obtains from the provider for 31344
the next school year, the entity shall notify the service provider 31345
of these intended changes no later than the first day of March of 31346
the current fiscal year. 31347

(B) School districts, educational service centers, 31348
participating county MR/DD boards, and other applicable 31349
governmental entities shall collaborate where possible to maximize 31350
federal sources of revenue, ~~including the community alternative~~ 31351
~~funding system of the medical assistance program established under~~ 31352
~~Chapter 5111. of the Revised Code,~~ to provide additional funds for 31353
special education related services for disabled children. 31354
Annually, each school district shall report to the department of 31355
education any amounts of money the district received through such 31356
medical assistance program. 31357

(C) The state board of education, the department of mental 31358
retardation and developmental disabilities, and the department of 31359
job and family services shall develop working agreements for 31360
pursuing additional funds for services for disabled children. 31361

Sec. 3323.091. (A) The department of mental health, the 31362
department of mental retardation and developmental disabilities, 31363
the department of youth services, and the department of 31364
rehabilitation and correction shall establish and maintain special 31365
education programs for handicapped children in institutions under 31366
their jurisdiction according to standards adopted by the state 31367
board of education. ~~The~~ 31368

(B) The superintendent of each state institution required to 31369
provide services under division (A) of this section, and each 31370
county MR/DD board, providing special education for handicapped 31371
preschool children under this chapter may apply to the state 31372
department of education for unit funding, which shall be paid in 31373
accordance with sections 3317.052 and 3317.053 of the Revised 31374
Code. 31375

~~(B) On~~ The superintendent of each state institution required 31376
to provide services under division (A) of this section may apply 31377
to the department of education for special education and related 31378
services weighted funding for handicapped children other than 31379
handicapped preschool children, calculated in accordance with 31380
section 3317.201 of the Revised Code. 31381

Each county MR/DD board providing special education for 31382
handicapped children other than handicapped preschool children may 31383
apply to the department of education for base cost and special 31384
education and related services weighted funding calculated in 31385
accordance with section 3317.20 of the Revised Code. 31386

(C) In addition to the authorization to apply for state 31387
funding described in division (B) of this section, each state 31388
institution required to provide services under division (A) of 31389
this section is entitled to tuition payments calculated in the 31390
manner described in division (C) of this section. 31391

On or before the thirtieth day of June of each year, the 31392

superintendent of each institution that during the school year 31393
provided special education pursuant to this section shall prepare 31394
a statement for each handicapped child under twenty-two years of 31395
age who has received special education. The statement shall 31396
contain the child's name and the name of the child's school 31397
district of residence. Within sixty days after receipt of such 31398
statement, the department of education shall perform one of the 31399
following: 31400

(1) For any child except a handicapped preschool child 31401
described in division ~~(B)~~(C)(2) of this section, pay to the 31402
institution submitting the statement an amount equal to the 31403
tuition calculated under division (A) of section 3317.08 of the 31404
Revised Code for the period covered by the statement, and deduct 31405
the same from the amount of state funds, if any, payable under 31406
sections 3317.022 and 3317.023 of the Revised Code, to the child's 31407
school district of residence or, if the amount of such state funds 31408
is insufficient, require the child's school district of residence 31409
to pay the institution submitting the statement an amount equal to 31410
the amount determined under this division. 31411

(2) For any handicapped preschool child not included in a 31412
unit approved under division (B) of section 3317.05 of the Revised 31413
Code, perform the following: 31414

(a) Pay to the institution submitting the statement an amount 31415
equal to the tuition calculated under division (B) of section 31416
3317.08 of the Revised Code for the period covered by the 31417
statement, except that in calculating the tuition under that 31418
section the operating expenses of the institution submitting the 31419
statement under this section shall be used instead of the 31420
operating expenses of the school district of residence; 31421

(b) Deduct from the amount of state funds, if any, payable 31422
under sections 3317.022 and 3317.023 of the Revised Code to the 31423
child's school district of residence an amount equal to the amount 31424

paid under division ~~(B)~~(C)(2)(a) of this section.

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Sec. 3323.14. This section does not apply to any handicapped preschool child except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

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(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay ~~directly~~ to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the district concerned at the time the district providing such special education accepts the child for enrollment. The department of education shall certify the amount of the payments under Chapter 3317. of the Revised Code for such handicapped pupils for each school year ending on the thirtieth day of July.

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(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section 3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the

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district may report the amount calculated under this division to 31456
the department. 31457

(C) If a district providing special education for a child 31458
reports an amount for the excess cost of those services, as 31459
authorized and calculated under division (A) or (B) of this 31460
section, the department shall pay that amount of excess cost to 31461
the district providing the services and shall deduct that amount 31462
from the child's district of residence in accordance with division 31463
(N) of section 3317.023 of the Revised Code. 31464

Sec. 3323.16. No unit for deaf children shall be disapproved 31465
for funding under division (B) ~~or (D)(1)~~ of section 3317.05 of the 31466
Revised Code on the basis of the methods of instruction used in 31467
educational programs in the school district or institution to 31468
teach deaf children to communicate, and no preference in approving 31469
units for funding shall be given for teaching deaf children by the 31470
oral, manual, total communication, or other method of instruction. 31471

Sec. ~~41.36~~ 3323.19. (A) ~~In the 2004-2005 and 2005-2006 school~~ 31472
~~years, within~~ Within three months after a student identified with 31473
disabilities begins receiving services for the first time under an 31474
individualized education program, ~~as defined in section 3323.01 of~~ 31475
~~the Revised Code,~~ the school district in which that student is 31476
enrolled shall require the student to undergo a comprehensive eye 31477
examination performed either by an optometrist licensed under 31478
Chapter 4725. of the Revised Code or by a physician authorized 31479
under Chapter 4731. of the Revised Code to practice medicine and 31480
surgery or osteopathic medicine and surgery who is comprehensively 31481
trained and educated in the treatment of the human eye, eye 31482
disease, or comprehensive vision services, unless the student 31483
underwent such an examination within the nine-month period 31484
immediately prior to being identified with disabilities. 31485

However, no student who has not undergone the eye examination 31486
required under this section shall be prohibited from initiating, 31487
receiving, or continuing to receive services prescribed in the 31488
student's individualized education program. 31489

(B) The superintendent of each school district or the 31490
superintendent's designee may determine fulfillment of the 31491
requirement prescribed in division (A) of this section based on 31492
any special circumstances of the student, the student's parent, 31493
guardian, or family that may prevent the student from undergoing 31494
the eye examination prior to beginning special education services. 31495

(C) Except for a student who may be entitled to a 31496
comprehensive eye examination in the identification of the 31497
student's disabilities, in the development of the student's 31498
individualized education program, or as a related service under 31499
the student's individualized education program, neither the state 31500
nor any school district shall be responsible for paying for the 31501
eye examination required by this section. 31502

Sec. 3323.20. On or before the first day of January of each 31503
year, the department of education shall report to the general 31504
assembly the number of handicapped preschool children receiving 31505
services as reported to the United States department of education 31506
during the previous December. 31507

Sec. 3323.30. The Ohio center for autism and low incidence is 31508
hereby established within the department of education's office for 31509
exceptional children, or any successor of that office. The center 31510
shall administer programs and coordinate services for infants, 31511
preschool and school-age children, and adults with autism and low 31512
incidence disabilities. The center's principal focus shall be 31513
programs and services for persons with autism. The center shall be 31514
under the direction of an executive director, appointed by the 31515

superintendent of public instruction in consultation with the 31516
advisory board established under section 3323.31 of the Revised 31517
Code. The department shall use state and federal funds 31518
appropriated to the department for operation of the center. 31519

As used in this section and in sections 3323.31 to 3323.33 of 31520
the Revised Code, "autism and low incidence disabilities" includes 31521
any of the following: 31522

(A) Autism; 31523

(B) Deafness or hearing handicap; 31524

(C) Multihandicap; 31525

(D) Orthopedic handicap; 31526

(E) Other health handicap; 31527

(F) Traumatic brain injury; 31528

(G) Visual disability. 31529

Sec. 3323.31. The superintendent of public instruction shall 31530
establish an advisory board to assist and advise the department of 31531
education in the operation of the Ohio center for autism and low 31532
incidence. As determined by the superintendent, the advisory board 31533
shall consist of individuals who are stakeholders in the service 31534
to persons with autism and low incidence disabilities, including, 31535
but not limited to, the following: 31536

(A) Persons with autism and low incidence disabilities; 31537

(B) Parents and family members; 31538

(C) Educators and other professionals; 31539

(D) Higher education instructors; 31540

(E) Representatives of state agencies. 31541

The advisory board shall be organized as determined by the 31542

<u>superintendent.</u>	31543
<u>Members of the advisory board shall receive no compensation</u>	31544
<u>for their services.</u>	31545
<u>Sec. 3323.32. The Ohio center for autism and low incidence</u>	31546
<u>shall do all of the following:</u>	31547
<u>(A) Collaborate and consult with state agencies that serve</u>	31548
<u>persons with autism and low incidence disabilities;</u>	31549
<u>(B) Collaborate and consult with institutions of higher</u>	31550
<u>education in development and implementation of courses for</u>	31551
<u>educators and other professionals serving persons with autism and</u>	31552
<u>low incidence disabilities;</u>	31553
<u>(C) Collaborate with parent and professional organizations;</u>	31554
<u>(D) Create and implement programs for professional</u>	31555
<u>development, technical assistance, intervention services, and</u>	31556
<u>research in the treatment of persons with autism and low incidence</u>	31557
<u>disabilities;</u>	31558
<u>(E) Create a regional network for communication and</u>	31559
<u>dissemination of information among educators and professionals</u>	31560
<u>serving persons with autism and low incidence disabilities. The</u>	31561
<u>regional network shall address educational services, evaluation,</u>	31562
<u>diagnosis, assistive technology, family support, leisure and</u>	31563
<u>recreational activities, transition, employment and adult</u>	31564
<u>services, and medical care for persons with autism and low</u>	31565
<u>incidence disabilities.</u>	31566
<u>(F) Develop a statewide clearinghouse for information about</u>	31567
<u>autism spectrum disorders and low incidence disabilities, as</u>	31568
<u>described in section 3323.33 of the Revised Code.</u>	31569
<u>Sec. 3323.33. In developing a clearinghouse for information</u>	31570
<u>about autism spectrum disorders and low incidence disabilities, as</u>	31571

<u>required under section 3323.32 of the Revised Code, the Ohio</u>	31572
<u>center for autism and low incidence shall do all of the following:</u>	31573
<u>(A) Maintain a collection of resources for public</u>	31574
<u>distribution;</u>	31575
<u>(B) Monitor information on resources, trends, policies,</u>	31576
<u>services, and current educational interventions;</u>	31577
<u>(C) Respond to requests for information from parents and</u>	31578
<u>educators of children with autism and low incidence disabilities.</u>	31579
<u>Sec. 3325.10. The state school for the blind may receive and</u>	31580
<u>administer any federal funds relating to the education of blind or</u>	31581
<u>visually impaired students. The school for the blind also may</u>	31582
<u>accept and administer any gifts, donations, or bequests made to it</u>	31583
<u>for programs or services relating to the education of blind or</u>	31584
<u>visually impaired students.</u>	31585
<u>Sec. 3325.11. There is hereby created in the state treasury</u>	31586
<u>the state school for the blind student activity and work-study</u>	31587
<u>fund. Moneys received from donations, bequests, the school</u>	31588
<u>vocational program, and any other moneys designated for deposit in</u>	31589
<u>the fund by the superintendent of the state school for the blind</u>	31590
<u>shall be credited to the fund. Notwithstanding section 3325.01 of</u>	31591
<u>the Revised Code, the approval of the state board of education is</u>	31592
<u>not required to designate money for deposit into the fund. The</u>	31593
<u>school for the blind shall use money in the fund for school</u>	31594
<u>operating expenses, including, but not limited to, personal</u>	31595
<u>services, maintenance, and equipment related to student support,</u>	31596
<u>activities, and vocational programs, and for providing</u>	31597
<u>scholarships to students for further training upon graduation.</u>	31598
<u>Sec. 3325.12. There is hereby created the state school for</u>	31599

the blind student account fund, which shall be in the custody of 31600
the treasurer of state but shall not be part of the state 31601
treasury. The fund shall consist of all moneys received from the 31602
parents or guardians of students attending the state school for 31603
the blind that are designated for use by the respective students 31604
in activities of their choice. The treasurer of state may invest 31605
any portion of the fund not needed for immediate use in the same 31606
manner as, and subject to laws regarding the investment of, state 31607
funds. The treasurer of state shall disburse money from the fund 31608
on order of the superintendent of the state school for the blind 31609
or the superintendent's designee. All investment earnings of the 31610
fund shall be credited to the fund and allocated among the student 31611
accounts in proportion to the amount invested from each student's 31612
account. 31613

Sec. 3325.15. The state school for the deaf may receive and 31614
administer any federal funds relating to the education of deaf or 31615
hearing-impaired students. The school for the deaf also may accept 31616
and administer any gifts, donations, or bequests given to it for 31617
programs or services relating to the education of deaf or 31618
hearing-impaired students. 31619

Sec. 3325.16. There is hereby created in the state treasury 31620
the state school for the deaf educational program expenses fund. 31621
Moneys received by the school from donations, bequests, student 31622
fundraising activities, fees charged for camps and workshops, gate 31623
receipts from athletic contests, and the student work experience 31624
program operated by the school, and any other moneys designated 31625
for deposit in the fund by the superintendent of the school, shall 31626
be credited to the fund. Notwithstanding section 3325.01 of the 31627
Revised Code, the approval of the state board of education is not 31628
required to designate money for deposit into the fund. The state 31629

school for the deaf shall use moneys in the fund for educational 31630
programs, after-school activities, and expenses associated with 31631
student activities and clubs. 31632

Sec. 3325.17. There is hereby created the state school for 31633
the deaf student account fund, which shall be in the custody of 31634
the treasurer of state but shall not be part of the state 31635
treasury. The fund shall consist of all moneys received from the 31636
parents or guardians of students attending the state school for 31637
the deaf that are designated for use by the respective students in 31638
activities of their choice. The treasurer of state may invest any 31639
portion of the fund not needed for immediate use in the same 31640
manner as, and subject to laws regarding the investment of, state 31641
funds. The treasurer of state shall disburse money from the fund 31642
on order of the superintendent of the state school for the deaf or 31643
the superintendent's designee. All investment earnings of the fund 31644
shall be credited to the fund and allocated among the student 31645
accounts in proportion to the amount invested from each student's 31646
account. 31647

Sec. 3327.01. Notwithstanding division (D) of section 3311.19 31648
and division (D) of section 3311.52 of the Revised Code, this 31649
section and sections 3327.011, 3327.012, and 3327.02 of the 31650
Revised Code do not apply to any joint vocational or cooperative 31651
education school district. 31652

In all city, local, and exempted village school districts 31653
where resident school pupils in grades kindergarten through eight 31654
live more than two miles from the school for which the state board 31655
of education prescribes minimum standards pursuant to division (D) 31656
of section 3301.07 of the Revised Code and to which they are 31657
assigned by the board of education of the district of residence or 31658
to and from the nonpublic or community school which they attend 31659

the board of education shall provide transportation for such 31660
pupils to and from such school except as provided in section 31661
3327.02 of the Revised Code. 31662

In all city, local, and exempted village school districts 31663
where pupil transportation is required under a career-technical 31664
plan approved by the state board of education under section 31665
3313.90 of the Revised Code, for any student attending a 31666
career-technical program operated by another school district, 31667
including a joint vocational school district, as prescribed under 31668
that section, the board of education of the student's district of 31669
residence shall provide transportation from the public high school 31670
operated by that district to which the student is assigned to the 31671
career-technical program. 31672

In all city, local, and exempted village school districts the 31673
board may provide transportation for resident school pupils in 31674
grades nine through twelve to and from the high school to which 31675
they are assigned by the board of education of the district of 31676
residence or to and from the nonpublic or community high school 31677
which they attend for which the state board of education 31678
prescribes minimum standards pursuant to division (D) of section 31679
3301.07 of the Revised Code. 31680

A board of education shall not be required to transport 31681
elementary or high school pupils to and from a nonpublic or 31682
community school where such transportation would require more than 31683
thirty minutes of direct travel time as measured by school bus 31684
from the public school building to which the pupils would be 31685
assigned if attending the public school designated by the district 31686
of residence. 31687

Where it is impractical to transport a pupil by school 31688
conveyance, a board of education may offer payment, in lieu of 31689
providing such transportation in accordance with section 3327.02 31690

of the Revised Code. 31691

In all city, local, and exempted village school districts the 31692
board shall provide transportation for all children who are so 31693
crippled that they are unable to walk to and from the school for 31694
which the state board of education prescribes minimum standards 31695
pursuant to division (D) of section 3301.07 of the Revised Code 31696
and which they attend. In case of dispute whether the child is 31697
able to walk to and from the school, the health commissioner shall 31698
be the judge of such ability. In all city, exempted village, and 31699
local school districts the board shall provide transportation to 31700
and from school or special education classes for educable mentally 31701
retarded children in accordance with standards adopted by the 31702
state board of education. 31703

When transportation of pupils is provided the conveyance 31704
shall be run on a time schedule that shall be adopted and put in 31705
force by the board not later than ten days after the beginning of 31706
the school term. 31707

The cost of any transportation service authorized by this 31708
section shall be paid first out of federal funds, if any, 31709
available for the purpose of pupil transportation, and secondly 31710
out of state appropriations, in accordance with regulations 31711
adopted by the state board of education. 31712

No transportation of any pupils shall be provided by any 31713
board of education to or from any school which in the selection of 31714
pupils, faculty members, or employees, practices discrimination 31715
against any person on the grounds of race, color, religion, or 31716
national origin. 31717

Sec. 3332.092. Any school subject to this chapter receiving 31718
money under section 3333.12 or 3333.122 of the Revised Code on 31719
behalf of a student who is determined by the state board of career 31720

colleges and schools to be ineligible under such section because 31721
the program in which the student is enrolled does not lead to an 31722
associate or baccalaureate degree, shall be liable to the state 31723
for the amount specified in section 3333.12 or 3333.122 of the 31724
Revised Code. The state board of career colleges and schools shall 31725
suspend the certificate of registration of a school receiving 31726
money under section 3333.12 or 3333.122 of the Revised Code for 31727
such ineligible student until such time as the money is repaid to 31728
the Ohio board of regents. 31729

Sec. 3333.04. The Ohio board of regents shall: 31730

(A) Make studies of state policy in the field of higher 31731
education and formulate a master plan for higher education for the 31732
state, considering the needs of the people, the needs of the 31733
state, and the role of individual public and private institutions 31734
within the state in fulfilling these needs; 31735

(B)(1) Report annually to the governor and the general 31736
assembly on the findings from its studies and the master plan for 31737
higher education for the state; 31738

(2) Report at least semiannually to the general assembly and 31739
the governor the enrollment numbers at each state-assisted 31740
institution of higher education. 31741

(C) Approve or disapprove the establishment of new branches 31742
or academic centers of state colleges and universities; 31743

(D) Approve or disapprove the establishment of state 31744
technical colleges or any other state institution of higher 31745
education; 31746

(E) Recommend the nature of the programs, undergraduate, 31747
graduate, professional, state-financed research, and public 31748
services which should be offered by the state colleges, 31749
universities, and other state-assisted institutions of higher 31750

education in order to utilize to the best advantage their 31751
facilities and personnel; 31752

(F) Recommend to the state colleges, universities, and other 31753
state-assisted institutions of higher education graduate or 31754
professional programs, including, but not limited to, doctor of 31755
philosophy, doctor of education, and juris doctor programs, that 31756
could be eliminated because they constitute unnecessary 31757
duplication, as shall be determined using the process developed 31758
pursuant to this section, or for other good and sufficient cause. 31759
For purposes of determining the amounts of any state instructional 31760
subsidies paid to these colleges, universities, and institutions, 31761
the board may exclude students enrolled in any program that the 31762
board has recommended for elimination pursuant to this division 31763
except that the board shall not exclude any such student who 31764
enrolled in the program prior to the date on which the board 31765
initially commences to exclude students under this division. The 31766
board of regents and these colleges, universities, and 31767
institutions shall jointly develop a process for determining which 31768
existing graduate or professional programs constitute unnecessary 31769
duplication. 31770

(G) Recommend to the state colleges, universities, and other 31771
state-assisted institutions of higher education programs which 31772
should be added to their present programs; 31773

(H) Conduct studies for the state colleges, universities, and 31774
other state-assisted institutions of higher education to assist 31775
them in making the best and most efficient use of their existing 31776
facilities and personnel; 31777

(I) Make recommendations to the governor and general assembly 31778
concerning the development of state-financed capital plans for 31779
higher education; the establishment of new state colleges, 31780
universities, and other state-assisted institutions of higher 31781

education; and the establishment of new programs at the existing 31782
state colleges, universities, and other institutions of higher 31783
education; 31784

(J) Review the appropriation requests of the public community 31785
colleges and the state colleges and universities and submit to the 31786
office of budget and management and to the chairpersons of the 31787
finance committees of the house of representatives and of the 31788
senate its recommendations in regard to the biennial higher 31789
education appropriation for the state, including appropriations 31790
for the individual state colleges and universities and public 31791
community colleges. For the purpose of determining the amounts of 31792
instructional subsidies to be paid to state-assisted colleges and 31793
universities, the board shall define "full-time equivalent 31794
student" by program per academic year. The definition may take 31795
into account the establishment of minimum enrollment levels in 31796
technical education programs below which support allowances will 31797
not be paid. Except as otherwise provided in this section, the 31798
board shall make no change in the definition of "full-time 31799
equivalent student" in effect on November 15, 1981, which would 31800
increase or decrease the number of subsidy-eligible full-time 31801
equivalent students, without first submitting a fiscal impact 31802
statement to the president of the senate, the speaker of the house 31803
of representatives, ~~the legislative budget office of the~~ 31804
legislative service commission, and the director of budget and 31805
management. The board shall work in close cooperation with the 31806
director of budget and management in this respect and in all other 31807
matters concerning the expenditures of appropriated funds by state 31808
colleges, universities, and other institutions of higher 31809
education. 31810

(K) Seek the cooperation and advice of the officers and 31811
trustees of both public and private colleges, universities, and 31812
other institutions of higher education in the state in performing 31813

its duties and making its plans, studies, and recommendations;	31814
(L) Appoint advisory committees consisting of persons	31815
associated with public or private secondary schools, members of	31816
the state board of education, or personnel of the state department	31817
of education;	31818
(M) Appoint advisory committees consisting of college and	31819
university personnel, or other persons knowledgeable in the field	31820
of higher education, or both, in order to obtain their advice and	31821
assistance in defining and suggesting solutions for the problems	31822
and needs of higher education in this state;	31823
(N) Approve or disapprove all new degrees and new degree	31824
programs at all state colleges, universities, and other	31825
state-assisted institutions of higher education;	31826
(O) Adopt such rules as are necessary to carry out its duties	31827
and responsibilities;	31828
(P) Establish and submit to the governor and the general	31829
assembly a clear and measurable set of goals and timetables for	31830
their achievement for each program under the supervision of the	31831
board that is designed to accomplish any of the following:	31832
(1) Increased access to higher education;	31833
(2) Job training;	31834
(3) Adult literacy;	31835
(4) Research;	31836
(5) Excellence in higher education;	31837
(6) Reduction in the number of graduate programs within the	31838
same subject area.	31839
In July of each odd-numbered year, the board of regents shall	31840
submit to the governor and the general assembly a report on	31841
progress made toward these goals.	31842

(Q) Make recommendations to the governor and the general assembly regarding the design and funding of the student financial aid programs specified in sections 3333.12, 3333.122, 3333.21 to 3333.27, and 5910.02 of the Revised Code;

(R) Participate in education-related state or federal programs on behalf of the state and assume responsibility for the administration of such programs in accordance with applicable state or federal law;

(S) Adopt rules for student financial aid programs as required by sections 3333.12, 3333.122, 3333.21 to 3333.27, 3333.28, 3333.29, and 5910.02 of the Revised Code, and perform any other administrative functions assigned to the board by those sections;

(T) Administer contracts under sections 3702.74 and 3702.75 of the Revised Code in accordance with rules adopted by the director of health under section 3702.79 of the Revised Code;

(U) Conduct enrollment audits of state-supported institutions of higher education;

(V) Appoint consortiums of college and university personnel to participate in the development and operation of statewide collaborative efforts, including the Ohio supercomputer center, the Ohio academic resources network, OhioLink, and the Ohio learning network. For each consortium, the board shall designate a college or university to serve as that consortium's fiscal agent, financial officer, and employer. Any funds appropriated to the board for consortiums shall be distributed to the fiscal agents for the operation of the consortiums. A consortium shall follow the rules of the college or university that serves as its fiscal agent.

Sec. 3333.044. (A) The Ohio board of regents may contract

with any consultants that are necessary for the discharge of the board's duties under this chapter.

(B) The Ohio board of regents may purchase, upon the terms that the board determines to be advisable, one or more policies of insurance from insurers authorized to do business in this state that insure consultants who have contracted with the board under division (A) of this section or members of an advisory committee appointed under section 3333.04 of the Revised Code, with respect to the activities of the consultants or advisory committee members in the course of the performance of their responsibilities as consultants or advisory committee members.

(C) Subject to the approval of the controlling board, the Ohio board of regents may contract with any entities for the discharge of the board's duties and responsibilities under any of the programs established pursuant to sections 3333.12, 3333.122, 3333.21 to 3333.28, 3702.71 to 3702.81, and 5120.55, and Chapter 5910. of the Revised Code. The board shall not enter into a contract under this division unless the proposed contractor demonstrates that its primary purpose is to promote access to higher education by providing student financial assistance through loans, grants, or scholarships, and by providing high quality support services and information to students and their families with regard to such financial assistance.

Chapter 125. of the Revised Code does not apply to contracts entered into pursuant to this section. In awarding contracts under this division, the board shall consider factors such as the cost of the administration of the contract, the experience of the contractor, and the contractor's ability to properly execute the contract.

Sec. 3333.047. With regard to any state student financial aid program established in this chapter, Chapter 5910., or section

5919.34 of the Revised Code, the Ohio board of regents shall 31904
conduct audits to: 31905

(A) Determine the validity of information provided by 31906
students and parents regarding eligibility for state student 31907
financial aid. If the board determines that eligibility data has 31908
been reported incorrectly or inaccurately, and where the board 31909
determines an adjustment to be appropriate, the institution of 31910
higher education shall adjust the financial aid awarded to the 31911
student. 31912

(B) Ensure that institutions of higher education are in 31913
compliance with the board's rules governing state student 31914
financial aid programs. An institution that fails to comply with 31915
the board's rules in the administration of any state student 31916
financial aid program shall be fully liable to reimburse the board 31917
for the unauthorized use of student financial aid funds. 31918

Sec. 3333.12. (A) As used in this section: 31919

(1) "Eligible student" means an undergraduate student who is: 31920

(a) An Ohio resident enrolled in an undergraduate program 31921
before the 2006-2007 academic year; 31922

(b) Enrolled in either of the following: 31923

(i) An accredited institution of higher education in this 31924
state that meets the requirements of Title VI of the Civil Rights 31925
Act of 1964 and is state-assisted, is nonprofit and has a 31926
certificate of authorization from the Ohio board of regents 31927
pursuant to Chapter 1713. of the Revised Code, has a certificate 31928
of registration from the state board of career colleges and 31929
schools and program authorization to award an associate or 31930
bachelor's degree, or is a private institution exempt from 31931
regulation under Chapter 3332. of the Revised Code as prescribed 31932

in section 3333.046 of the Revised Code. Students who attend an
institution that holds a certificate of registration shall be
enrolled in a program leading to an associate or bachelor's degree
for which associate or bachelor's degree program the institution
has program authorization issued under section 3332.05 of the
Revised Code.

(ii) A technical education program of at least two years
duration sponsored by a private institution of higher education in
this state that meets the requirements of Title VI of the Civil
Rights Act of 1964.

(c) Enrolled as a full-time student or enrolled as a less
than full-time student for the term expected to be the student's
final term of enrollment and is enrolled for the number of credit
hours necessary to complete the requirements of the program in
which the student is enrolled.

(2) "Gross income" includes all taxable and nontaxable income
of the parents, the student, and the student's spouse, except
income derived from an Ohio academic scholarship, income earned by
the student between the last day of the spring term and the first
day of the fall term, and other income exclusions designated by
the board. Gross income may be verified to the board by the
institution in which the student is enrolled using the federal
financial aid eligibility verification process or by other means
satisfactory to the board.

(3) "Resident," "full-time student," "dependent,"
"financially independent," and "accredited" shall be defined by
rules adopted by the board.

(B) The Ohio board of regents shall establish and administer
an instructional grant program and may adopt rules to carry out
this section. The general assembly shall support the instructional
grant program by such sums and in such manner as it may provide,

but the board may also receive funds from other sources to support 31964
the program. If the amounts available for support of the program 31965
are inadequate to provide grants to all eligible students, 31966
preference in the payment of grants shall be given in terms of 31967
income, beginning with the lowest income category of gross income 31968
and proceeding upward by category to the highest gross income 31969
category. 31970

An instructional grant shall be paid to an eligible student 31971
through the institution in which the student is enrolled, except 31972
that no instructional grant shall be paid to any person serving a 31973
term of imprisonment. Applications for such grants shall be made 31974
as prescribed by the board, and such applications may be made in 31975
conjunction with and upon the basis of information provided in 31976
conjunction with student assistance programs funded by agencies of 31977
the United States government or from financial resources of the 31978
institution of higher education. The institution shall certify 31979
that the student applicant meets the requirements set forth in 31980
divisions (A)(1)(b) and (c) of this section. Instructional grants 31981
shall be provided to an eligible student only as long as the 31982
student is making appropriate progress toward a nursing diploma or 31983
an associate or bachelor's degree. No student shall be eligible to 31984
receive a grant for more than ten semesters, fifteen quarters, or 31985
the equivalent of five academic years. A grant made to an eligible 31986
student on the basis of less than full-time enrollment shall be 31987
based on the number of credit hours for which the student is 31988
enrolled and shall be computed in accordance with a formula 31989
adopted by the board. No student shall receive more than one grant 31990
on the basis of less than full-time enrollment. 31991

An instructional grant shall not exceed the total 31992
instructional and general charges of the institution. 31993

(C) The tables in this division prescribe the maximum grant 31994
amounts covering two semesters, three quarters, or a comparable 31995

portion of one academic year. Grant amounts for additional terms 31996
in the same academic year shall be determined under division (D) 31997
of this section. 31998

For a full-time student who is a dependent and enrolled in a 31999
nonprofit educational institution that is not a state-assisted 32000
institution and that has a certificate of authorization issued 32001
pursuant to Chapter 1713. of the Revised Code, the amount of the 32002
instructional grant for two semesters, three quarters, or a 32003
comparable portion of the academic year shall be determined in 32004
accordance with the following table: 32005

Private Institution 32006

Table of Grants 32007

Gross Income	Maximum Grant \$5,466					32008
	Number of Dependents					
	1	2	3	4	5 or more	32009
\$0 - \$15,000	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	32010
\$15,001 - \$16,000	4,920	5,466	5,466	5,466	5,466	32011
\$16,001 - \$17,000	4,362	4,920	5,466	5,466	5,466	32012
\$17,001 - \$18,000	3,828	4,362	4,920	5,466	5,466	32013
\$18,001 - \$19,000	3,288	3,828	4,362	4,920	5,466	32014
\$19,001 - \$22,000	2,736	3,288	3,828	4,362	4,920	32015
\$22,001 - \$25,000	2,178	2,736	3,288	3,828	4,362	32016
\$25,001 - \$28,000	1,626	2,178	2,736	3,288	3,828	32017
\$28,001 - \$31,000	1,344	1,626	2,178	2,736	3,288	32018
\$31,001 - \$32,000	1,080	1,344	1,626	2,178	2,736	32019
\$32,001 - \$33,000	984	1,080	1,344	1,626	2,178	32020
\$33,001 - \$34,000	888	984	1,080	1,344	1,626	32021
\$34,001 - \$35,000	444	888	984	1,080	1,344	32022
\$35,001 - \$36,000	--	444	888	984	1,080	32023
\$36,001 - \$37,000	--	--	444	888	984	32024
\$37,001 - \$38,000	--	--	--	444	888	32025
						32026

\$38,001 - \$39,000 -- -- -- -- 444 32027

For a full-time student who is financially independent and 32028
enrolled in a nonprofit educational institution that is not a 32029
state-assisted institution and that has a certificate of 32030
authorization issued pursuant to Chapter 1713. of the Revised 32031
Code, the amount of the instructional grant for two semesters, 32032
three quarters, or a comparable portion of the academic year shall 32033
be determined in accordance with the following table: 32034

Private Institution 32035

Table of Grants 32036

Maximum Grant \$5,466 32037

Gross Income Number of Dependents 32038

	0	1	2	3	4	5 or	32039
						more	

\$0 - \$4,800	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	\$5,466	32040
\$4,801 - \$5,300	4,920	5,466	5,466	5,466	5,466	5,466	32041
\$5,301 - \$5,800	4,362	5,196	5,466	5,466	5,466	5,466	32042
\$5,801 - \$6,300	3,828	4,914	5,196	5,466	5,466	5,466	32043
\$6,301 - \$6,800	3,288	4,650	4,914	5,196	5,466	5,466	32044
\$6,801 - \$7,300	2,736	4,380	4,650	4,914	5,196	5,466	32045
\$7,301 - \$8,300	2,178	4,104	4,380	4,650	4,914	5,196	32046
\$8,301 - \$9,300	1,626	3,822	4,104	4,380	4,650	4,914	32047
\$9,301 - \$10,300	1,344	3,546	3,822	4,104	4,380	4,650	32048
\$10,301 - \$11,800	1,080	3,408	3,546	3,822	4,104	4,380	32049
\$11,801 - \$13,300	984	3,276	3,408	3,546	3,822	4,104	32050
\$13,301 - \$14,800	888	3,228	3,276	3,408	3,546	3,822	32051
\$14,801 - \$16,300	444	2,904	3,228	3,276	3,408	3,546	32052
\$16,301 - \$19,300	--	2,136	2,628	2,952	3,276	3,408	32053
\$19,301 - \$22,300	--	1,368	1,866	2,358	2,676	3,000	32054
\$22,301 - \$25,300	--	1,092	1,368	1,866	2,358	2,676	32055
\$25,301 - \$30,300	--	816	1,092	1,368	1,866	2,358	32056
\$30,301 - \$35,300	--	492	540	672	816	1,314	32057

For a full-time student who is a dependent and enrolled in an educational institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, the amount of the instructional grant for two semesters, three quarters, or a comparable portion of the academic year shall be determined in accordance with the following table:

Career Institution							32066
Table of Grants							32067
Maximum Grant \$4,632							32068
Gross Income	Number of Dependents						32069
	1	2	3	4	5 or more		32070
\$0 - \$15,000	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632		32071
\$15,001 - \$16,000	4,182	4,632	4,632	4,632	4,632		32072
\$16,001 - \$17,000	3,684	4,182	4,632	4,632	4,632		32073
\$17,001 - \$18,000	3,222	3,684	4,182	4,632	4,632		32074
\$18,001 - \$19,000	2,790	3,222	3,684	4,182	4,632		32075
\$19,001 - \$22,000	2,292	2,790	3,222	3,684	4,182		32076
\$22,001 - \$25,000	1,854	2,292	2,790	3,222	3,684		32077
\$25,001 - \$28,000	1,416	1,854	2,292	2,790	3,222		32078
\$28,001 - \$31,000	1,134	1,416	1,854	2,292	2,790		32079
\$31,001 - \$32,000	906	1,134	1,416	1,854	2,292		32080
\$32,001 - \$33,000	852	906	1,134	1,416	1,854		32081
\$33,001 - \$34,000	750	852	906	1,134	1,416		32082
\$34,001 - \$35,000	372	750	852	906	1,134		32083
\$35,001 - \$36,000	--	372	750	852	906		32084
\$36,001 - \$37,000	--	--	372	750	852		32085
\$37,001 - \$38,000	--	--	--	372	750		32086
\$38,001 - \$39,000	--	--	--	--	372		32087

For a full-time student who is financially independent and 32088

enrolled in an educational institution that holds a certificate of 32089
 registration from the state board of career colleges and schools 32090
 or a private institution exempt from regulation under Chapter 32091
 3332. of the Revised Code as prescribed in section 3333.046 of the 32092
 Revised Code, the amount of the instructional grant for two 32093
 semesters, three quarters, or a comparable portion of the academic 32094
 year shall be determined in accordance with the following table: 32095

Career Institution 32096

Table of Grants 32097

Maximum Grant \$4,632 32098

Gross Income Number of Dependents 32099

	0	1	2	3	4	5 or more	
\$0 - \$4,800	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	\$4,632	32100
\$4,801 - \$5,300	4,182	4,632	4,632	4,632	4,632	4,632	32101
\$5,301 - \$5,800	3,684	4,410	4,632	4,632	4,632	4,632	32102
\$5,801 - \$6,300	3,222	4,158	4,410	4,632	4,632	4,632	32103
\$6,301 - \$6,800	2,790	3,930	4,158	4,410	4,632	4,632	32104
\$6,801 - \$7,300	2,292	3,714	3,930	4,158	4,410	4,632	32105
\$7,301 - \$8,300	1,854	3,462	3,714	3,930	4,158	4,410	32106
\$8,301 - \$9,300	1,416	3,246	3,462	3,714	3,930	4,158	32107
\$9,301 - \$10,300	1,134	3,024	3,246	3,462	3,714	3,930	32108
\$10,301 - \$11,800	906	2,886	3,024	3,246	3,462	3,714	32109
\$11,801 - \$13,300	852	2,772	2,886	3,024	3,246	3,462	32110
\$13,301 - \$14,800	750	2,742	2,772	2,886	3,024	3,246	32111
\$14,801 - \$16,300	372	2,466	2,742	2,772	2,886	3,024	32112
\$16,301 - \$19,300	--	1,800	2,220	2,520	2,772	2,886	32113
\$19,301 - \$22,300	--	1,146	1,584	1,986	2,268	2,544	32114
\$22,301 - \$25,300	--	930	1,146	1,584	1,986	2,268	32115
\$25,301 - \$30,300	--	708	930	1,146	1,584	1,986	32116
\$30,301 - \$35,300	--	426	456	570	708	1,116	32117

For a full-time student who is a dependent and enrolled in a 32119

state-assisted educational institution, the amount of the 32120
 instructional grant for two semesters, three quarters, or a 32121
 comparable portion of the academic year shall be determined in 32122
 accordance with the following table: 32123

Public Institution 32124

Table of Grants 32125

Maximum Grant \$2,190 32126

Gross Income Number of Dependents 32127

	1	2	3	4	5 or more	
\$0 - \$15,000	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	32128
\$15,001 - \$16,000	1,974	2,190	2,190	2,190	2,190	32129
\$16,001 - \$17,000	1,740	1,974	2,190	2,190	2,190	32130
\$17,001 - \$18,000	1,542	1,740	1,974	2,190	2,190	32131
\$18,001 - \$19,000	1,320	1,542	1,740	1,974	2,190	32132
\$19,001 - \$22,000	1,080	1,320	1,542	1,740	1,974	32133
\$22,001 - \$25,000	864	1,080	1,320	1,542	1,740	32134
\$25,001 - \$28,000	648	864	1,080	1,320	1,542	32135
\$28,001 - \$31,000	522	648	864	1,080	1,320	32136
\$31,001 - \$32,000	420	522	648	864	1,080	32137
\$32,001 - \$33,000	384	420	522	648	864	32138
\$33,001 - \$34,000	354	384	420	522	648	32139
\$34,001 - \$35,000	174	354	384	420	522	32140
\$35,001 - \$36,000	--	174	354	384	420	32141
\$36,001 - \$37,000	--	--	174	354	384	32142
\$37,001 - \$38,000	--	--	--	174	354	32143
\$38,001 - \$39,000	--	--	--	--	174	32144

For a full-time student who is financially independent and 32145
 enrolled in a state-assisted educational institution, the amount 32146
 of the instructional grant for two semesters, three quarters, or a 32147
 comparable portion of the academic year shall be determined in 32148
 accordance with the following table: 32149
 32150

	Public Institution						32151
	Table of Grants						32152
	Maximum Grant \$2,190						32153
Gross Income	Number of Dependents						32154
	0	1	2	3	4	5 or more	32155
\$0 - \$4,800	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	\$2,190	32156
\$4,801 - \$5,300	1,974	2,190	2,190	2,190	2,190	2,190	32157
\$5,301 - \$5,800	1,740	2,082	2,190	2,190	2,190	2,190	32158
\$5,801 - \$6,300	1,542	1,968	2,082	2,190	2,190	2,190	32159
\$6,301 - \$6,800	1,320	1,866	1,968	2,082	2,190	2,190	32160
\$6,801 - \$7,300	1,080	1,758	1,866	1,968	2,082	2,190	32161
\$7,301 - \$8,300	864	1,638	1,758	1,866	1,968	2,082	32162
\$8,301 - \$9,300	648	1,530	1,638	1,758	1,866	1,968	32163
\$9,301 - \$10,300	522	1,422	1,530	1,638	1,758	1,866	32164
\$10,301 - \$11,800	420	1,356	1,422	1,530	1,638	1,758	32165
\$11,801 - \$13,300	384	1,308	1,356	1,422	1,530	1,638	32166
\$13,301 - \$14,800	354	1,290	1,308	1,356	1,422	1,530	32167
\$14,801 - \$16,300	174	1,164	1,290	1,308	1,356	1,422	32168
\$16,301 - \$19,300	--	858	1,050	1,182	1,308	1,356	32169
\$19,301 - \$22,300	--	540	750	948	1,062	1,200	32170
\$22,301 - \$25,300	--	432	540	750	948	1,062	32171
\$25,301 - \$30,300	--	324	432	540	750	948	32172
\$30,301 - \$35,300	--	192	210	264	324	522	32173

(D) For a full-time student enrolled in an eligible institution for a semester or quarter in addition to the portion of the academic year covered by a grant determined under division (C) of this section, the maximum grant amount shall be a percentage of the maximum prescribed in the applicable table of that division. The maximum grant for a fourth quarter shall be one-third of the maximum amount prescribed under that division. The maximum grant for a third semester shall be one-half of the maximum amount prescribed under that division.

(E) No grant shall be made to any student in a course of study in theology, religion, or other field of preparation for a religious profession unless such course of study leads to an accredited bachelor of arts, bachelor of science, associate of arts, or associate of science degree.

(F)(1) Except as provided in division (F)(2) of this section, no grant shall be made to any student for enrollment during a fiscal year in an institution with a cohort default rate determined by the United States secretary of education pursuant to the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 20 U.S.C.A. 1085, as amended, as of the fifteenth day of June preceding the fiscal year, equal to or greater than thirty per cent for each of the preceding two fiscal years.

(2) Division (F)(1) of this section does not apply to the following:

(a) Any student enrolled in an institution that under the federal law appeals its loss of eligibility for federal financial aid and the United States secretary of education determines its cohort default rate after recalculation is lower than the rate specified in division (F)(1) of this section or the secretary determines due to mitigating circumstances the institution may continue to participate in federal financial aid programs. The board shall adopt rules requiring institutions to provide information regarding an appeal to the board.

(b) Any student who has previously received a grant under this section who meets all other requirements of this section.

(3) The board shall adopt rules for the notification of all institutions whose students will be ineligible to participate in the grant program pursuant to division (F)(1) of this section.

(4) A student's attendance at an institution whose students lose eligibility for grants under division (F)(1) of this section

shall not affect that student's eligibility to receive a grant 32214
when enrolled in another institution. 32215

(G) Institutions of higher education that enroll students 32216
receiving instructional grants under this section shall report to 32217
the board all students who have received instructional grants but 32218
are no longer eligible for all or part of such grants and shall 32219
refund any moneys due the state within thirty days after the 32220
beginning of the quarter or term immediately following the quarter 32221
or term in which the student was no longer eligible to receive all 32222
or part of the student's grant. There shall be an interest charge 32223
of one per cent per month on all moneys due and payable after such 32224
thirty-day period. The board shall immediately notify the office 32225
of budget and management and the legislative service commission of 32226
all refunds so received. 32227

Sec. 3333.121. There is hereby established in the state 32228
treasury the ~~instructional grant~~ state need-based financial aid 32229
reconciliation fund, which shall consist of refunds of 32230
instructional grant payments made pursuant to section 3333.12 of 32231
the Revised Code and refunds of state need-based financial aid 32232
payments made pursuant to section 3333.122 of the Revised Code. 32233
Revenues credited to the fund shall be used by the Ohio board of 32234
regents to pay to higher education institutions any outstanding 32235
obligations from the prior year owed for the Ohio instructional 32236
grant program and the Ohio college opportunity grant program that 32237
are identified through the annual reconciliation and financial 32238
audit. Any amount in the fund that is in excess of the amount 32239
certified to the director of budget and management by the board of 32240
regents as necessary to reconcile prior year payments under the 32241
program shall be transferred to the general revenue fund. 32242

Sec. 3333.122. (A) As used in this section: 32243

<u>(1) "Eligible student" means a student who is:</u>	32244
<u>(a) An Ohio resident who first enrolls in an undergraduate program in the 2006-2007 academic year or thereafter;</u>	32245
<u>(b) Enrolled in either of the following:</u>	32247
<u>(i) An accredited institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964 and is state-assisted, is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code, has a certificate of registration from the state board of career colleges and schools and program authorization to award an associate or bachelor's degree, or is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. Students who attend an institution that holds a certificate of registration shall be enrolled in a program leading to an associate or bachelor's degree for which associate or bachelor's degree program the institution has program authorization issued under section 3332.05 of the Revised Code.</u>	32248
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<u>(ii) A technical education program of at least two years duration sponsored by a private institution of higher education in this state that meets the requirements of Title VI of the Civil Rights Act of 1964.</u>	32263
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	32266
<u>(2) A student who participated in either the early college high school program administered by the department of education or in the post-secondary enrollment options program pursuant to Chapter 3365. of the Revised Code before the 2006-2007 academic year shall not be excluded from eligibility for a need based grant under this section.</u>	32267
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<u>(3) "Resident," "expected family contribution" or "EFC," "full-time student," "three-quarters-time student," "half-time</u>	32273
	32274

student," "one-quarter-time student," and "accredited" shall be 32275
defined by rules adopted by the board. 32276

(B) The Ohio board of regents shall establish and administer 32277
a needs-based financial aid program based on the United States 32278
department of education's method of determining financial need and 32279
may adopt rules to carry out this section. The program shall be 32280
known as the Ohio college opportunity grant program. The general 32281
assembly shall support the needs-based financial aid program by 32282
such sums and in such manner as it may provide, but the board may 32283
also receive funds from other sources to support the program. If 32284
the amounts available for support of the program are inadequate to 32285
provide grants to all eligible students, preference in the payment 32286
of grants shall be given in terms of expected family contribution, 32287
beginning with the lowest expected family contribution category 32288
and proceeding upward by category to the highest expected family 32289
contribution category. 32290

A needs-based financial aid grant shall be paid to an 32291
eligible student through the institution in which the student is 32292
enrolled, except that no needs-based financial aid grant shall be 32293
paid to any person serving a term of imprisonment. Applications 32294
for such grants shall be made as prescribed by the board, and such 32295
applications may be made in conjunction with and upon the basis of 32296
information provided in conjunction with student assistance 32297
programs funded by agencies of the United States government or 32298
from financial resources of the institution of higher education. 32299
The institution shall certify that the student applicant meets the 32300
requirements set forth in divisions (A)(1)(a) and (b) of this 32301
section. Needs-based financial aid grants shall be provided to an 32302
eligible student only as long as the student is making appropriate 32303
progress toward a nursing diploma or an associate or bachelor's 32304
degree. No student shall be eligible to receive a grant for more 32305
than ten semesters, fifteen quarters, or the equivalent of five 32306

academic years. A grant made to an eligible student on the basis of less than full-time enrollment shall be based on the number of credit hours for which the student is enrolled and shall be computed in accordance with a formula adopted by the board. No student shall receive more than one grant on the basis of less than full-time enrollment. 32307
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A needs-based financial aid grant shall not exceed the total instructional and general charges of the institution. 32313
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(C) The tables in this division prescribe the maximum grant amounts covering two semesters, three quarters, or a comparable portion of one academic year. Grant amounts for additional terms in the same academic year shall be determined under division (D) of this section. 32315
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As used in the tables in division (C) of this section: 32320

(1) "Private institution" means an institution that is nonprofit and has a certificate of authorization from the Ohio board of regents pursuant to Chapter 1713. of the Revised Code. 32321
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(2) "Career college" means either an institution that holds a certificate of registration from the state board of career colleges and schools or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code. 32324
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Full-time students shall be eligible to receive awards according to the following table: 32329
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Full-Time Enrollment 32331

<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	32332
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	
<u>than:</u>		<u>institution,</u>	<u>institution,</u>	<u>college,</u>	
		<u>the annual</u>	<u>the annual</u>	<u>the annual</u>	

		<u>award</u> <u>shall be:</u>	<u>award</u> <u>shall be:</u>	<u>award</u> <u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$300</u>	<u>\$600</u>	<u>\$480</u>	32333
<u>2,001</u>	<u>2,100</u>	<u>402</u>	<u>798</u>	<u>642</u>	32334
<u>1,901</u>	<u>2,000</u>	<u>498</u>	<u>1,002</u>	<u>798</u>	32335
<u>1,801</u>	<u>1,900</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	32336
<u>1,701</u>	<u>1,800</u>	<u>702</u>	<u>1,398</u>	<u>1,122</u>	32337
<u>1,601</u>	<u>1,700</u>	<u>798</u>	<u>1,602</u>	<u>1,278</u>	32338
<u>1,501</u>	<u>1,600</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	32339
<u>1,401</u>	<u>1,500</u>	<u>1,002</u>	<u>1,998</u>	<u>1,602</u>	32340
<u>1,301</u>	<u>1,400</u>	<u>1,098</u>	<u>2,202</u>	<u>1,758</u>	32341
<u>1,201</u>	<u>1,300</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	32342
<u>1,101</u>	<u>1,200</u>	<u>1,302</u>	<u>2,598</u>	<u>2,082</u>	32343
<u>1,001</u>	<u>1,100</u>	<u>1,398</u>	<u>2,802</u>	<u>2,238</u>	32344
<u>901</u>	<u>1,000</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	32345
<u>801</u>	<u>900</u>	<u>1,602</u>	<u>3,198</u>	<u>2,562</u>	32346
<u>701</u>	<u>800</u>	<u>1,698</u>	<u>3,402</u>	<u>2,718</u>	32347
<u>601</u>	<u>700</u>	<u>1,800</u>	<u>3,600</u>	<u>2,280</u>	32348
<u>501</u>	<u>600</u>	<u>1,902</u>	<u>3,798</u>	<u>3,042</u>	32349
<u>401</u>	<u>500</u>	<u>1,998</u>	<u>4,002</u>	<u>3,198</u>	32350
<u>301</u>	<u>400</u>	<u>2,100</u>	<u>4,200</u>	<u>3,360</u>	32351
<u>201</u>	<u>300</u>	<u>2,202</u>	<u>4,398</u>	<u>3,522</u>	32352
<u>101</u>	<u>200</u>	<u>2,298</u>	<u>4,602</u>	<u>3,678</u>	32353
<u>1</u>	<u>100</u>	<u>2,400</u>	<u>4,800</u>	<u>3,840</u>	32354
<u>0</u>	<u>0</u>	<u>2,496</u>	<u>4,992</u>	<u>3,996</u>	32355

Three-quarters-time students shall be eligible to receive awards according to the following table: 32356
32357

Three-Quarters-Time Enrollment 32358

<u>If the EFC</u>	<u>And the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	32359
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	
<u>than:</u>		<u>institution,</u>	<u>institution,</u>	<u>college,</u>	

		<u>the annual</u> <u>award</u> <u>shall be:</u>	<u>the annual</u> <u>award</u> <u>shall be:</u>	<u>the annual</u> <u>award</u> <u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$228</u>	<u>\$450</u>	<u>\$360</u>	32360
<u>2,001</u>	<u>2,100</u>	<u>300</u>	<u>600</u>	<u>480</u>	32361
<u>1,901</u>	<u>2,000</u>	<u>372</u>	<u>750</u>	<u>600</u>	32362
<u>1,801</u>	<u>1,900</u>	<u>450</u>	<u>900</u>	<u>720</u>	32363
<u>1,701</u>	<u>1,800</u>	<u>528</u>	<u>1,050</u>	<u>840</u>	32364
<u>1,601</u>	<u>1,700</u>	<u>600</u>	<u>1,200</u>	<u>960</u>	32365
<u>1,501</u>	<u>1,600</u>	<u>678</u>	<u>1,350</u>	<u>1,080</u>	32366
<u>1,401</u>	<u>1,500</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u>	32367
<u>1,301</u>	<u>1,400</u>	<u>822</u>	<u>1,650</u>	<u>1,320</u>	32368
<u>1,201</u>	<u>1,300</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u>	32369
<u>1,101</u>	<u>1,200</u>	<u>978</u>	<u>1,950</u>	<u>1,560</u>	32370
<u>1,001</u>	<u>1,100</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u>	32371
<u>901</u>	<u>1,000</u>	<u>1,128</u>	<u>2,250</u>	<u>1,800</u>	32372
<u>801</u>	<u>900</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u>	32373
<u>701</u>	<u>800</u>	<u>1,272</u>	<u>2,550</u>	<u>2,040</u>	32374
<u>601</u>	<u>700</u>	<u>1,350</u>	<u>2,700</u>	<u>2,160</u>	32375
<u>501</u>	<u>600</u>	<u>1,428</u>	<u>2,850</u>	<u>2,280</u>	32376
<u>401</u>	<u>500</u>	<u>1,500</u>	<u>3,000</u>	<u>2,400</u>	32377
<u>301</u>	<u>400</u>	<u>1,578</u>	<u>3,150</u>	<u>2,520</u>	32378
<u>201</u>	<u>300</u>	<u>1,650</u>	<u>3,300</u>	<u>2,640</u>	32379
<u>101</u>	<u>200</u>	<u>1,722</u>	<u>3,450</u>	<u>2,760</u>	32380
<u>1</u>	<u>100</u>	<u>1,800</u>	<u>3,600</u>	<u>2,880</u>	32381
<u>0</u>	<u>0</u>	<u>1,872</u>	<u>3,744</u>	<u>3,000</u>	32382

Half-time students shall be eligible to receive awards 32383

according to the following table: 32384

Half-Time Enrollment 32385

<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	32386
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
<u>greater</u>		<u>public</u>	<u>private</u>	<u>career</u>	

<u>than:</u>	<u>institution,</u>	<u>institution,</u>	<u>college,</u>	
	<u>the annual</u>	<u>the annual</u>	<u>the annual</u>	
	<u>award</u>	<u>award</u>	<u>award</u>	
	<u>shall be:</u>	<u>shall be:</u>	<u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$150</u>	<u>\$300</u>	<u>\$240</u> 32387
<u>2,001</u>	<u>2,100</u>	<u>204</u>	<u>402</u>	<u>324</u> 32388
<u>1,901</u>	<u>2,000</u>	<u>252</u>	<u>504</u>	<u>402</u> 32389
<u>1,801</u>	<u>1,900</u>	<u>300</u>	<u>600</u>	<u>480</u> 32390
<u>1,701</u>	<u>1,800</u>	<u>354</u>	<u>702</u>	<u>564</u> 32391
<u>1,601</u>	<u>1,700</u>	<u>402</u>	<u>804</u>	<u>642</u> 32392
<u>1,501</u>	<u>1,600</u>	<u>450</u>	<u>900</u>	<u>720</u> 32393
<u>1,401</u>	<u>1,500</u>	<u>504</u>	<u>1,002</u>	<u>804</u> 32394
<u>1,301</u>	<u>1,400</u>	<u>552</u>	<u>1,104</u>	<u>882</u> 32395
<u>1,201</u>	<u>1,300</u>	<u>600</u>	<u>1,200</u>	<u>960</u> 32396
<u>1,101</u>	<u>1,200</u>	<u>654</u>	<u>1,302</u>	<u>1,044</u> 32397
<u>1,001</u>	<u>1,100</u>	<u>702</u>	<u>1,404</u>	<u>1,122</u> 32398
<u>901</u>	<u>1,000</u>	<u>750</u>	<u>1,500</u>	<u>1,200</u> 32399
<u>801</u>	<u>900</u>	<u>804</u>	<u>1,602</u>	<u>1,284</u> 32400
<u>701</u>	<u>800</u>	<u>852</u>	<u>1,704</u>	<u>1,362</u> 32401
<u>601</u>	<u>700</u>	<u>900</u>	<u>1,800</u>	<u>1,440</u> 32402
<u>501</u>	<u>600</u>	<u>954</u>	<u>1,902</u>	<u>1,524</u> 32403
<u>401</u>	<u>500</u>	<u>1,002</u>	<u>2,004</u>	<u>1,602</u> 32404
<u>301</u>	<u>400</u>	<u>1,050</u>	<u>2,100</u>	<u>1,680</u> 32405
<u>201</u>	<u>300</u>	<u>1,104</u>	<u>2,202</u>	<u>1,764</u> 32406
<u>101</u>	<u>200</u>	<u>1,152</u>	<u>2,304</u>	<u>1,842</u> 32407
<u>1</u>	<u>100</u>	<u>1,200</u>	<u>2,400</u>	<u>1,920</u> 32408
<u>0</u>	<u>0</u>	<u>1,248</u>	<u>2,496</u>	<u>1,998</u> 32409

One-quarter-time students shall be eligible to receive awards 32410
according to the following table: 32411

One-Quarter-Time Enrollment 32412

<u>If the EFC</u>	<u>And if the</u>	<u>If the</u>	<u>If the</u>	<u>If the</u>	
<u>is equal</u>	<u>EFC is no</u>	<u>student</u>	<u>student</u>	<u>student</u>	
<u>to or</u>	<u>more than:</u>	<u>attends a</u>	<u>attends a</u>	<u>attends a</u>	
					32413

<u>greater</u> <u>than:</u>	<u>public</u> <u>institution,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>private</u> <u>institution,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	<u>career</u> <u>college,</u> <u>the annual</u> <u>award</u> <u>shall be:</u>	
<u>\$2,101</u>	<u>\$2,190</u>	<u>\$78</u>	<u>\$150</u>	<u>\$120</u> 32414
<u>2,001</u>	<u>2,100</u>	<u>102</u>	<u>198</u>	<u>162</u> 32415
<u>1,901</u>	<u>2,000</u>	<u>126</u>	<u>252</u>	<u>198</u> 32416
<u>1,801</u>	<u>1,900</u>	<u>150</u>	<u>300</u>	<u>240</u> 32417
<u>1,701</u>	<u>1,800</u>	<u>174</u>	<u>348</u>	<u>282</u> 32418
<u>1,601</u>	<u>1,700</u>	<u>198</u>	<u>402</u>	<u>318</u> 32419
<u>1,501</u>	<u>1,600</u>	<u>228</u>	<u>450</u>	<u>360</u> 32420
<u>1,401</u>	<u>1,500</u>	<u>252</u>	<u>498</u>	<u>402</u> 32421
<u>1,301</u>	<u>1,400</u>	<u>276</u>	<u>552</u>	<u>438</u> 32422
<u>1,201</u>	<u>1,300</u>	<u>300</u>	<u>600</u>	<u>480</u> 32423
<u>1,101</u>	<u>1,200</u>	<u>324</u>	<u>648</u>	<u>522</u> 32424
<u>1,001</u>	<u>1,100</u>	<u>348</u>	<u>702</u>	<u>558</u> 32425
<u>901</u>	<u>1,000</u>	<u>378</u>	<u>750</u>	<u>600</u> 32426
<u>801</u>	<u>900</u>	<u>402</u>	<u>798</u>	<u>642</u> 32427
<u>701</u>	<u>800</u>	<u>426</u>	<u>852</u>	<u>678</u> 32428
<u>601</u>	<u>700</u>	<u>450</u>	<u>900</u>	<u>720</u> 32429
<u>501</u>	<u>600</u>	<u>474</u>	<u>948</u>	<u>762</u> 32430
<u>401</u>	<u>500</u>	<u>498</u>	<u>1,002</u>	<u>798</u> 32431
<u>301</u>	<u>400</u>	<u>528</u>	<u>1,050</u>	<u>840</u> 32432
<u>201</u>	<u>300</u>	<u>552</u>	<u>1,098</u>	<u>882</u> 32433
<u>101</u>	<u>200</u>	<u>576</u>	<u>1,152</u>	<u>918</u> 32434
<u>1</u>	<u>100</u>	<u>600</u>	<u>1,200</u>	<u>960</u> 32435
<u>0</u>	<u>0</u>	<u>624</u>	<u>1,248</u>	<u>1,002</u> 32436
				<u>(D) For a full-time student enrolled in an eligible</u> 32437
				<u>institution for a semester or quarter in addition to the portion</u> 32438
				<u>of the academic year covered by a grant determined under division</u> 32439
				<u>(C) of this section, the maximum grant amount shall be a</u> 32440
				<u>percentage of the maximum prescribed in the applicable table of</u> 32441

that division. The maximum grant for a fourth quarter shall be 32442
one-third of the maximum amount prescribed under that division. 32443
The maximum grant for a third semester shall be one-half of the 32444
maximum amount prescribed under that division. 32445

(E) No grant shall be made to any student in a course of 32446
study in theology, religion, or other field of preparation for a 32447
religious profession unless such course of study leads to an 32448
accredited bachelor of arts, bachelor of science, associate of 32449
arts, or associate of science degree. 32450

(F)(1) Except as provided in division (F)(2) of this section, 32451
no grant shall be made to any student for enrollment during a 32452
fiscal year in an institution with a cohort default rate 32453
determined by the United States secretary of education pursuant to 32454
the "Higher Education Amendments of 1986," 100 Stat. 1278, 1408, 32455
20 U.S.C.A. 1085, as amended, as of the fifteenth day of June 32456
preceding the fiscal year, equal to or greater than thirty per 32457
cent for each of the preceding two fiscal years. 32458

(2) Division (F)(1) of this section does not apply to the 32459
following: 32460

(a) Any student enrolled in an institution that under the 32461
federal law appeals its loss of eligibility for federal financial 32462
aid and the United States secretary of education determines its 32463
cohort default rate after recalculation is lower than the rate 32464
specified in division (F)(1) of this section or the secretary 32465
determines due to mitigating circumstances the institution may 32466
continue to participate in federal financial aid programs. The 32467
board shall adopt rules requiring institutions to provide 32468
information regarding an appeal to the board. 32469

(b) Any student who has previously received a grant under 32470
this section who meets all other requirements of this section. 32471

(3) The board shall adopt rules for the notification of all 32472

institutions whose students will be ineligible to participate in 32473
the grant program pursuant to division (F)(1) of this section. 32474

(4) A student's attendance at an institution whose students 32475
lose eligibility for grants under division (F)(1) of this section 32476
shall not affect that student's eligibility to receive a grant 32477
when enrolled in another institution. 32478

(G) Institutions of higher education that enroll students 32479
receiving needs-based financial aid grants under this section 32480
shall report to the board all students who have received 32481
needs-based financial aid grants but are no longer eligible for 32482
all or part of such grants and shall refund any moneys due the 32483
state within thirty days after the beginning of the quarter or 32484
term immediately following the quarter or term in which the 32485
student was no longer eligible to receive all or part of the 32486
student's grant. There shall be an interest charge of one per cent 32487
per month on all moneys due and payable after such thirty-day 32488
period. The board shall immediately notify the office of budget 32489
and management and the legislative service commission of all 32490
refunds so received. 32491

Sec. 3333.123. (A) As used in this section: 32492

(1) "The Ohio college opportunity grant program" means the 32493
program established under section 3333.122 of the Revised Code. 32494

(2) "Rules for the Ohio college opportunity grant program" 32495
means the rules authorized in division (S) of section 3333.04 of 32496
the Revised Code for the implementation of the program. 32497

(B) In adopting rules for the Ohio college opportunity grant 32498
program, the Ohio board of regents shall include provisions that 32499
give preferential or priority funding to low-income students who 32500
in their primary and secondary school work participate in or 32501
complete rigorous academic coursework, attain passing scores on 32502

the tests prescribed in section 3301.0710 of the Revised Code, or 32503
meet other high academic performance standards determined by the 32504
board to reduce the need for remediation and ensure academic 32505
success at the postsecondary education level. The rules shall 32506
include a specification of procedures needed to certify student 32507
achievement of primary and secondary standards as well as the 32508
timeline for implementation of the provisions required under this 32509
section. 32510

Sec. 3333.162. (A) As used in this section, "state 32511
institution of higher education" means an institution of higher 32512
education as defined in section 3345.12 of the Revised Code. 32513

(B) By April 15, 2007, the Ohio board of regents, in 32514
consultation with the department of education, public adult and 32515
secondary career-technical education institutions, and state 32516
institutions of higher education, shall establish criteria, 32517
policies, and procedures that enable students to transfer agreed 32518
upon technical courses completed through an adult career-technical 32519
education institution, a public secondary career-technical 32520
institution, or a state institution of higher education to a state 32521
institution of higher education without unnecessary duplication or 32522
institutional barriers. The courses to which the criteria, 32523
policies, and procedures apply shall be those that adhere to 32524
recognized industry standards and equivalent coursework common to 32525
the secondary career pathway and adult career-technical education 32526
system and regionally accredited state institutions of higher 32527
education. Where applicable, the policies and procedures shall 32528
build upon the articulation agreement and transfer initiative 32529
course equivalency system required by section 3333.16 of the 32530
Revised Code. 32531

(C) By April 15, 2006, the board shall report to the general 32532
assembly on its progress in establishing these policies and 32533

procedures. 32534

Sec. 3333.27. As used in this section: 32535

(A) "Eligible institution" means a nonprofit Ohio institution 32536
of higher education that holds a certificate of authorization 32537
issued under section 1713.02 of the Revised Code and meets the 32538
requirements of Title VI of the Civil Rights Act of 1964. 32539

(B) "Resident" and "full-time student" have the meanings 32540
established for purposes of this section by rule of the Ohio board 32541
of regents. 32542

The board shall establish and administer a student choice 32543
grant program and shall adopt rules for the administration of the 32544
program. 32545

The board may make a grant to any resident of this state who 32546
is enrolled as a full-time student in a bachelor's degree program 32547
at an eligible institution and maintains an academic record that 32548
meets or exceeds the standard established pursuant to this section 32549
by rule of the board, except that no grant shall be made to any 32550
individual who was enrolled as a student in an institution of 32551
higher education on or before July 1, 1984, or is serving a term 32552
of imprisonment. The grant shall not exceed the lesser of the 32553
total instructional and general charges of the institution in 32554
which the student is enrolled, or an amount equal to one-fourth of 32555
the total of any state instructional subsidy amount distributed by 32556
the board in the second fiscal year of the preceding biennium for 32557
all full-time students enrolled in bachelor's degree programs at 32558
four-year state-assisted institutions of higher education divided 32559
by the sum of the actual number of full-time students enrolled in 32560
bachelor's degree programs at four-year state-assisted 32561
institutions of higher education reported to the board for such 32562
year by the institutions to which the subsidy was distributed. 32563

The board shall prescribe the form and manner of application 32564
for grants including the manner of certification by eligible 32565
institutions that each applicant from such institution is enrolled 32566
in a bachelor's degree program as a full-time student and has an 32567
academic record that meets or exceeds the standard established by 32568
the board. 32569

A grant awarded to an eligible student shall be paid to the 32570
institution in which the student is enrolled, and the institution 32571
shall reduce the student's instructional and general charges by 32572
the amount of the grant. Each grant awarded shall be prorated and 32573
paid in equal installments at the time of enrollment for each term 32574
of the academic year for which the grant is awarded. No student 32575
shall be eligible to receive a grant for more than ten semesters, 32576
fifteen quarters, or the equivalent of five academic years. 32577

The receipt of an Ohio student choice grant shall not affect 32578
a student's eligibility for assistance, or the amount of such 32579
assistance, granted under section 3315.33, 3333.12, 3333.122, 32580
3333.22, 3333.26, 5910.03, 5910.032, or 5919.34 of the Revised 32581
Code. If a student receives assistance under one or more of such 32582
sections, the student choice grant made to the student shall not 32583
exceed the difference between the amount of assistance received 32584
under such sections and the total instructional and general 32585
charges of the institution in which the student is enrolled. 32586

The general assembly shall support the student choice grant 32587
program by such sums and in such manner as it may provide, but the 32588
board may also receive funds from other sources to support the 32589
program. 32590

No grant shall be made to any student enrolled in a course of 32591
study leading to a degree in theology, religion, or other field of 32592
preparation for a religious profession unless the course of study 32593
leads to an accredited bachelor of arts or bachelor of science 32594

degree. 32595

Institutions of higher education that enroll students 32596
receiving grants under this section shall report to the board the 32597
name of each student who has received such a grant but who is no 32598
longer eligible for all or part of such grant and shall refund all 32599
moneys due to the state within thirty days after the beginning of 32600
the term immediately following the term in which the student was 32601
no longer eligible to receive all or part of the grant. There 32602
shall be an interest charge of one per cent per month on all 32603
moneys due and payable after such thirty-day period. The board 32604
shall immediately notify the office of budget and management and 32605
~~the legislative budget office of~~ the legislative service 32606
commission of all refunds received. 32607

Sec. 3333.28. (A) The Ohio board of regents shall establish 32608
the nurse education assistance program, the purpose of which shall 32609
be to make loans to students enrolled in prelicensure nurse 32610
education programs at institutions approved by the board of 32611
nursing under section 4723.06 of the Revised Code and 32612
postlicensure nurse education programs approved by the board of 32613
regents under section 3333.04 of the Revised Code or offered by an 32614
institution holding a certificate of authorization issued by the 32615
board of regents under Chapter 1713. of the Revised Code. The 32616
board of nursing shall assist the board of regents in 32617
administering the program. 32618

(B) There is hereby created in the state treasury the nurse 32619
education assistance fund, which shall consist of all money 32620
transferred to it pursuant to section 4743.05 of the Revised Code. 32621
The fund shall be used by the board of regents for loans made 32622
under division (A) of this section and for expenses of 32623
administering the loan program. 32624

(C) The Between July 1, 2005, and January 1, 2012, the board 32625

of regents shall distribute money in the nurse education 32626
assistance fund in the following manner: 32627

(1)(a) Fifty per cent of available funds shall be awarded as 32628
loans to registered nurses enrolled in postlicensure nurse 32629
education programs described in division (A) of this section. To 32630
be eligible for a loan, the applicant shall provide the board with 32631
a letter of intent to practice as a faculty member at a 32632
prelicensure or postlicensure program for nursing in this state 32633
upon completion of the applicant's academic program. 32634

(b) If the borrower of a loan under division (C)(1)(a) of 32635
this section secures employment as a faculty member of an approved 32636
nursing education program in this state within six months 32637
following graduation from an approved nurse education program, the 32638
board may forgive the principal and interest of the student's 32639
loans received under division (C)(1)(a) of this section at a rate 32640
of twenty-five per cent per year, for a maximum of four years, for 32641
each year in which the borrower is so employed. A deferment of the 32642
service obligation, and other conditions regarding the forgiveness 32643
of loans may be granted as provided by the rules adopted under 32644
division (D)(7) of this section. 32645

(c) Loans awarded under division (C)(1)(a) of this section 32646
shall be awarded on the basis of the student's expected family 32647
contribution, with preference given to those applicants with the 32648
lowest expected family contribution. However, the board of regents 32649
may consider other factors it determines relevant in ranking the 32650
applications. 32651

(d) Each loan awarded to a student under division (C)(1)(a) 32652
of this section shall be not less than five thousand dollars per 32653
year. 32654

(2) Twenty-five per cent of available funds shall be awarded 32655
to students enrolled in prelicensure nurse education programs for 32656

<u>registered nurses, as defined in section 4723.01 of the Revised</u>	32657
<u>Code.</u>	32658
<u>(3) Twenty-five per cent of available funds shall be awarded</u>	32659
<u>to students enrolled in prelicensure professional nurse education</u>	32660
<u>programs for licensed practical nurses, as defined in section</u>	32661
<u>4723.01 of the Revised Code.</u>	32662
<u>After January 1, 2012, the board of regents shall determine</u>	32663
<u>the manner in which to distribute loans under this section.</u>	32664
<u>(D) Subject to the requirements specified in division (C) of</u>	32665
<u>this section, the board of regents shall adopt rules in accordance</u>	32666
with Chapter 119. of the Revised Code establishing:	32667
(1) Eligibility criteria for receipt of a loan;	32668
(2) Loan application procedures;	32669
(3) The amounts in which loans may be made and the total	32670
amount that may be loaned to an individual;	32671
(4) The total amount of loans that can be made each year;	32672
(5) The percentage of the money in the fund that must remain	32673
in the fund at all times as a fund balance;	32674
(6) Interest and principal repayment schedules;	32675
(7) Conditions under which a portion of principal and	32676
interest obligations incurred by an individual under the program	32677
will be forgiven;	32678
(8) Ways that the program may be used to encourage	32679
individuals who are members of minority groups to enter the	32680
nursing profession;	32681
(9) Any other matters incidental to the operation of the	32682
program.	32683
(D) (E) The obligation to repay a portion of the principal and	32684
interest on a loan made under this section shall be forgiven if	32685

the recipient of the loan meets the criteria for forgiveness 32686
established by division (C)(1)(b) of this section, in the case of 32687
loans awarded under division (C)(1)(a) of this section, or 32688
board of regents by rule adopted under division ~~(C)~~(D)(7) of this 32689
section, in the case of other loans awarded under this section. 32690

~~(E)~~(F) The receipt of a loan under this section shall not 32691
affect a student's eligibility for assistance, or the amount of 32692
that assistance, granted under section 3333.12, 3333.122, 3333.22, 32693
3333.26, 3333.27, 5910.03, 5910.032, or 5919.34 of the Revised 32694
Code, but the rules of the board of regents may provide for taking 32695
assistance received under those sections into consideration when 32696
determining a student's eligibility for a loan under this section. 32697

Sec. 3333.36. The Provided that sufficient unencumbered and 32698
unexpended funds are available from general revenue fund 32699
appropriations made to the Ohio board of regents, the chancellor 32700
of the Ohio board of regents ~~may~~ shall allocate up to seventy 32701
thousand dollars in each fiscal year to make payments to the 32702
Columbus program in intergovernmental issues, an Ohio internship 32703
program at Kent state university, for scholarships of up to two 32704
thousand dollars for each student enrolled in the program. The 32705
chancellor may utilize any general revenue funds appropriated to 32706
the board of regents that the chancellor determines to be 32707
available for purposes of this section. 32708

Sec. 3333.38. (A) As used in this section: 32709

(1) "Institution of higher education" includes all of the 32710
following: 32711

(a) A state institution of higher education, as defined in 32712
section 3345.011 of the Revised Code; 32713

(b) A nonprofit institution issued a certificate of 32714
authorization by the Ohio board of regents under Chapter 1713. of 32715

the Revised Code;	32716
(c) A private institution exempt from regulation under	32717
Chapter 3332. of the Revised Code, as prescribed in section	32718
3333.046 of the Revised Code;	32719
(d) An institution of higher education with a certificate of	32720
registration from the state board of career colleges and schools	32721
under Chapter 3332. of the Revised Code.	32722
(2) "Student financial assistance supported by state funds"	32723
includes assistance granted under sections 3315.33, 3333.12,	32724
<u>3333.122</u> , 3333.21, 3333.26, 3333.27, 3333.28, 3333.29, 3333.372,	32725
5910.03, 5910.032, and 5919.34 of the Revised Code and any other	32726
post-secondary student financial assistance supported by state	32727
funds.	32728
(B) An individual who is convicted of, pleads guilty to, or	32729
is adjudicated a delinquent child for one of the following	32730
violations shall be ineligible to receive any student financial	32731
assistance supported by state funds at an institution of higher	32732
education for two calendar years from the time the individual	32733
applies for assistance of that nature:	32734
(1) A violation of section 2917.02 or 2917.03 of the Revised	32735
Code;	32736
(2) A violation of section 2917.04 of the Revised Code that	32737
is a misdemeanor of the fourth degree;	32738
(3) A violation of section 2917.13 of the Revised Code that	32739
is a misdemeanor of the fourth or first degree and occurs within	32740
the proximate area where four or more others are acting in a	32741
course of conduct in violation of section 2917.11 of the Revised	32742
Code.	32743
(C) If an individual is convicted of, pleads guilty to, or is	32744
adjudicated a delinquent child for committing a violation of	32745

section 2917.02 or 2917.03 of the Revised Code, and if the
individual is enrolled in a state-supported institution of higher
education, the institution in which the individual is enrolled
shall immediately dismiss the individual. No state-supported
institution of higher education shall admit an individual of that
nature for one academic year after the individual applies for
admission to a state-supported institution of higher education.
This division does not limit or affect the ability of a
state-supported institution of higher education to suspend or
otherwise discipline its students.

Sec. 3334.01. As used in this chapter: 32756

(A) "Aggregate original principal amount" means the aggregate
of the initial offering prices to the public of college savings
bonds, exclusive of accrued interest, if any. "Aggregate original
principal amount" does not mean the aggregate accreted amount
payable at maturity or redemption of such bonds.

(B) "Beneficiary" means: 32762

(1) An individual designated by the purchaser under a tuition
payment contract or through a scholarship program as the
individual on whose behalf tuition ~~credits~~ units purchased under
the contract or awarded through the scholarship program will be
applied toward the payment of undergraduate, graduate, or
professional tuition; or

(2) An individual designated by the contributor under a
variable college savings program contract as the individual whose
tuition and other higher education expenses will be paid from a
variable college savings program account.

(C) "Capital appreciation bond" means a bond for which the
following is true: 32774

(1) The principal amount is less than the amount payable at 32775

maturity or early redemption; and 32776

(2) No interest is payable on a current basis. 32777

(D) "Tuition ~~credit~~ unit" means a credit of the Ohio tuition 32778
trust authority purchased under section 3334.09 of the Revised 32779
Code. "Tuition unit" includes a tuition credit purchased prior to 32780
July 1, 1994. 32781

(E) "College savings bonds" means revenue and other 32782
obligations issued on behalf of the state or any agency or issuing 32783
authority thereof as a zero-coupon or capital appreciation bond, 32784
and designated as college savings bonds as provided in this 32785
chapter. "College savings bond issue" means any issue of bonds of 32786
which any part has been designated as college savings bonds. 32787

(F) "Institution of higher education" means a state 32788
institution of higher education, a private college, university, or 32789
other postsecondary institution located in this state that 32790
possesses a certificate of authorization issued by the Ohio board 32791
of regents pursuant to Chapter 1713. of the Revised Code or a 32792
certificate of registration issued by the state board of career 32793
colleges and schools under Chapter 3332. of the Revised Code, or 32794
an accredited college, university, or other postsecondary 32795
institution located outside this state that is accredited by an 32796
accrediting organization or professional association recognized by 32797
the authority. To be considered an institution of higher 32798
education, an institution shall meet the definition of an eligible 32799
educational institution under section 529 of the Internal Revenue 32800
Code. 32801

(G) "Issuing authority" means any authority, commission, 32802
body, agency, or individual empowered by the Ohio Constitution or 32803
the Revised Code to issue bonds or any other debt obligation of 32804
the state or any agency or department thereof. "Issuer" means the 32805
issuing authority or, if so designated under division (B) of 32806

section 3334.04 of the Revised Code, the treasurer of state. 32807

(H) "Tuition" means the charges imposed to attend an 32808
institution of higher education as an undergraduate, graduate, or 32809
professional student and all fees required as a condition of 32810
enrollment, as determined by the Ohio tuition trust authority. 32811
"Tuition" does not include laboratory fees, room and board, or 32812
other similar fees and charges. 32813

(I) "Weighted average tuition" means the tuition cost 32814
resulting from the following calculation: 32815

(1) Add the products of the annual undergraduate tuition 32816
charged to Ohio residents at each four-year state university 32817
multiplied by that institution's total number of undergraduate 32818
fiscal year equated students; and 32819

(2) Divide the gross total of the products from division 32820
(I)(1) of this section by the total number of undergraduate fiscal 32821
year equated students attending four-year state universities. 32822

When making this calculation, the "annual undergraduate 32823
tuition charged to Ohio residents" shall not incorporate any 32824
tuition reductions that vary in amount among individual recipients 32825
and that are awarded to Ohio residents based upon their particular 32826
circumstances, beyond any minimum amount awarded uniformly to all 32827
Ohio residents. In addition, any tuition reductions awarded 32828
uniformly to all Ohio residents shall be incorporated into this 32829
calculation. 32830

(J) "Zero-coupon bond" means a bond which has a stated 32831
interest rate of zero per cent and on which no interest is payable 32832
until the maturity or early redemption of the bond, and is offered 32833
at a substantial discount from its original stated principal 32834
amount. 32835

(K) "State institution of higher education" includes the 32836

state universities listed in section 3345.011 of the Revised Code, 32837
community colleges created pursuant to Chapter 3354. of the 32838
Revised Code, university branches created pursuant to Chapter 32839
3355. of the Revised Code, technical colleges created pursuant to 32840
Chapter 3357. of the Revised Code, state community colleges 32841
created pursuant to Chapter 3358. of the Revised Code, the medical 32842
university of Ohio at Toledo, and the northeastern Ohio 32843
universities college of medicine. 32844

(L) "Four-year state university" means those state 32845
universities listed in section 3345.011 of the Revised Code. 32846

(M) "Principal amount" refers to the initial offering price 32847
to the public of an obligation, exclusive of the accrued interest, 32848
if any. "Principal amount" does not refer to the aggregate 32849
accrued amount payable at maturity or redemption of an 32850
obligation. 32851

(N) "Scholarship program" means a program registered with the 32852
Ohio tuition trust authority pursuant to section 3334.17 of the 32853
Revised Code. 32854

(O) "Internal Revenue Code" means the "Internal Revenue Code 32855
of 1986," 100 Stat. 2085, 26 U.S.C.A. 1 et seq., as amended. 32856

(P) "Other higher education expenses" means room and board 32857
and books, supplies, equipment, and nontuition-related fees 32858
associated with the cost of attendance of a beneficiary at an 32859
institution of higher education, but only to the extent that such 32860
expenses meet the definition of "qualified higher education 32861
expenses" under section 529 of the Internal Revenue Code. "Other 32862
higher education expenses" does not include tuition as defined in 32863
division (H) of this section. 32864

(Q) "Purchaser" means the person signing the tuition payment 32865
contract, who controls the account and acquires tuition ~~credits~~ 32866
units for an account under the terms and conditions of the 32867

contract. 32868

(R) "Contributor" means a person who signs a variable college 32869
savings program contract with the Ohio tuition trust authority and 32870
contributes to and owns the account created under the contract. 32871

(S) "Contribution" means any payment directly allocated to an 32872
account for the benefit of the designated beneficiary of the 32873
account. 32874

Sec. 3334.02. (A) In order to help make higher education 32875
affordable and accessible to all citizens of Ohio, to maintain 32876
state institutions of higher education by helping to provide a 32877
stable financial base to these institutions, to provide the 32878
citizens of Ohio with financing assistance for higher education 32879
and protection against rising tuition costs, to encourage saving 32880
to enhance the ability of citizens of Ohio to obtain financial 32881
access to institutions of higher education, to encourage 32882
elementary and secondary students in this state to achieve 32883
academic excellence, and to promote a well-educated and 32884
financially secure population to the ultimate benefit of all 32885
citizens of the state of Ohio, there is hereby created the Ohio 32886
college savings program. The program shall consist of the issuance 32887
of college savings bonds and the sale of tuition ~~credits and, if~~ 32888
~~offered, supplemental credits~~ units. 32889

(B) The provisions of Chapter 1707. of the Revised Code shall 32890
not apply to tuition ~~credits~~ units or any agreement or transaction 32891
related thereto. 32892

(C) To provide the citizens of Ohio with a choice of 32893
tax-advantaged college savings programs and the opportunity to 32894
participate in more than one type of college savings program at a 32895
time, the Ohio tuition trust authority shall establish and 32896
administer a variable college savings program as a qualified state 32897
tuition program under section 529 of the Internal Revenue Code. 32898

The program shall allow contributors to make cash contributions to
variable college savings program accounts created for the purpose
of paying future tuition and other higher education expenses and
providing variable rates of return on contributions.

(D) A person may participate simultaneously in both the Ohio
college savings program and the variable college savings program.

Sec. 3334.03. (A) There is hereby created the Ohio tuition
trust authority, which shall have the powers enumerated in this
chapter and which shall operate as a qualified state tuition
program within the meaning of section 529 of the Internal Revenue
Code. The exercise by the authority of its powers shall be and is
hereby declared an essential state governmental function. The
authority is subject to all provisions of law generally applicable
to state agencies which do not conflict with the provisions of
this chapter.

(B) The Ohio tuition trust authority shall consist of eleven
members, no more than six of whom shall be of the same political
party. Six members shall be appointed by the governor with the
advice and consent of the senate as follows: one shall represent
state institutions of higher education, one shall represent
private nonprofit colleges and universities located in Ohio, one
shall have experience in the field of marketing or public
relations, one shall have experience in the field of information
systems design or management, and two shall have experience in the
field of banking, investment banking, insurance, or law. Four
members shall be appointed by the speaker of the house of
representatives and the president of the senate as follows: the
speaker of the house of representatives shall appoint one member
of the house from each political party and the president of the
senate shall appoint one member of the senate from each political
party. The chancellor of the board of regents shall be an ex

officio voting member; provided, however, that the chancellor may
designate a vice-chancellor of the board of regents to serve as
the chancellor's representative. The political party of the
chancellor shall be deemed the political party of the designee for
purposes of determining that no more than six members are of the
same political party.

Initial gubernatorial appointees to the authority shall serve
staggered terms, with two terms expiring on January 31, 1991, one
term expiring on January 31, 1992, and one term expiring on
January 31, 1993. The governor shall appoint two additional
members to the authority no later than thirty days after ~~the~~
~~effective date of this amendment~~ March 30, 1999, and their initial
terms shall expire January 31, 2002. Thereafter, terms of office
for gubernatorial appointees shall be for four years. The initial
terms of the four legislative members shall expire on January 31,
1991. Thereafter legislative members shall serve two-year terms,
provided that legislative members may continue to serve on the
authority only if they remain members of the general assembly. Any
vacancy on the authority shall be filled in the same manner as the
original appointment, except that any person appointed to fill a
vacancy shall be appointed to the remainder of the unexpired term.
Any member is eligible for reappointment.

(C) Any member may be removed by the appointing authority for
misfeasance, malfeasance, or willful neglect of duty or for other
cause after notice and a public hearing, unless the notice and
hearing are waived in writing by the member. Members shall serve
without compensation but shall receive their reasonable and
necessary expenses incurred in the conduct of authority business.

(D) The speaker of the house of representatives and the
president of the senate shall each designate a member of the
authority to serve as co-chairpersons. The six gubernatorial
appointees and the chancellor of the board of regents or the

chancellor's designee shall serve as the executive committee of 32962
the authority, and shall elect an executive chairperson from among 32963
the executive committee members. The authority and the executive 32964
committee may elect such other officers as determined by the 32965
authority or the executive committee respectively. The authority 32966
shall meet at least annually at the call of either co-chairperson 32967
and at such other times as either co-chairperson or the authority 32968
determines necessary. In the absence of both co-chairpersons, the 32969
executive chairperson shall serve as the presiding officer of the 32970
authority. The executive committee shall meet at the call of the 32971
executive chairperson or as the executive committee determines 32972
necessary. The authority may delegate to the executive committee 32973
such duties and responsibilities as the authority determines 32974
appropriate, except that the authority may not delegate to the 32975
executive committee the final determination of the annual price of 32976
a tuition ~~credit~~ unit, the final designation of bonds as college 32977
savings bonds, or the employment of an executive director of the 32978
authority. Upon such delegation, the executive committee shall 32979
have the authority to act pursuant to such delegation without 32980
further approval or action by the authority. A majority of the 32981
authority shall constitute a quorum of the authority, and the 32982
affirmative vote of a majority of the members present shall be 32983
necessary for any action taken by the authority. A majority of the 32984
executive committee shall constitute a quorum of the executive 32985
committee, and the affirmative vote of a majority of the members 32986
present shall be necessary for any action taken by the executive 32987
committee. No vacancy in the membership of the authority or the 32988
executive committee shall impair the rights of a quorum to 32989
exercise all rights and perform all duties of the authority or the 32990
executive committee respectively. 32991

Sec. 3334.07. (A) The Ohio tuition trust authority shall 32992
develop a plan for the sale of tuition ~~credits~~ units. The Ohio 32993

board of regents shall cooperate with the authority and provide 32994
technical assistance upon request. 32995

(B) Annually, the authority shall determine the weighted 32996
average tuition of four-year state universities in the academic 32997
year that begins on or after the first day of August of the 32998
current calendar year, and shall establish the price of a tuition 32999
~~credit~~ unit in the ensuing sales period. Such price shall be based 33000
on sound actuarial principles, and shall, to the extent 33001
actuarially possible, reasonably approximate one per cent of the 33002
weighted average tuition for that academic year plus the costs of 33003
administering the ~~tuition-credit~~ program that are in excess of 33004
general revenue fund appropriations for administrative costs. The 33005
sales period to which such price applies shall consist of twelve 33006
months, and the authority by rule shall establish the date on 33007
which the sales period begins. If circumstances arise during a 33008
sales period that the authority determines causes the price of 33009
tuition ~~credits~~ units to be insufficient to ensure the actuarial 33010
soundness of the Ohio tuition trust fund, the authority may adjust 33011
the price of tuition ~~credits~~ units purchased during the remainder 33012
of the sales period. To promote the purchase of tuition ~~credits~~ 33013
units and in accordance with actuarially sound principles, the 33014
authority may adjust the sales price as part of incentive 33015
programs, such as discounting for ~~lump-sum~~ lump sum purchases and 33016
multi-year installment plans at a fixed rate of purchase. 33017

Sec. 3334.08. (A) Subject to division (B) of this section, in 33018
addition to any other powers conferred by this chapter, the Ohio 33019
tuition trust authority may do any of the following: 33020

(1) Impose reasonable residency requirements for 33021
beneficiaries of tuition ~~credits~~ units; 33022

(2) Impose reasonable limits on the number of tuition ~~credit~~ 33023
unit participants; 33024

(3) Impose and collect administrative fees and charges in connection with any transaction under this chapter;	33025 33026
(4) Purchase insurance from insurers licensed to do business in this state providing for coverage against any loss in connection with the authority's property, assets, or activities or to further ensure the value of tuition credits <u>units</u> ;	33027 33028 33029 33030
(5) Indemnify or purchase policies of insurance on behalf of members, officers, and employees of the authority from insurers licensed to do business in this state providing for coverage for any liability incurred in connection with any civil action, demand, or claim against a director, officer, or employee by reason of an act or omission by the director, officer, or employee that was not manifestly outside the scope of the employment or official duties of the director, officer, or employee or with malicious purpose, in bad faith, or in a wanton or reckless manner;	33031 33032 33033 33034 33035 33036 33037 33038 33039 33040
(6) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of the powers and duties of the authority;	33041 33042 33043
(7) Promote, advertise, and publicize the Ohio college savings program and the variable college savings program;	33044 33045
(8) Adopt rules under section 111.15 of the Revised Code for the implementation of the Ohio college savings program;	33046 33047
(9) Contract, for the provision of all or part of the services necessary for the management and operation of the Ohio college savings program and the variable college savings program, with a bank, trust company, savings and loan association, insurance company, or licensed dealer in securities if the bank, company, association, or dealer is authorized to do business in this state and information about the contract is filed with the controlling board pursuant to division (D)(6) of section 127.16 of	33048 33049 33050 33051 33052 33053 33054 33055

the Revised Code;	33056
(10) Contract for other services, or for goods, needed by the authority in the conduct of its business, including but not limited to credit card services;	33057 33058 33059
(11) Employ an executive director and other personnel as necessary to carry out its responsibilities under this chapter, and fix the compensation of these persons. All employees of the authority shall be in the unclassified civil service and shall be eligible for membership in the public employees retirement system.	33060 33061 33062 33063 33064
(12) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;	33065 33066 33067
(13) Enter into agreements with any agency of the state or its political subdivisions or with private employers under which an employee may agree to have a designated amount deducted in each payroll period from the wages or salary due the employee for the purpose of purchasing tuition credits <u>units</u> pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;	33068 33069 33070 33071 33072 33073 33074
(14) Enter into an agreement with the treasurer of state under which the treasurer of state will receive, and credit to the Ohio tuition trust fund or variable college savings program fund, from any bank or savings and loan association authorized to do business in this state, amounts that a depositor of the bank or association authorizes the bank or association to withdraw periodically from the depositor's account for the purpose of purchasing tuition credits <u>units</u> pursuant to a tuition payment contract or making contributions pursuant to a variable college savings program contract;	33075 33076 33077 33078 33079 33080 33081 33082 33083 33084
(15) Solicit and accept gifts, grants, and loans from any person or governmental agency and participate in any governmental	33085 33086

program;	33087
(16) Impose limits on the number of credits <u>units</u> which may	33088
be purchased on behalf of or assigned or awarded to any	33089
beneficiary and on the total amount of contributions that may be	33090
made on behalf of a beneficiary;	33091
(17) Impose restrictions on the substitution of another	33092
individual for the original beneficiary under the Ohio college	33093
savings program;	33094
(18) Impose a limit on the age of a beneficiary, above which	33095
tuition credits <u>units</u> may not be purchased on behalf of that	33096
beneficiary;	33097
(19) Enter into a cooperative agreement with the treasurer of	33098
state to provide for the direct disbursement of payments under	33099
tuition payment or variable college savings program contracts;	33100
(20) Determine the other higher education expenses for which	33101
tuition credits <u>units</u> or contributions may be used;	33102
(21) Terminate any tuition payment or variable college	33103
savings program contract if no purchases or contributions are made	33104
for a period of three years or more and there are fewer than a	33105
total of five tuition units or tuition credits or less than a	33106
dollar amount set by rule on account, provided that notice of a	33107
possible termination shall be provided in advance, explaining any	33108
options to prevent termination, and a reasonable amount of time	33109
shall be provided within which to act to prevent a termination;	33110
(22) Maintain a separate account for each tuition payment or	33111
variable college savings program contract;	33112
(23) Perform all acts necessary and proper to carry out the	33113
duties and responsibilities of the authority pursuant to this	33114
chapter.	33115
(B) The authority shall adopt rules under section 111.15 of	33116

the Revised Code for the implementation and administration of the 33117
variable college savings program. The rules shall provide 33118
taxpayers with the maximum tax advantages and flexibility 33119
consistent with section 529 of the Internal Revenue Code and 33120
regulations adopted thereunder with regard to disposition of 33121
contributions and earnings, designation of beneficiaries, and 33122
rollover of account assets to other programs. 33123

(C) Except as otherwise specified in this chapter, the 33124
provisions of Chapters 123., 125., and 4117. of the Revised Code 33125
shall not apply to the authority. The department of administrative 33126
services shall, upon the request of the authority, act as the 33127
authority's agent for the purchase of equipment, supplies, 33128
insurance, or services, or the performance of administrative 33129
services pursuant to Chapter 125. of the Revised Code. 33130

Sec. 3334.09. (A) Except in the case of a scholarship program 33131
established in accordance with section 3334.17 of the Revised 33132
Code, the Ohio tuition trust authority may enter into a tuition 33133
payment contract with any person for the purchase of tuition 33134
~~credits~~ units if either the purchaser or the beneficiary is a 33135
resident of this state at the time the contract is entered into. A 33136
tuition payment contract shall allow any person to purchase 33137
tuition ~~credits~~ units at the price determined by the authority 33138
pursuant to section 3334.07 or 3334.12 of the Revised Code for the 33139
year in which the tuition ~~credit~~ unit is purchased. The purchaser 33140
shall name in the payment contract one specific individual as the 33141
beneficiary for the tuition ~~credits~~ units. 33142

In accordance with rules of the authority, ~~credits~~ units may 33143
be transferred to the credit of another beneficiary and a new 33144
beneficiary may be substituted for the beneficiary originally 33145
named in the contract. 33146

(B) Each tuition ~~credit~~ unit shall entitle the beneficiary to 33147

an amount equal to one per cent of the weighted average tuition. 33148

(C) Nothing in this chapter or in any tuition payment 33149
contract entered into pursuant to this chapter shall be construed 33150
as a guarantee by the state, the authority, or any institution of 33151
higher education that a beneficiary will be admitted to an 33152
institution of higher education, or, upon admission to an 33153
institution of higher education, will be permitted to continue to 33154
attend or will receive a degree from an institution of higher 33155
education. Nothing in this chapter or in any tuition payment 33156
contract entered into pursuant to this chapter shall be considered 33157
a guarantee that the beneficiary's cost of tuition at an 33158
institution of higher education other than a state institution of 33159
higher education will be covered in full by the proceeds of the 33160
beneficiary's tuition ~~credits~~ units. 33161

(D) The following information shall be disclosed in writing 33162
to each purchaser of tuition ~~credits~~ units and, where appropriate, 33163
to each entity establishing a scholarship program under section 33164
3334.17 of the Revised Code: 33165

(1) The terms and conditions for the purchase and use of 33166
tuition ~~credits~~ units; 33167

(2) In the case of a contract described by division (A) of 33168
this section, any restrictions on the substitution of another 33169
individual for the original beneficiary and any restrictions on 33170
the transfer of ownership of ~~credits~~ units in the payment account; 33171

(3) The person or entity entitled to terminate the contract; 33172

(4) The terms and conditions under which the contract may be 33173
terminated and the amount of the refund, if any, to which the 33174
person or entity terminating the contract, or that person's or 33175
entity's designee, is entitled upon termination; 33176

(5) The obligation of the authority to make payments to a 33177
beneficiary, or an institution of higher education on behalf of a 33178

beneficiary, under division (B) of this section based upon the 33179
number of tuition ~~credits~~ units purchased on behalf of the 33180
beneficiary or awarded to the beneficiary pursuant to a 33181
scholarship program; 33182

(6) The method by which tuition ~~credits~~ units shall be 33183
applied toward payment of tuition and other higher education 33184
expenses if in any academic term the beneficiary is a part-time 33185
student; 33186

(7) The period of time during which a beneficiary may receive 33187
benefits under the contract; 33188

(8) The terms and conditions under which money may be wholly 33189
or partially withdrawn from the program, including, but not 33190
limited to, any reasonable charges and fees that may be imposed 33191
for withdrawal; 33192

(9) All other rights and obligations of the purchaser and the 33193
authority, including the provisions of division (A) of section 33194
3334.12 of the Revised Code, and any other terms, conditions, and 33195
provisions the authority considers necessary and appropriate. 33196

(E) A tuition payment contract may provide that the authority 33197
will pay directly to the institution of higher education in which 33198
a beneficiary is enrolled during a term the amount represented by 33199
the tuition ~~credits~~ units being used that term. 33200

(F) A tuition payment contract described by division (A) of 33201
this section may provide that if the contract has not been 33202
terminated or ~~credits~~ units purchased under the contract have not 33203
been applied toward the payment of tuition or other higher 33204
education expenses within a specified period of time, the 33205
authority may, after making a reasonable effort to locate the 33206
purchaser of the tuition ~~credits~~ units, the beneficiary, and any 33207
person designated in the contract to act on behalf of the 33208
purchaser of the ~~credits~~ units or the beneficiary, terminate the 33209

contract and retain the amounts payable under the contract. 33210

(G) If, at any time after tuition ~~credits~~ units are purchased 33211
on behalf of a beneficiary or awarded to a beneficiary or pursuant 33212
to a scholarship program, the beneficiary becomes a nonresident of 33213
this state, or, if the beneficiary was not a resident of this 33214
state at the time the tuition payment contract was entered into, 33215
the purchaser becomes a nonresident of this state, ~~credits~~ units 33216
purchased or awarded while the beneficiary was a resident may be 33217
applied on behalf of the beneficiary toward the payment of tuition 33218
at an institution of higher education and other higher education 33219
expenses in the manner specified in division (B) of this section, 33220
except that if the beneficiary enrolls in a state institution of 33221
higher education, the beneficiary shall be responsible for payment 33222
of all nonresident fees charged to out-of-state residents by the 33223
institution in which the beneficiary is enrolled. 33224

Sec. 3334.10. Divisions (A), and (B), ~~(C), and (D)~~ of this 33225
section do not apply to scholarship programs established under 33226
section 3334.17 of the Revised Code. 33227

(A) Unless otherwise provided for in the ~~contract,~~ a tuition 33228
payment contract ~~may be terminated by the purchaser under any of~~ 33229
~~the following circumstances upon the written request of the~~ 33230
~~purchaser to the authority:~~ 33231

~~(1) Upon the death or permanent disability of the~~ 33232
~~beneficiary;~~ 33233

~~(2) Upon notification to the Ohio tuition trust authority in~~ 33234
~~writing that the beneficiary is age eighteen or older, has decided~~ 33235
~~not to attend an institution of higher education, and requests~~ 33236
~~that the contract be terminated;~~ 33237

~~(3) Upon the beneficiary's completion of the degree~~ 33238
~~requirements at an institution of higher education;~~ 33239

(4) Upon the rollover of all amounts in a tuition credit	33240
account to an equivalent account in another state;	33241
(5) Upon the occurrence of other circumstances determined by	33242
the authority to be grounds for termination.	33243
(B) The authority shall determine the method and schedule for	33244
payment of refunds upon termination of a tuition payment contract.	33245
, the purchaser may rollover amounts to another qualified tuition	33246
program under section 529 of the Internal Revenue Code or	33247
terminate the contract for any reason by filing written notice	33248
with the Ohio tuition trust authority.	33249
(1) In cases described by division (A)(2) or (3) of this	33250
section, <u>If the contract is terminated and the beneficiary is</u>	33251
<u>under eighteen years of age, the authority shall use actuarially</u>	33252
<u>sound principles to determine</u> the amount of the refund shall be	33253
equal to not less than one per cent of the weighted average	33254
tuition in the academic year the refund is paid, multiplied by the	33255
number of tuition credits purchased and not used, minus any	33256
reasonable charges and fees provided for by the authority, or such	33257
other lesser sum as shall be determined by the authority but only	33258
to the extent that such a lesser sum is necessary to meet the	33259
refund penalty requirements for qualified state tuition programs	33260
under section 529 of the Internal Revenue Code.	33261
(2) In cases described by division (A)(1) of this section <u>If</u>	33262
<u>the contract is terminated because of the death or permanent</u>	33263
<u>disability of the beneficiary,</u> the amount of the refund shall be	33264
equal to the greater of the following:	33265
(a) One per cent of the weighted average tuition in the	33266
academic year the refund is paid, multiplied by the number of	33267
tuition credits <u>units</u> purchased and not used;	33268
(b) The total purchase price of all tuition credits <u>units</u>	33269
purchased for the beneficiary and not used.	33270

~~(3) In cases described by division (A)(5) of this section, 33271
the amount of the refund shall be either of the following as 33272
determined by the authority: 33273~~

~~(a) The refund provided by division (B)(1) of this section: 33274~~

~~(b) The refund provided by division (B)(2) of this section, 33275
or such other lesser sum as shall be determined by the authority 33276
but only to the extent that such a lesser sum is necessary to meet 33277
the refund penalty requirements for qualified state tuition 33278
programs under section 529 of the Internal Revenue Code If all or 33279
part of the amount accrued under the contract is liquidated for a 33280
rollover to another qualified tuition program under section 529 of 33281
the Internal Revenue Code, the rollover amount shall be determined 33282
in an actuarially sound manner. 33283~~

~~(C) Unless otherwise provided for in the contract, a (B) The 33284
contributor of a variable college savings program account may be 33285
terminated by rollover amounts to another qualified tuition 33286
program under section 529 of the Internal Revenue Code or 33287
terminate the contributor account for any reason upon the written 33288
request of the contributor to the authority. Termination of a 33289
variable college savings program account shall occur no earlier 33290
than a maturity period set by the authority after the first 33291
contribution is made to the account. 33292~~

~~(D) The authority shall determine the method and schedule for 33293
payment of refunds upon termination of a variable savings program 33294
account by filing written notice with the Ohio tuition trust 33295
authority. 33296~~

~~(1) The contributor under a variable savings program contract 33297
may receive a refund of the an amount equal to the account balance 33298
in an account, less any applicable administrative fees, if the 33299
account is terminated upon the death or permanent disability of 33300
the beneficiary or, to the extent allowed under rules of the 33301~~

~~authority, upon the rollover of all amounts in a variable college savings program account to an equivalent account in another state.~~ 33302
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~~(2) If a variable college savings program account is terminated for any reason other than those set forth in division (D)(1) of this section, the contributor may receive a refund of the balance in the account, less any administrative fees, and less any additional amount necessary to meet the minimum refund penalty requirements for a qualified state tuition program under section 529 of the Internal Revenue Code.~~ 33304
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~~(3) Earnings shall be calculated as the total value of the variable savings program account less the aggregate contributions, or in such other manner as prescribed by section 529 of the Internal Revenue Code.~~ 33311
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~~(E) In the case of a (C) A scholarship program, may request a refund of tuition credits units in the program's account may be made only for just cause with the approval of by filing a written request with the authority. The refund shall be paid to the entity that established the scholarship program or, with that entity's approval, to the authority if this is authorized by federal tax law. The amount of any refund shall be determined by the authority and shall meet the requirements for refunds made on account of scholarships under section 529 of the Internal Revenue Code.~~ 33315
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~~(F) If a beneficiary is awarded a scholarship other than under a scholarship program, a waiver of tuition, or similar subvention that the authority determines cannot be converted into money by the beneficiary, the authority shall, during each academic term that the beneficiary furnishes the authority such information about the scholarship, waiver, or similar subvention as the authority requires, refund to the person designated in the contract, or, in the case of a beneficiary under a scholarship program, to the beneficiary an amount equal to the value that the tuition credits or the amounts in the variable college savings~~ 33324
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~~program account that are not needed on account of the scholarship, waiver, or similar subvention would otherwise have to the beneficiary that term at the institution of higher education where the beneficiary is enrolled. The authority may, at its sole option, designate the institution of higher education at which the beneficiary is enrolled as the agent of the authority for purposes of refunds pursuant to this division.~~ 33334
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~~(G) If, in any academic term for which tuition credits or any amounts in a variable college savings program account have been used to pay all or part of a beneficiary's tuition, the beneficiary withdraws from the institution of higher education at which the beneficiary is enrolled prior to the end of the academic term, a pro rata share of any refund of tuition as a result of the withdrawal equal to that portion of the tuition paid with tuition credits or the amounts in a variable college savings program account shall be made to the authority, unless the authority designates a different procedure. The authority shall credit any refund received, less any reasonable charges and fees provided for by the authority, to the appropriate account established under division (F)(1) or (2) of section 3334.11 of the Revised Code or division (H) of this section.~~ 33341
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~~(H)(D)~~ The authority shall maintain a separate account for each variable college savings contract entered into pursuant to division (A) of section 3334.18 of the Revised Code for contributions made on behalf of a beneficiary, showing the name of the beneficiary of that contract and the amount of contributions made pursuant to that contract. Upon request of any beneficiary or contributor, the authority shall provide a statement indicating, in the case of a beneficiary, the amount of contributions made pursuant to that contract on behalf of the beneficiary, or, in the case of a contributor, contributions made, disbursed, or refunded pursuant to that contract. 33355
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Sec. 3334.11. (A) The assets of the Ohio tuition trust 33366
authority reserved for payment of the obligations of the authority 33367
pursuant to tuition payment contracts shall be placed in a fund, 33368
which is hereby created and shall be known as the Ohio tuition 33369
trust fund. The fund shall be in the custody of the treasurer of 33370
state, but shall not be part of the state treasury. That portion 33371
of payments received by the authority or the treasurer of state 33372
from persons purchasing tuition ~~credits~~ units under tuition 33373
payment contracts that the authority determines is actuarially 33374
necessary for the payment of obligations of the authority pursuant 33375
to tuition payment contracts, all interest and investment income 33376
earned by the fund, and all other receipts of the authority from 33377
any other source that the authority determines appropriate, shall 33378
be deposited in the fund. No purchaser or beneficiary of tuition 33379
~~credits~~ units shall have any claim against the funds of any state 33380
institution of higher education. All investment fees and other 33381
costs incurred in connection with the exercise of the investment 33382
powers of the authority pursuant to divisions (D) and (E) of this 33383
section shall be paid from the assets of the fund. 33384

(B) Unless otherwise provided by the authority, the assets of 33385
the Ohio tuition trust fund shall be expended in the following 33386
order: 33387

(1) To make payments to beneficiaries, or institutions of 33388
higher education on behalf of beneficiaries, under division (B) of 33389
section 3334.09 of the Revised Code; 33390

(2) To make refunds as provided in divisions ~~(B)~~, ~~(E)~~, (A) and 33391
~~(F)~~ (C) of section 3334.10 of the Revised Code; 33392

(3) To pay the investment fees and other costs of 33393
administering the fund. 33394

(C)(1) Except as may be provided in an agreement under 33395

division (A)(19) of section 3334.08 of the Revised Code, all 33396
disbursements from the Ohio tuition trust fund shall be made by 33397
the treasurer of state on order of a designee of the authority. 33398

(2) The treasurer of state shall deposit any portion of the 33399
Ohio tuition trust fund not needed for immediate use in the same 33400
manner as state funds are deposited. 33401

(D) The authority is the trustee of the Ohio tuition trust 33402
fund. The authority shall have full power to invest the assets of 33403
the fund and in exercising this power shall be subject to the 33404
limitations and requirements contained in divisions (K) to (M) of 33405
this section and sections 145.112 and 145.113 of the Revised Code. 33406
The evidences of title of all investments shall be delivered to 33407
the treasurer of state or to a qualified trustee designated by the 33408
treasurer of state as provided in section 135.18 of the Revised 33409
Code. Assets of the fund shall be administered by the authority in 33410
a manner designed to be actuarially sound so that the assets of 33411
the fund will be sufficient to satisfy the obligations of the 33412
authority pursuant to tuition payment contracts and defray the 33413
reasonable expenses of administering the fund. 33414

(E) The public employees retirement board shall, with the 33415
approval of the authority, exercise the investment powers of the 33416
authority as set forth in division (D) of this section until the 33417
authority determines that assumption and exercise by the authority 33418
of the investment powers is financially and administratively 33419
feasible. The investment powers shall be exercised by the public 33420
employees retirement board in a manner agreed upon by the 33421
authority that maximizes the return on investment and minimizes 33422
the administrative expenses. 33423

(F)(1) The authority shall maintain a separate account for 33424
each tuition payment contract entered into pursuant to division 33425
(A) of section 3334.09 of the Revised Code for the purchase of 33426

tuition ~~credits~~ units on behalf of a beneficiary or beneficiaries 33427
showing the beneficiary or beneficiaries of that contract and the 33428
number of tuition ~~credits~~ units purchased pursuant to that 33429
contract. Upon request of any beneficiary or person who has 33430
entered into a tuition payment contract, the authority shall 33431
provide a statement indicating, in the case of a beneficiary, the 33432
number of tuition ~~credits~~ units purchased on behalf of the 33433
beneficiary, or in the case of a person who has entered into a 33434
tuition payment contract, the number of tuition ~~credits~~ units 33435
purchased, used, or refunded pursuant to that contract. A 33436
beneficiary and person that have entered into a tuition payment 33437
contract each may file only one request under this division in any 33438
year. 33439

(2) The authority shall maintain an account for each 33440
scholarship program showing the number of tuition ~~credits~~ units 33441
that have been purchased for or donated to the program and the 33442
number of tuition ~~credits~~ units that have been used. Upon the 33443
request of the entity that established the scholarship program, 33444
the authority shall provide a statement indicating these numbers. 33445

(G) In addition to the Ohio tuition trust fund, there is 33446
hereby established a reserve fund that shall be in the custody of 33447
the treasurer of state but shall not be part of the state 33448
treasury, and shall be known as the Ohio tuition trust reserve 33449
fund, and an operating fund that shall be part of the state 33450
treasury, and shall be known as the Ohio tuition trust operating 33451
fund. That portion of payments received by the authority or the 33452
treasurer of state from persons purchasing tuition ~~credits~~ units 33453
under tuition payment contracts that the authority determines is 33454
not actuarially necessary for the payment of obligations of the 33455
authority pursuant to tuition payment contracts, any interest and 33456
investment income earned by the reserve fund, any administrative 33457
charges and fees imposed by the authority on transactions under 33458

this chapter or on purchasers or beneficiaries of tuition ~~credits~~ 33459
units, and all other receipts from any other source that the 33460
authority determines appropriate, shall be deposited in the 33461
reserve fund to pay the operating expenses of the authority and 33462
the costs of administering the program. The assets of the reserve 33463
fund may be invested in the same manner and subject to the same 33464
limitations set forth in divisions (D), (E), and (K) to (M) of 33465
this section and sections 145.112 and 145.113 of the Revised Code. 33466
All investment fees and other costs incurred in connection with 33467
the exercise of the investment powers shall be paid from the 33468
assets of the reserve fund. Except as otherwise provided for in 33469
this chapter, all operating expenses of the authority and costs of 33470
administering the program shall be paid from the operating fund. 33471
The treasurer shall, upon request of the authority, transfer funds 33472
from the reserve fund to the operating fund as the authority 33473
determines appropriate to pay those current operating expenses of 33474
the authority and costs of administering the program as the 33475
authority designates. Any interest or investment income earned on 33476
the assets of the operating fund shall be deposited in the 33477
operating fund. 33478

(H) In January of each year the authority shall report to 33479
each person who received any payments or refunds from the 33480
authority during the preceding year information relative to the 33481
value of the payments or refunds to assist in determining that 33482
person's tax liability. 33483

(I) The authority shall report to the tax commissioner any 33484
information, and at the times, as the tax commissioner requires to 33485
determine any tax liability that a person may have incurred during 33486
the preceding year as a result of having received any payments or 33487
refunds from the authority. 33488

(J) All records of the authority indicating the identity of 33489
purchasers and beneficiaries of tuition ~~credits~~ units or college 33490

savings bonds, the number of tuition ~~credits~~ units purchased, 33491
used, or refunded under a tuition payment contract, and the number 33492
of college savings bonds purchased, held, or redeemed are not 33493
public records within the meaning of section 149.43 of the Revised 33494
Code. 33495

(K) The authority and other fiduciaries shall discharge their 33496
duties with respect to the funds with care, skill, prudence, and 33497
diligence under the circumstances then prevailing that a prudent 33498
person acting in a like capacity and familiar with such matters 33499
would use in the conduct of an enterprise of a like character and 33500
with like aims; and by diversifying the investments of the assets 33501
of the funds so as to minimize the risk of large losses, unless 33502
under the circumstances it is clearly prudent not to do so. 33503

To facilitate investment of the funds, the authority may 33504
establish a partnership, trust, limited liability company, 33505
corporation, including a corporation exempt from taxation under 33506
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 33507
amended, or any other legal entity authorized to transact business 33508
in this state. 33509

(L) In exercising its fiduciary responsibility with respect 33510
to the investment of the assets of the funds, it shall be the 33511
intent of the authority to give consideration to investments that 33512
enhance the general welfare of the state and its citizens where 33513
the investments offer quality, return, and safety comparable to 33514
other investments currently available to the authority. In 33515
fulfilling this intent, equal consideration shall also be given to 33516
investments otherwise qualifying under this section that involve 33517
minority owned and controlled firms and firms owned and controlled 33518
by women, either alone or in joint venture with other firms. 33519

The authority shall adopt, in regular meeting, policies, 33520
objectives, or criteria for the operation of the investment 33521
program that include asset allocation targets and ranges, risk 33522

factors, asset class benchmarks, time horizons, total return
objectives, and performance evaluation guidelines. In adopting
policies and criteria for the selection of agents with whom the
authority may contract for the administration of the assets of the
funds, the authority shall give equal consideration to minority
owned and controlled firms, firms owned and controlled by women,
and ventures involving minority owned and controlled firms and
firms owned and controlled by women that otherwise meet the
policies and criteria established by the authority. Amendments and
additions to the policies and criteria shall be adopted in regular
meeting. The authority shall publish its policies, objectives, and
criteria under this provision no less often than annually and
shall make copies available to interested parties.

When reporting on the performance of investments, the
authority shall comply with the performance presentation standards
established by the association for investment management and
research.

(M) All investments shall be purchased at current market
prices and the evidences of title of the investments shall be
placed in the hands of the treasurer of state, who is hereby
designated as custodian thereof, or in the hands of the treasurer
of state's authorized agent. The treasurer of state or the agent
shall collect the principal, dividends, distributions, and
interest thereon as they become due and payable and place them
when so collected into the custodial funds.

The treasurer of state shall pay for investments purchased by
the authority on receipt of written or electronic instructions
from the authority or the authority's designated agent authorizing
the purchase and pending receipt of the evidence of title of the
investment by the treasurer of state or the treasurer of state's
authorized agent. The authority may sell investments held by the
authority, and the treasurer of state or the treasurer of state's

authorized agent shall accept payment from the purchaser and 33555
deliver evidence of title of the investment to the purchaser on 33556
receipt of written or electronic instructions from the authority 33557
or the authority's designated agent authorizing the sale, and 33558
pending receipt of the moneys for the investments. The amount 33559
received shall be placed in the custodial funds. The authority and 33560
the treasurer of state may enter into agreements to establish 33561
procedures for the purchase and sale of investments under this 33562
division and the custody of the investments. 33563

No purchase or sale of any investment shall be made under 33564
this section except as authorized by the authority. 33565

Any statement of financial position distributed by the 33566
authority shall include fair value, as of the statement date, of 33567
all investments held by the authority under this section. 33568

Sec. 3334.12. Notwithstanding anything to the contrary in 33569
sections 3334.07 and 3334.09 of the Revised Code: 33570

(A) Annually, the Ohio tuition trust authority shall have the 33571
actuarial soundness of the Ohio tuition trust fund evaluated by a 33572
nationally recognized actuary and shall determine whether 33573
additional assets are necessary to defray the obligations of the 33574
authority. If, after the authority sets the price for tuition 33575
~~credits~~ units, circumstances arise that the executive director 33576
determines necessitate an additional evaluation of the actuarial 33577
soundness of the fund, the executive director shall have a 33578
nationally recognized actuary conduct the necessary evaluation. If 33579
the assets of the fund are insufficient to ensure the actuarial 33580
soundness of the fund, the authority shall adjust the price of 33581
subsequent purchases of tuition ~~credits~~ units to the extent 33582
necessary to help restore the actuarial soundness of the fund. If, 33583
at any time, the adjustment is likely, in the opinion of the 33584
authority, to diminish the marketability of tuition ~~credits~~ units 33585

to an extent that the continued sale of the ~~credits~~ units likely 33586
would not restore the actuarial soundness of the fund and external 33587
economic factors continue to negatively impact the soundness of 33588
the program, the authority may suspend sales, either permanently 33589
or temporarily, of tuition ~~credits~~ units. During any suspension, 33590
the authority shall continue to service existing college savings 33591
program accounts. 33592

(B) Upon termination of the program or liquidation of the 33593
Ohio tuition trust fund, the Ohio tuition trust reserve fund, and 33594
the Ohio tuition trust operating fund, any remaining assets of the 33595
funds after all obligations of the funds have been satisfied 33596
pursuant to division (B) of section 3334.11 of the Revised Code 33597
shall be transferred to the general revenue fund of the state. 33598

(C) The authority shall prepare and cause to have audited an 33599
annual financial report on all financial activity of the Ohio 33600
tuition trust authority within ninety days of the end of the 33601
fiscal year. The authority shall transmit a copy of the audited 33602
financial report to the governor, the president of the senate, the 33603
speaker of the house of representatives, and the minority leaders 33604
of the senate and the house of representatives. Copies of the 33605
audited financial report also shall be made available, upon 33606
request, to the persons entering into contracts with the authority 33607
and to prospective purchasers of tuition ~~credits~~ units and 33608
prospective contributors to variable college savings program 33609
accounts. 33610

Sec. 3334.15. (A) The right of a person to a tuition ~~credit~~ 33611
unit or a payment under section 3334.09 of the Revised Code 33612
pursuant to a tuition ~~credit~~ payment contract, a scholarship 33613
program, or a variable college savings program account shall not 33614
be subject to execution, garnishment, attachment, the operation of 33615
bankruptcy or the insolvency laws, or other process of law. 33616

(B) The right of a person to a tuition ~~credit~~ unit or a 33617
payment under section 3334.09 of the Revised Code pursuant to a 33618
tuition ~~credit~~ payment contract, a scholarship program, or a 33619
variable college savings program account shall not be used as 33620
security or collateral for a loan. 33621

Sec. 3334.16. The general assembly hereby finds that the 33622
prepaid tuition program providing for the sale of tuition credits 33623
units by the Ohio tuition trust authority is an official state 33624
function, offered through an agency of this state, which agency 33625
receives state appropriations. Therefore, the authority is 33626
directed by the state of Ohio to assume it is exempt from federal 33627
tax liability. 33628

Sec. 3334.17. (A) The state, any political subdivision of the 33629
state, and any organization that is exempt from federal income 33630
taxation under section 501 (a) and described in section 501 (c)(3) 33631
of the Internal Revenue Code, including the Ohio tuition trust 33632
authority if this is authorized under federal tax law, may 33633
establish a scholarship program to award scholarships consisting 33634
of contributions made to any college savings program for students. 33635
Any scholarship program established under this section shall be 33636
registered with the authority. The authority shall be notified of 33637
the name and address of each scholarship beneficiary under the 33638
program, the amounts awarded, and the institution of higher 33639
education in which the beneficiary is enrolled. Scholarship 33640
beneficiaries shall be selected by the entity establishing the 33641
scholarship program, in accordance with criteria established by 33642
the entity. 33643

(B) Any person or governmental entity may purchase tuition 33644
~~credits~~ units on behalf of a scholarship program that is or is to 33645
be established in accordance with division (A) of this section at 33646

the same price as is established for the purchase of ~~credits~~ units 33647
for named beneficiaries pursuant to this chapter. Tuition ~~credits~~ 33648
units shall have the same value to the beneficiary of a 33649
scholarship awarded pursuant to this section as they would have to 33650
any other beneficiary pursuant to division (B) of section 3334.09 33651
of the Revised Code. 33652

(C) The entity establishing and maintaining a scholarship 33653
program shall specify whether a scholarship beneficiary may 33654
receive a refund or payment for the amount awarded under the 33655
scholarship program directly from the authority, or whether the 33656
amount awarded shall be paid by the authority only to the 33657
institution of higher education in which the student is enrolled. 33658

(D) If a scholarship beneficiary does not use the amount 33659
awarded within a length of time specified under the scholarship 33660
program, the amount may be awarded to another beneficiary. 33661

Sec. 3334.18. (A) A variable college savings program 33662
established by the Ohio tuition trust authority shall include 33663
provisions for a contract to be entered into between a contributor 33664
and the authority that will authorize the contributor to open an 33665
account for a beneficiary and authorize the contributor to 33666
substitute a new beneficiary for one originally named in the 33667
contract, to the extent permitted by section 529 of the Internal 33668
Revenue Code. 33669

(B) The authority shall provide adequate safeguards to 33670
prevent total contributions to a variable college savings program 33671
account or purchases of tuition ~~credits~~ units, either separately 33672
or combined, that are made on behalf of a beneficiary from 33673
exceeding the amount necessary to provide for the tuition and 33674
other higher education expenses of the beneficiary, consistent 33675
with the maximum contributions permitted by section 529 of the 33676
Internal Revenue Code. However, in no event shall contributions or 33677

purchases exceed the allowable limit for a qualified ~~state~~ tuition 33678
program under section 529 of the Internal Revenue Code. 33679

(C)(1) Participation in the variable college savings program 33680
does not guarantee that contributions and the investment return on 33681
contributions, if any, will be adequate to cover future tuition 33682
and other higher education expenses or that a beneficiary will be 33683
admitted to or permitted to continue to attend an institution of 33684
higher education. 33685

(2) Returns on contributors' investments in the variable 33686
college savings program are not guaranteed by the state and the 33687
contributors to the variable college savings program assume all 33688
investment risk, including the potential loss of principal and 33689
liability for penalties such as those levied for noneducational 33690
withdrawals. 33691

(3) The state shall have no debt or obligation to any 33692
contributor, beneficiary, or any other person as a result of the 33693
establishment of the program, and the state assumes no risk or 33694
liability for funds invested in the variable college savings 33695
program. 33696

(4) Informational materials about the variable college 33697
savings program prepared by the authority or its agents and 33698
provided to prospective contributors shall state clearly the 33699
information set forth in division (C) of this section. 33700

Sec. 3334.19. (A) The Ohio tuition trust authority shall 33701
adopt an investment plan that sets forth investment policies and 33702
guidelines to be utilized in administering the variable college 33703
savings program. Except as provided in section 3334.20 of the 33704
Revised Code, the authority shall contract with one or more 33705
insurance companies, banks, or other financial institutions to act 33706
as its investment agents and to provide such services as the 33707
authority considers appropriate to the investment plan, including: 33708

(1) Purchase, control, and safekeeping of assets;	33709
(2) Record keeping and accounting for individual accounts and for the program as a whole;	33710 33711
(3) Provision of consolidated statements of account.	33712
(B) The authority or its investment agents shall maintain a separate account for the beneficiary of each contract entered into under the variable college savings program. If a beneficiary has more than one such account, the authority or its agents shall track total contributions and earnings and provide a consolidated system of account distributions to institutions of higher education.	33713 33714 33715 33716 33717 33718 33719
(C) The authority or its investment agents may place assets of the program in savings accounts and may purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the investment plan.	33720 33721 33722 33723 33724
(D) Contributors shall not direct the investment of their contributions under the investment plan. The authority shall impose other limits on contributors' investment discretion to the extent required under section 529 of the Internal Revenue Code.	33725 33726 33727 33728
(E) The investment agents with which the authority contracts shall discharge their duties with respect to program funds with the care and diligence that a prudent person familiar with such matters and with the character and aims of the program would use.	33729 33730 33731 33732
(F) The assets of the program shall be preserved, invested, and expended solely for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the state for any other purpose. This section shall not be construed to prohibit the investment agents of the authority from investing, by purchase or otherwise, in bonds, notes, or other obligations of the state or	33733 33734 33735 33736 33737 33738

any agency or instrumentality of the state. Unless otherwise
specified by the authority, assets of the program shall be
expended in the following order of priority:

(1) To make payments on behalf of beneficiaries;

(2) To make refunds upon termination of variable college
savings program contracts;

(3) To pay the authority's costs of administering the
program;

(4) To pay or cover any other expenditure or disbursement the
authority determines necessary or appropriate.

(G) Fees, charges, and other costs imposed or collected by
the authority in connection with the variable college savings
program, including any fees or other payments that the authority
requires an investment agent to pay to the authority, shall be
credited to either the variable operating fund or the index
operating fund at the discretion of the authority. ~~The fund shall~~
~~be These funds are hereby created in the custody of the treasurer~~
~~of state, but shall not be part of the state treasury.~~ Expenses
incurred in the administration of the variable college savings
program, as well as other expenses, disbursements, or payments the
authority considers appropriate for the benefit of any college
savings programs administered by the authority, the state of Ohio
and its citizens, shall be paid from the variable operating fund
or the index operating fund at the discretion of the authority.

(H) No records of the authority indicating the identity of
purchasers, contributors, and beneficiaries under the program or
amounts contributed to, earned by, or distributed from program
accounts are public records within the meaning of section 149.43
of the Revised Code.

Sec. 3335.02. (A) The government of the Ohio state university

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shall be vested in a board of ~~eleven~~ fourteen trustees in 2005, 33769
and seventeen trustees beginning in 2006, who shall be appointed 33770
by the governor, with the advice and consent of the senate. Two of 33771
the ~~eleven~~ seventeen trustees shall be students at the Ohio state 33772
university, and their selection and terms shall be in accordance 33773
with division (B) of this section. Except as provided in division 33774
(C) of this section and except for the terms of student members, 33775
terms of office shall be for nine years, commencing on the 33776
fourteenth day of May and ending on the thirteenth day of May. 33777
Each trustee shall hold office from the date of appointment until 33778
the end of the term for which the trustee was appointed. Any 33779
trustee appointed to fill a vacancy occurring prior to the 33780
expiration of the term for which the trustee's predecessor was 33781
appointed shall hold office for the remainder of such term. Any 33782
trustee shall continue in office subsequent to the expiration date 33783
of the trustee's term until the trustee's successor takes office, 33784
or until a period of sixty days has elapsed, whichever occurs 33785
first. No person who has served a full nine-year term or more than 33786
six years of such a term shall be eligible for reappointment until 33787
a period of four years has elapsed since the last day of the term 33788
for which the person previously served. The trustees shall not 33789
receive compensation for their services, but shall be paid their 33790
reasonable necessary expenses while engaged in the discharge of 33791
their official duties. 33792

(B) The student members of the board of trustees of the Ohio 33793
state university have no voting power on the board. Student 33794
members shall not be considered as members of the board in 33795
determining whether a quorum is present. Student members shall not 33796
be entitled to attend executive sessions of the board. The student 33797
members of the board shall be appointed by the governor, with the 33798
advice and consent of the senate, from a group of five candidates 33799
selected pursuant to a procedure adopted by the university's 33800
student governments and approved by the university's board of 33801

trustees. The initial term of office of one of the student members shall commence on May 14, 1988 and shall expire on May 13, 1989, and the initial term of office of the other student member shall commence on May 14, 1988 and expire on May 13, 1990. Thereafter, terms of office of student members shall be for two years, each term ending on the same day of the same month of the year as the term it succeeds. In the event a student member cannot fulfill a two-year term, a replacement shall be selected to fill the unexpired term in the same manner used to make the original selection.

(C)(1) The initial terms of office for the three additional trustees appointed in 2005 shall commence on a date in 2005 that is selected by the governor with one term of office expiring on May 13, 2009, one term of office expiring on May 13, 2010, and one term of office expiring on May 13, 2011, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

(2) The initial terms of office for the three additional trustees appointed in 2006 shall commence on May 14, 2006, with one term of office expiring on May 13, 2012, one term of office expiring on May 13, 2013, and one term of office expiring on May 13, 2014, as designated by the governor upon appointment. Thereafter terms of office shall be for nine years, as provided in division (A) of this section.

Sec. 3345.10. (A) As used in this section:

~~(A), "Institution state institution of higher education"~~ means a state university, municipal university, state medical college, community college, technical college, or state community college has the same meaning as in section 3345.011 of the Revised Code.

(B) Each state institution of higher education shall 33832
establish competitive bidding procedures for the purchase of 33833
printed material and shall award all ~~such~~ contracts for the 33834
purchase of printed material in accordance with ~~such~~ those 33835
procedures. ~~Notwithstanding any other provision of law, The~~ 33836
procedures shall require the institution to evaluate all bids 33837
received for all contracts for the purchase of printed material 33838
~~shall be let by an institution to vendors who have manufacturing~~ 33839
~~facilities within this state, except as provided in division (C)~~ 33840
~~of this section.~~ 33841

~~(C) If the required printed products are not available from a~~ 33842
~~vendor who has manufacturing facilities within this state, the~~ 33843
~~institution shall be permitted to purchase from an out of state~~ 33844
~~vendor.~~ 33845

~~(D) No vendor with manufacturing facilities within this state~~ 33846
~~who would execute the printing covered by the proposal shall be~~ 33847
~~prohibited from submitting a proposal for consideration and any~~ 33848
~~such proposal properly submitted shall be considered in accordance~~ 33849
~~with the criteria and procedures established pursuant to divisions~~ 33850
~~(C)(1) and (2) of section 125.09 of the Revised Code for~~ 33851
~~determining whether bidders will produce the printed material at~~ 33852
~~manufacturing facilities within this state or in accordance with~~ 33853
~~the criteria and procedures established pursuant to division~~ 33854
~~(C)(4) or (5) of that section for determining whether bidders are~~ 33855
~~otherwise qualified.~~ 33856

An institution shall select, in accordance with the 33857
procedures it establishes under this section, a bid from among 33858
bidders that fulfill the criteria specified in the applicable 33859
divisions of section 125.09 of the Revised Code where sufficient 33860
competition can be generated within this state to ensure that 33861
compliance with this requirement will not result in paying an 33862
excessive price or acquiring a disproportionately inferior 33863

product. If there are two or more bids from among those bidders, 33864
it shall be deemed that there is sufficient competition to prevent 33865
paying an excessive price or acquiring a disproportionately 33866
inferior product. 33867

Sec. 3345.19. In the exercise of their respective powers of 33868
government conferred by Chapter 3345. of the Revised Code and 33869
other pertinent provisions of law, the boards of trustees of 33870
Bowling Green state university, Kent state university, Miami 33871
university, Ohio university, and the Ohio state university shall 33872
observe the following enrollment limitations insofar as the autumn 33873
quarter enrollment or any other quarter enrollment on a full-time 33874
~~equivalent~~ basis as defined by the Ohio board of regents is 33875
concerned: 33876

Bowling Green central campus	17,000	33877
Kent central campus	22,000	33878
Miami central campus	17,000	33879
Ohio university central campus	22,000	33880
The Ohio state central campus	42,000	33881

Campus student housing facilities shall only be authorized by 33882
boards of trustees within these limitations. 33883

Sec. 3345.32. (A) As used in this section: 33884

(1) "State university or college" means the institutions 33885
described in section 3345.27 of the Revised Code, the northeastern 33886
Ohio universities college of medicine, and the medical university 33887
of Ohio at Toledo. 33888

(2) "Resident" has the meaning specified by rule of the Ohio 33889
board of regents. 33890

(3) "Statement of selective service status" means a statement 33891
certifying one of the following: 33892

(a) That the individual filing the statement has registered with the selective service system in accordance with the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 453, as amended;

(b) That the individual filing the statement is not required to register with the selective service for one of the following reasons:

(i) The individual is under eighteen or over twenty-six years of age;

(ii) The individual is on active duty with the armed forces of the United States other than for training in a reserve or national guard unit;

(iii) The individual is a nonimmigrant alien lawfully in the United States in accordance with section 101 (a)(15) of the "Immigration and Nationality Act," 8 U.S.C. 1101, as amended;

(iv) The individual is not a citizen of the United States and is a permanent resident of the Trust Territory of the Pacific Islands or the Northern Mariana Islands.

(4) "Institution of higher education" means any eligible institution approved by the United States department of education pursuant to the "Higher Education Act of 1965," 79 Stat. 1219, as amended, or any institution whose students are eligible for financial assistance under any of the programs described by division (E) of this section.

(B) The Ohio board of regents shall, by rule, specify the form of statements of selective service status to be filed in compliance with divisions (C) to (F) of this section. Each statement of selective service status shall contain a section wherein a male student born after December 31, 1959, certifies that the student has registered with the selective service system

in accordance with the "Military Selective Service Act," 62 Stat. 33923
604, 50 U.S.C. App. 453, as amended. For those students not 33924
required to register with the selective service, as specified in 33925
divisions (A)(2)(b)(i) to (iv) of this section, a section shall be 33926
provided on the statement of selective service status for the 33927
certification of nonregistration and for an explanation of the 33928
reason for the exemption. The board of regents may require that 33929
such statements be accompanied by documentation specified by rule 33930
of the board. 33931

(C) A state university or college that enrolls in any course, 33932
class, or program a male student born after December 31, 1959, who 33933
has not filed a statement of selective service status with the 33934
university or college shall, regardless of the student's 33935
residency, charge the student any tuition surcharge charged 33936
students who are not residents of this state. 33937

(D) No male born after December 31, 1959, shall be eligible 33938
to receive any loan, grant, scholarship, or other financial 33939
assistance for educational expenses under section 3315.33, 33940
3333.12, 3333.122, 3333.21, 3333.22, 3333.26, 3333.27, 5910.03, 33941
5910.032, or 5919.34 of the Revised Code unless that person has 33942
filed a statement of selective service status with that person's 33943
institution of higher education. 33944

(E) If an institution of higher education receives a 33945
statement from an individual certifying that the individual has 33946
registered with the selective service system in accordance with 33947
the "Military Selective Service Act," 62 Stat. 604, 50 U.S.C. App. 33948
453, as amended or that the individual is exempt from registration 33949
for a reason other than that the individual is under eighteen 33950
years of age, the institution shall not require the individual to 33951
file any further statements. If it receives a statement certifying 33952
that the individual is not required to register because the 33953
individual is under eighteen years of age, the institution shall 33954

require the individual to file a new statement of selective 33955
service status each time the individual seeks to enroll for a new 33956
academic term or makes application for a new loan or loan 33957
guarantee or for any form of financial assistance for educational 33958
expenses, until it receives a statement certifying that the 33959
individual has registered with the selective service system or is 33960
exempt from registration for a reason other than that the 33961
individual is under eighteen years of age. 33962

Sec. 3353.01. As used in ~~sections 3353.01 to 3353.05 of the~~ 33963
~~Revised Code~~ this chapter: 33964

(A) "Educational television or radio" means television or 33965
radio programs which serve the educational needs of the community 33966
and which meet the requirements of the federal communications 33967
commission for noncommercial educational television or radio. 33968

(B) "Educational telecommunications network" means a system 33969
of connected educational television, radio, or radio reading 33970
service facilities and coordinated programs established and 33971
operated or controlled by the eTech Ohio ~~educational~~ 33972
~~telecommunications network~~ commission, pursuant to ~~sections~~ 33973
~~3353.01 to 3353.04 of the Revised Code~~ this chapter. 33974

(C) "Transmission" means the sending out of television, 33975
radio, or radio reading service programs, either directly to the 33976
public, or to broadcasting stations or services for simultaneous 33977
broadcast or rebroadcast. 33978

(D) ~~"Transmission facilities" means structures, equipment,~~ 33979
~~material, and services used in the transmission of educational~~ 33980
~~television, radio, or radio reading service programs.~~ 33981

~~(E)~~ "Interconnection facilities" means the equipment, 33982
material, and services used to link one location to another 33983
location or to several locations by means of telephone line, 33984

coaxial cable, microwave relays, or other available technologies. 33985

~~(F)~~(E) "Broadcasting station" means a properly licensed 33986
noncommercial educational television or radio station, 33987
appropriately staffed and equipped to produce programs or lessons 33988
and to broadcast programs. 33989

~~(G) "Production center" means a television, radio, or radio 33990
reading service production studio, staffed and equipped with 33991
equipment, material, and supplies necessary to produce a program 33992
or a lesson for broadcast or for recording on film, video tape, or 33993
audio tape. 33994~~

~~(H)~~(F) "Radio reading service" means a nonprofit organization 33995
that disseminates news and other information to blind and 33996
physically handicapped persons. 33997

(G) "Affiliate" means an educational telecommunication 33998
entity, including a television or radio broadcasting station or 33999
radio reading service. 34000

Sec. 3353.02. (A) There is hereby created the eTech Ohio 34001
commission as an independent agency to advance education and 34002
accelerate the learning of the citizens of this state through 34003
technology. The commission shall provide leadership and support in 34004
extending the knowledge of the citizens of this state by promoting 34005
equal access to and use of all forms of educational technology, 34006
including educational television and radio, radio reading 34007
services, broadband networks, videotapes, compact discs, digital 34008
video on demand (DVD), and the internet. 34009

The commission is a body corporate and politic, an agency of 34010
the state performing essential governmental functions of the 34011
state. 34012

(B) The commission shall consist of eleven members, seven of 34013
whom shall be voting members. Four of the voting members shall be 34014

representatives of the public with a demonstrated interest in 34015
public broadcasting and education and shall be appointed by the 34016
governor with the advice and consent of the senate. The 34017
superintendent of public instruction or a designee of the 34018
superintendent, the chancellor of the Ohio board of regents or a 34019
designee of the chancellor, and the director of administrative 34020
services or a designee of the director shall be ex officio voting 34021
members. Of the nonvoting members, two shall be members of the 34022
house of representatives appointed by the speaker of the house of 34023
representatives and two shall be members of the senate appointed 34024
by the president of the senate. The members appointed from each 34025
chamber shall not be members of the same political party. 34026

(C) Initial terms of office for members appointed by the 34027
governor shall be one year for one member, two years for one 34028
member, three years for one member, and four years for one member. 34029
At the first meeting of the commission, members appointed by the 34030
governor shall draw lots to determine the length of the term each 34031
member will serve. Thereafter, terms of office for members 34032
appointed by the governor shall be for four years. Any member 34033
appointed by the governor may be reappointed, but no such member 34034
may serve more than two consecutive four-year terms. Members 34035
appointed by the governor may be removed by the governor for 34036
cause. 34037

Any member appointed by the speaker of the house of 34038
representatives or the president of the senate who ceases to be a 34039
member of the legislative chamber from which the member was 34040
appointed shall cease to be a member of the commission. The 34041
speaker of the house of representatives and the president of the 34042
senate may remove their respective appointments to the commission 34043
at any time. 34044

(D) Vacancies among appointed members shall be filled in the 34045
manner provided for original appointments. Any member appointed by 34046

the governor to fill a vacancy occurring prior to the expiration 34047
of the term for which the member's predecessor was appointed shall 34048
hold office for the remainder of that term. Any member appointed 34049
by the governor shall continue in office subsequent to the 34050
expiration of that member's term until the member's successor 34051
takes office or until a period of sixty days has elapsed, 34052
whichever occurs first. 34053

(E) Members of the commission shall serve without 34054
compensation. The members appointed by the governor shall be 34055
reimbursed, pursuant to office of budget and management 34056
guidelines, for actual and necessary expenses incurred in the 34057
performance of official duties. 34058

(F) The governor shall appoint the chairperson of the 34059
commission from among the representatives of the public. The 34060
chairperson shall serve a term of two years and may be 34061
reappointed. The commission shall elect other officers as 34062
necessary from among its voting members and shall prescribe its 34063
rules of procedure. 34064

(G) The commission shall establish advisory groups as needed 34065
to address topics of interest and to provide guidance to the 34066
commission regarding educational technology issues and the 34067
technology needs of educators, learners, and the public. Members 34068
of each advisory group shall be appointed by the commission and 34069
shall include representatives of individuals or organizations with 34070
an interest in the topic addressed by the advisory group. 34071

Sec. 3353.03. (A) The eTech Ohio commission shall appoint an 34072
executive director, who shall serve at the pleasure of the 34073
commission. The executive director shall have no authority other 34074
than that provided by law or delegated to the executive director 34075
by the commission. The executive director shall do all of the 34076
following: 34077

<u>(1) Direct commission employees in the administration of all</u>	34078
<u>programs of the commission;</u>	34079
<u>(2) Provide leadership and support in extending the knowledge</u>	34080
<u>of the citizens of this state by promoting equal access to and use</u>	34081
<u>of all forms of educational technology, as directed by the</u>	34082
<u>commission;</u>	34083
<u>(3) Provide financial and other assistance to school</u>	34084
<u>districts and other educational institutions, affiliates, and</u>	34085
<u>educational technology organizations for the acquisition and</u>	34086
<u>utilization of educational technology;</u>	34087
<u>(4) Implement policies and directives issued by the</u>	34088
<u>commission;</u>	34089
<u>(5) Perform other duties authorized by the commission.</u>	34090
<u>(B) The commission shall fix the compensation of the</u>	34091
<u>executive director. The executive director shall employ and fix</u>	34092
<u>the compensation for such employees as necessary to facilitate the</u>	34093
<u>activities and purposes of the commission. The employees shall</u>	34094
<u>serve at the pleasure of the executive director.</u>	34095
<u>(C) The employees of the commission shall be placed in the</u>	34096
<u>unclassified service. The employees shall be exempt from Chapter</u>	34097
<u>4117. of the Revised Code and shall not be public employees as</u>	34098
<u>defined in section 4117.01 of the Revised Code.</u>	34099
Sec. 3353.04. (A) The eTech Ohio educational	34100
telecommunications network <u>commission may perform any act</u>	34101
<u>necessary to carry out the functions of this chapter, including</u>	34102
<u>any of the following:</u>	34103
(A) Own and operate transmission facilities and <u>(1) Make</u>	34104
<u>grants to institutions and other organizations as prescribed by</u>	34105
<u>the general assembly for the provision of technical assistance,</u>	34106
<u>professional development, and other support services to enable</u>	34107

school districts, community schools established under Chapter 3314. of the Revised Code, other educational institutions, and affiliates to utilize educational technology; 34108
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(2) Establish a reporting system for school districts, community schools, other educational institutions, affiliates, and educational technology organizations that receive financial assistance from the commission. The system may require the reporting of information regarding the manner in which the assistance was expended, the manner in which the equipment or services purchased with the assistance is being utilized, the results or outcome of the utilization, the manner in which the utilization is compatible with the statewide academic standards adopted by the state board of education pursuant to section 3301.079 of the Revised Code, and any other information determined by the commission. 34111
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(3) Ensure that, where appropriate, products produced by any entity to which the commission provides financial assistance for use in elementary and secondary education are aligned with the statewide academic standards adopted by the state board pursuant to section 3301.079 of the Revised Code; 34123
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(4) Promote accessibility to educational products aligned with the statewide academic standards adopted by the state board pursuant to section 3301.079 of the Revised Code for school districts, community schools, and other entities serving grades kindergarten through twelve; 34128
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(5) Operate interconnection facilities, or contract for transmission facilities and interconnection facilities, for an educational television, radio, or radio reading service network; 34133
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~~(B)(6)~~ Establish standards for interconnection facilities used in the transmission of educational television, radio, or radio reading service programming operated by the commission; 34136
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~~(C) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the transmission to the broadcasting stations or services of identical programs for broadcasting either simultaneously or through the use of transcription discs, video tapes, film, or audio tapes;~~

~~(D)(7) Enter into agreements with noncommercial educational television, radio, or radio reading service production centers and with broadcasting stations and or radio reading services for the production and use of educational television, radio, or radio reading service programs to be transmitted by the educational telecommunications network;~~

~~(E)(8) Execute contracts and other agreements necessary and desirable to carry out the purposes of sections 3353.01 to 3353.04 of the Revised Code this chapter and other duties prescribed to the commission by law or authorize the executive director of the commission to execute such contracts and agreements on the commission's behalf;~~

~~(F) Determine programs to be distributed through the Ohio educational telecommunications network;~~

~~(G)(9) Act as consultant with educational television and educational radio stations and radio reading services toward coordination within the state of the distribution of federal funds that may become available for the development of equipment for educational broadcasting or radio reading services;~~

~~(H)(10) Make payments to noncommercial Ohio educational television or radio broadcasting stations or radio reading services to sustain the operation of such stations or services, and may consign equipment to them in exchange for services rendered;~~

(11) In consultation with participants in programs

<u>administered by the commission, establish guidelines governing</u>	34170
<u>purchasing and procurement that facilitate the timely and</u>	34171
<u>effective implementation of such programs;</u>	34172
<u>(12) In consultation with participants in programs</u>	34173
<u>administered by the commission, consider the efficiency and cost</u>	34174
<u>savings of statewide procurement prior to allocating and releasing</u>	34175
<u>funds for such programs;</u>	34176
<u>(13) In consultation with participants in programs</u>	34177
<u>administered by the commission, establish a systems support</u>	34178
<u>network to facilitate the timely implementation of the programs</u>	34179
<u>and other projects and activities for which the commission</u>	34180
<u>provides assistance.</u>	34181
<u>(B) Chapters 123., 124., 125., and 153. of the Revised Code</u>	34182
<u>and sections 9.331, 9.332, and 9.333 of the Revised Code do not</u>	34183
<u>apply to contracts, programs, projects, or activities of the</u>	34184
<u>commission.</u>	34185
Sec. 3353.06. (A) The affiliates services fund is hereby	34186
created in the state treasury. The <u>eTech Ohio educational</u>	34187
telecommunications network commission shall deposit any money it	34188
receives <u>for services provided to affiliates</u> to the credit of the	34189
fund, including:	34190
(1) Reimbursements for services provided to stations;	34191
(2) Charges levied for maintenance of telecommunications,	34192
broadcasting, or transmission equipment;	34193
(3) Contract or grant payments <u>from affiliates.</u>	34194
(B) The commission shall use money credited to the affiliates	34195
services fund for any commission operating purposes, including:	34196
(1) The purchase, repair, or maintenance of	34197
telecommunications, broadcasting, or transmission equipment;	34198

(2) The purchase or lease of educational programming;	34199
(3) The purchase of tape and maintenance of a media library;	34200
(4) Professional development programs and services;	34201
(5) Administrative expenses and legal fees.	34202
Sec. 3353.07. (A) As used in this section, "broadcasting	34203
station" has the same meaning as in section 3353.01 of the Revised	34204
Code.	34205
(B) Ohio government telecommunications shall be funded	34206
through the <u>eTech</u> Ohio educational telecommunications network	34207
commission and shall be managed by a broadcasting station under a	34208
contract. The contract shall not take effect until the program	34209
committee of Ohio government telecommunications approves the	34210
contract. The broadcasting station shall manage the staff of Ohio	34211
government telecommunications.	34212
(C) (B)(1) There is hereby created the program committee of	34213
Ohio government telecommunications that shall consist of the	34214
president of the senate, speaker of the house of representatives,	34215
minority leader of the senate, and minority leader of the house of	34216
representatives, or their designees. By a vote of a majority of	34217
its members, the program committee may add additional members to	34218
the committee.	34219
(2) The program committee shall adopt rules that govern the	34220
operation of Ohio government telecommunications and the coverage	34221
and distribution of official governmental activities by Ohio	34222
government telecommunications.	34223
Sec. 3354.25. (A) <u>Notwithstanding section 3354.05 of the</u>	34224
<u>Revised Code regarding the residency of boards of trustees</u>	34225
<u>members, two members of the board of trustees of the Montgomery</u>	34226
<u>county community college district shall be residents of Warren</u>	34227

county and shall have full voting rights on all matters coming 34228
before the board except those specified in division (B) of this 34229
section. These two members and their successors shall be appointed 34230
by the board of county commissioners of Warren county, and shall 34231
replace two Montgomery county members of the board as follows: 34232

(1) One member from Warren county shall succeed the first 34233
Montgomery county member appointed by the governor whose term ends 34234
after the effective date of this section. 34235

(2) One member from Warren county shall succeed the first 34236
Montgomery county member appointed by the board of county 34237
commissioners of Montgomery county whose term ends after the 34238
effective date of this section. 34239

Terms of office of the two Warren county positions otherwise 34240
shall follow the requirements regarding terms of office for 34241
members of boards of trustees of community college districts 34242
prescribed in section 3354.05 of the Revised Code. 34243

(B) The trustees from Warren county shall have no vote on any 34244
of the following matters: 34245

(1) Tax levies for Montgomery county; 34246

(2) The expenditure of revenue from levies described in 34247
division (B)(1) of this section; 34248

(3) Tuition for Montgomery county residents; 34249

(4) Community college facilities in Montgomery county; 34250

(5) Community college programs offered in Montgomery county. 34251

When a matter described in divisions (B)(1) to (5) of this 34252
section comes before the board, four Montgomery county trustees 34253
constitute a quorum. The concurrence of four Montgomery county 34254
trustees is necessary for approval of any matter described in 34255
divisions (B)(1) to (5) of this section. The fact that a trustee 34256

from Warren county votes on a matter described in divisions (B)(1) 34257
to (5) of this section does not invalidate the vote. 34258

(C) Warren county shall not be added to the Montgomery county 34259
community college district. The district, therefore, shall have no 34260
power to levy a tax in Warren county. Only the territory of the 34261
Montgomery county community college district as approved and 34262
certified by the Ohio board of regents under sections 3354.02 and 34263
3354.04 of the Revised Code shall be included in the Montgomery 34264
county community college district. However, the district may 34265
provide services in Warren county. 34266

(D) The board of trustees of the Montgomery county community 34267
college district shall continue to comply with division (G) of 34268
section 3354.09 of the Revised Code, regarding tuition for 34269
students who are residents of the district, for students who are 34270
residents of Ohio but not of the district, and for students who 34271
are nonresidents of Ohio. Students who are residents of Warren 34272
county shall continue to be charged tuition at the same rate as 34273
other Ohio residents who are not residents of Montgomery county. 34274

(E) Any money raised by the residents of Montgomery county 34275
through a tax levied by the Montgomery county community college 34276
district shall be used solely for the benefit of Montgomery county 34277
residents attending Sinclair community college, shall be deposited 34278
into a separate fund from all other revenues of the district, and 34279
shall be budgeted separately in accordance with division (B) of 34280
this section. 34281

Sec. 3362.02. The board of trustees of Shawnee state 34282
university shall annually elect from their members a ~~chairman~~ 34283
chairperson and ~~vice-chairman~~ vice-chairperson; and they may also 34284
appoint a secretary of the board, a treasurer, and such other 34285
officers of the university as the interests of the university 34286
require, who may be members of the board. The treasurer, before 34287

entering upon the discharge of ~~his~~ official duties, shall give 34288
bond to the state or be insured for the faithful performance of 34289
~~his~~ the treasurer's duties and the proper accounting for all 34290
moneys coming into ~~his~~ the treasurer's care. The amount of said 34291
bond or insurance shall be determined by the board, but shall not 34292
be for a sum less than the estimated amount which may come into 34293
the treasurer's sole control at any time, less any reasonable 34294
deductible. ~~Said bond shall be approved by the attorney general.~~ 34295

Sec. 3365.01. As used in ~~sections 3365.01 to 3365.10 of the~~ 34296
~~Revised Code~~ this chapter: 34297

(A) "College" means any state-assisted college or university 34298
described in section 3333.041 of the Revised Code, any nonprofit 34299
institution holding a certificate of authorization pursuant to 34300
Chapter 1713. of the Revised Code, any private institution exempt 34301
from regulation under Chapter 3332. of the Revised Code as 34302
prescribed in section 3333.046 of the Revised Code, and any 34303
institution holding a certificate of registration from the state 34304
board of career colleges and schools and program authorization for 34305
an associate or bachelor's degree program issued under section 34306
3332.05 of the Revised Code. 34307

(B) "School district," except as specified in division (G) of 34308
this section, means any school district to which a student is 34309
admitted under section 3313.64, 3313.65, 3313.98, or 3317.08 of 34310
the Revised Code and does not include a joint vocational or 34311
cooperative education school district. 34312

(C) "Parent" has the same meaning as in section 3313.64 of 34313
the Revised Code. 34314

(D) "Participant" means a student enrolled in a college under 34315
the post-secondary enrollment options program established by this 34316
chapter. 34317

(E) "Secondary grade" means the ninth through twelfth grades.	34318
(F) "School foundation payments" means the amount required to be paid to a school district for a fiscal year under Chapter 3317. of the Revised Code.	34319 34320 34321
(G) "Tuition base" means, with respect to a participant's school district, the <u>greater of the following:</u>	34322 34323
<u>(1) The fiscal year 2005</u> formula amount defined in division (B) of section 3317.02 of the Revised Code multiplied by the district's <u>fiscal year 2005</u> cost-of-doing-business factor defined in division (N) of that section 3317.02 of the Revised Code. The;	34324 34325 34326 34327
<u>(2) The sum of (the current formula amount times the current cost-of-doing-business factor defined in section 3317.02 of the Revised Code) plus the per pupil amount of the base funding supplements specified in divisions (C)(1) to (4) of section 3317.012 of the Revised Code.</u>	34328 34329 34330 34331 34332
<u>The</u> participant's "school district" in the case of a participant enrolled in a community school shall be the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.	34333 34334 34335 34336
(H) "Educational program" means enrollment in one or more school districts, in a nonpublic school, or in a college under division (B) of section 3365.04 of the Revised Code.	34337 34338 34339
(I) "Nonpublic school" means a chartered or nonchartered school for which minimum standards are prescribed by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.	34340 34341 34342 34343
(J) "School year" means the year beginning on the first day of July and ending on the thirtieth day of June.	34344 34345
(K) "Community school" means any school established pursuant to Chapter 3314. of the Revised Code that includes secondary	34346 34347

grades. 34348

(L) "Community school payments" means payments made by the 34349
department of education to a community school pursuant to division 34350
(D) of section 3314.08 of the Revised Code. 34351

Sec. 3365.02. There is hereby established the post-secondary 34352
enrollment options program under which a secondary grade student 34353
who is a resident of this state may enroll at a college, on a 34354
full- or part-time basis, and complete nonsectarian courses for 34355
high school and college credit. 34356

Secondary grade students in a nonpublic school may 34357
participate in the post-secondary enrollment options program if 34358
the chief administrator of such school notifies the department of 34359
education by the first day of April prior to the school year in 34360
which the school's students will participate. 34361

The state board of education, after consulting with the board 34362
of regents, shall adopt rules governing the program. The rules 34363
shall include: 34364

(A) Requirements for school districts, community schools, or 34365
participating nonpublic schools to provide information about the 34366
program prior to the first day of March of each year to all 34367
students enrolled in grades eight through eleven; 34368

(B) A requirement that a student or the student's parent 34369
inform the district board of education, the governing authority of 34370
a community school, or the nonpublic school administrator by the 34371
thirtieth day of March of the student's intent to participate in 34372
the program during the following school year. The rule shall 34373
provide that any student who fails to notify a district board, the 34374
governing authority of a community school, or the nonpublic school 34375
administrator by the required date may not participate in the 34376
program during the following school year without the written 34377

consent of the district superintendent, the governing authority of	34378
a community school, or the nonpublic school administrator.	34379
(C) Requirements that school districts and community schools	34380
provide counseling services to students in grades eight through	34381
eleven and to their parents before the students participate in the	34382
program under this chapter to ensure that students and parents are	34383
fully aware of the possible risks and consequences of	34384
participation. Counseling information shall include without	34385
limitation:	34386
(1) Program eligibility;	34387
(2) The process for granting academic credits;	34388
(3) Financial arrangements for tuition, books, materials, and	34389
fees;	34390
(4) Criteria for any transportation aid;	34391
(5) Available support services;	34392
(6) Scheduling;	34393
(7) The consequences of failing or not completing a course in	34394
which the student enrolls and the effect of the grade attained in	34395
the course being included in the student's grade point average, if	34396
applicable;	34397
(8) The effect of program participation on the student's	34398
ability to complete the district's, community school's, or	34399
nonpublic school's graduation requirements;	34400
(9) The academic and social responsibilities of students and	34401
parents under the program;	34402
(10) Information about and encouragement to use the	34403
counseling services of the college in which the student intends to	34404
enroll.	34405
(D) A requirement that the student and the student's parent	34406

sign a form, provided by the school district or school, stating 34407
that they have received the counseling required by division (C) of 34408
this section and that they understand the responsibilities they 34409
must assume in the program; 34410

(E) The options required by section 3365.04 of the Revised 34411
Code; 34412

(F) A requirement that a student may not enroll in any 34413
specific college course through the program if the student has 34414
taken high school courses in the same subject area as that college 34415
course and has failed to attain a cumulative grade point average 34416
of at least 3.0 on a 4.0 scale, or the equivalent, in such 34417
completed high school courses. 34418

~~Section Sec. 3375.48. The judges of the court of common pleas 34419
of any county in which there is a A law library association which 34420
furnishes that receives fines and penalties, and moneys arising 34421
from forfeited bail, under sections 3375.50 to 3375.53 of the 34422
Revised Code shall furnish to all of the members of the Ohio 34423
general assembly, the county officers of the county in which the 34424
association is located, and the judges of the several courts in 34425
the that county admission to its the associations's law library 34426
and the use of its books, materials, and equipment free of charge, 34427
upon the appointment by the. The association's board of trustees 34428
of such association of may appoint a person to act as librarian 34429
thereof, or of a person to act as librarian and not more than two 34430
additional persons to act as assistant law librarians thereof, of 34431
the law library. The board shall fix be responsible for fixing and 34432
paying the compensation of such those persons, which shall be paid 34433
from the county treasury subject to section 3375.49 of the Revised 34434
Code.~~ 34435

Sec. 3375.49. For (A) Subject to divisions (B) and (C) of 34436

this section, for the use of the law library referred to in 34437
section 3375.48 of the Revised Code, the board of county 34438
commissioners shall provide, at the expense of the county, 34439
suitable rooms with sufficient and suitable bookcases space in the 34440
county courthouse or, if there are no suitable rooms in the 34441
courthouse, any other suitable rooms at in any other building 34442
located in the county seat with sufficient, and suitable bookcases 34443
utilities for that space. The 34444

(B)(1) Subject to division (C) of this section, through 34445
calendar year 2006, the board of county commissioners shall be 34446
responsible for paying the compensation of the librarian and up to 34447
two assistant librarians of the law library appointed by the board 34448
of trustees of the law library association under section 3375.48 34449
of the Revised Code and the costs of the space in the county 34450
courthouse or other building that the board provides for the use 34451
of the law library under division (A) of this section, the 34452
utilities for that space, and furniture and fixtures for the law 34453
library. 34454

(2) In calendar years 2007 through 2010, the board of county 34455
commissioners and the board of trustees shall be responsible for 34456
paying the compensation of the librarian and up to two assistant 34457
librarians appointed under section 3375.48 of the Revised Code and 34458
the costs of the space in the county courthouse or other building 34459
that the board of county commissioners provides for the use of the 34460
law library under division (A) of this section, the utilities for 34461
that space, and furniture and fixtures for the law library as 34462
follows: 34463

(a) In calendar year 2007, the board of county commissioners 34464
shall pay eighty per cent, and the board of trustees shall pay 34465
twenty per cent. 34466

(b) In calendar year 2008, the board of county commissioners 34467
shall pay sixty per cent, and the board of trustees shall pay 34468

forty per cent. 34469

(c) In calendar year 2009, the board of county commissioners shall pay forty per cent, and the board of trustees shall pay sixty per cent. 34470
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(d) In calendar year 2010, the board of county commissioners shall pay twenty per cent, and the board of trustees shall pay eighty per cent. 34473
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(3) Beginning in calendar year 2011 and thereafter, the board of trustees shall be responsible for paying the compensation of the librarian and all assistant librarians appointed under section 3375.48 of the Revised Code as well as the costs of the space in the county courthouse or other building that the board of county commissioners provides for the use of the law library under division (A) of this section, the utilities for that space, and the law library's furniture and fixtures. 34476
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(C) If the board of trustees of a law library association referred to in section 3375.48 of the Revised Code rents, leases, lease-purchases, or otherwise acquires space for the use of the law library, or constructs, enlarges, renovates, or otherwise modifies buildings or other structures to provide space for the use of the law library, the board of county commissioners of the county in which the association is located has no further obligation under division (A) of this section to provide space in the county courthouse or any other building located in the county seat for the use of the law library and utilities for that space, and has no further obligation under division (B) of this section to make payments for the compensation of the librarian and up to two assistant librarians of the law library appointed under section 3375.48 of the Revised Code and for the costs of space in the county courthouse or an other building for the use of the law library, the utilities for that space, and the law library's 34484
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furniture and fixtures. 34500

(D) The librarian ~~or person in charge~~ of the law library 34501
shall receive and safely keep in ~~these rooms~~ the law library the 34502
law reports and other books furnished by the state for use of the 34503
court and bar. ~~The board of county commissioners shall heat and~~ 34504
~~light any such rooms. The~~ 34505

(E) The books, computer communications console that is a 34506
means of access to a system of computerized legal research, 34507
microform materials and equipment, videotape materials and 34508
equipment, audio or visual materials and equipment, other 34509
materials and equipment utilized in conducting legal research, ~~and~~ 34510
furniture, and fixtures of the law library association that are 34511
owned by, and used exclusively in, the law library are exempt from 34512
taxation. 34513

Sec. 3375.54. The money that is paid to the board of trustees 34514
of a law library association under sections 3375.50 to 3375.53 of 34515
the Revised Code shall be expended in the support and operation of 34516
the law library association ~~and~~; in the purchase, lease, or rental 34517
of lawbooks, a computer communications console that is a means of 34518
access to a system of computerized legal research, microform 34519
materials and equipment, videotape materials and equipment, audio 34520
or visual materials and equipment, ~~and other services,~~ materials, 34521
and equipment ~~that provide legal information or facilitate~~ 34522
utilized in conducting legal research, furniture, and fixtures 34523
used in the association's law library; and to pay the compensation 34524
of any librarian and assistant librarians of the law library 34525
appointed under section 3375.48 of the Revised Code. 34526

Sec. 3375.55. ~~Judges of the county court in the county and~~ 34527
~~officers~~ Officers of the townships and municipal corporations 34528
~~therein~~ in a county in which a law library association that 34529

receives fines and penalties, and moneys arising from forfeited 34530
bail, under sections 3375.50 to 3375.53 of the Revised Code is 34531
located shall have the same free use of the books, materials, and 34532
equipment of the association's law library ~~receiving moneys under~~ 34533
~~sections 3375.50 to 3375.53, inclusive, of the Revised Code, as~~ 34534
general assembly members and the judges and county officers 34535
mentioned in section 3375.48 of the Revised Code. 34536

Sec. 3381.02. A regional arts and cultural district may be 34537
created ~~under section 3381.03 or 3381.04 of the Revised Code~~ for 34538
any of the following purposes: making grants to support the 34539
operating or capital expenses of arts or cultural organizations 34540
located within its district, or acquiring, constructing, 34541
equipping, furnishing, repairing, remodeling, renovating, 34542
enlarging, improving, or administering artistic or cultural 34543
facilities. A regional arts and cultural district is a political 34544
subdivision of the state and a body corporate, comprised of the 34545
territory of a county, or two or more counties, municipal 34546
corporations, townships, or any combination thereof, ~~provided,~~ 34547
~~that if.~~ If more than one county is in a regional arts and 34548
cultural district, each county shall be contiguous to a county in 34549
~~its~~ the district, and, ~~provided also in the case of a combination~~ 34550
of political subdivisions, ~~that~~ each municipal corporation or 34551
township shall either be contiguous to a county, municipal 34552
corporation, or township in ~~its~~ the regional arts and cultural 34553
district, or each municipal corporation or township shall be 34554
located in a county that is contiguous to a county in ~~its~~ the 34555
district. 34556

Sec. 3381.04. (A) In lieu of the procedure set forth in 34557
section 3381.03 of the Revised Code, any county with a population 34558
of five hundred thousand or more ~~may,~~ at any time ~~prior to~~ before 34559
the creation of a regional arts and cultural district ~~pursuant to~~ 34560

~~under that~~ section 3381.03 ~~of the Revised Code~~, may create a 34561
regional arts and cultural district by adoption of a resolution ~~or~~ 34562
~~ordinance~~ by the board of county commissioners of ~~such that~~ 34563
county. ~~Such~~ The resolution shall state all of the following: 34564

~~(A)~~(1) The purposes for the creation of the district; 34565

~~(B)~~(2) That the territory of the district shall be 34566
coextensive with the territory of ~~such the~~ county; 34567

~~(C)~~(3) The official name by which the district shall be 34568
known; 34569

~~(D)~~(4) The location of the principal office of the district 34570
or the manner in which the location shall be selected. 34571

(B) The district provided for in ~~such the~~ resolution ~~or~~ 34572
~~ordinance~~ shall be created upon the adoption of ~~such the~~ 34573
resolution ~~or ordinance~~ by the board of county commissioners of 34574
~~such that~~ county. Upon the adoption of ~~such the~~ resolution ~~or~~ 34575
~~ordinance~~, ~~such the~~ county and the municipal corporations and 34576
townships contained ~~therein~~ in the county shall not thereafter be 34577
a part of any other regional arts and cultural district. 34578

(C) The board of trustees of any regional arts and cultural 34579
district formed in accordance with this section shall be comprised 34580
of three members appointed by the ~~same persons who comprise such~~ 34581
~~county's~~ board of county commissioners. 34582

Sec. 3381.05. Within sixty days after a regional arts and 34583
cultural district has been created ~~under section 3381.03 of the~~ 34584
~~Revised Code~~, the board of trustees of the district shall be 34585
appointed as provided in this section. 34586

Members of a board of trustees of a regional arts and 34587
cultural district created by the exclusive action of a county 34588
shall be appointed by the board of county commissioners of ~~such~~ 34589
the county. A board of trustees of a district created by two or 34590

more political subdivisions shall consist of ~~such~~ the number of 34591
members, and shall be appointed by ~~such~~ the public officers or 34592
bodies, as shall be provided in the resolutions or ordinances 34593
creating ~~such~~ the district, or any amendments ~~thereto~~ to them. All 34594

All members of a board of trustees of a regional arts and 34595
cultural district ~~created under section 3381.03 of the Revised~~ 34596
~~Code~~ shall be persons who have broad knowledge and experience in 34597
the arts or cultural heritage and shall have other qualifications 34598
as are specified in the ~~resolution~~ resolutions or ~~ordinance~~ 34599
ordinances creating the district, or any amendments ~~thereto~~ to 34600
them; provided, that at least two members of the board of trustees 34601
shall be persons who devote a major portion of their time to 34602
practicing, performing, or teaching any of the arts or who are 34603
professional administrators in any field of the arts or cultural 34604
heritage, and the ~~resolution~~ resolutions or ~~ordinance~~ ordinances 34605
creating ~~such regional arts and cultural~~ the district shall so 34606
provide. All members of the board of trustees also shall be 34607
qualified electors in the district's territory. ~~The~~ 34608

The appointing authority shall consider for appointment as 34609
members of the board of trustees, but need not appoint, ~~such~~ 34610
persons ~~as are~~ nominated by area arts councils, as defined in 34611
section 757.03 of the Revised Code, located within the district; 34612
provided that all ~~such~~ those persons shall meet the qualifications 34613
specified in this section and the ~~resolution~~ resolutions or 34614
~~ordinance~~ ordinances creating the district. ~~The resolution~~ 34615
resolutions or ~~ordinance~~ ordinances creating the district may, but 34616
need not, provide that the members of an area arts council located 34617
within the district shall constitute the board of trustees of the 34618
district. ~~The~~ 34619

The appointing authority ~~may~~, at any time, may remove a 34620
trustee member of the board of trustees for misfeasance, 34621
nonfeasance, or malfeasance in office. 34622

The initially appointed members of the board of trustees of 34623
any regional arts and cultural district ~~created under section~~ 34624
~~3381.03 of the Revised Code~~ shall serve staggered terms of one, 34625
two, and three years. Thereafter, each trustee member shall serve 34626
~~terms~~ a term of three years, except that any person appointed to 34627
fill a vacancy shall be appointed to only the unexpired term. Any 34628
~~appointed trustee member~~ is eligible for reappointment, except as 34629
otherwise provided in the ~~resolution~~ resolutions or ~~ordinance~~ 34630
ordinances creating ~~such the~~ the district, or any amendment ~~thereto to~~ 34631
them. 34632

Sec. 3381.06. All the power and authority granted to a 34633
regional arts and cultural district ~~created under section 3381.03~~ 34634
~~or 3381.04 of the Revised Code~~ shall be vested in and exercised by 34635
its board of trustees, which shall manage and conduct its affairs. 34636
The board ~~shall~~, within the limitations of this chapter, shall 34637
provide, by rules, the procedure for its actions, the manner of 34638
selection of its president, vice-president, executive director, 34639
and other officers and employees, their titles, terms of office, 34640
compensation, duties, number, and qualifications, and any other 34641
lawful subject necessary or desirable to the operation and 34642
administration of the district and the exercise of the powers 34643
granted to it. 34644

Sec. 3381.07. Upon the creation of a regional arts and 34645
cultural district ~~under section 3381.03 or 3381.04 of the Revised~~ 34646
~~Code~~ and upon the qualifying of its board of trustees and the 34647
election of a president and a vice-president, the district shall 34648
exercise in its own name all the rights, powers, and duties vested 34649
in and conferred upon it by this chapter. A regional arts and 34650
cultural district: 34651

(A) May sue or be sued in its corporate name; 34652

(B) May make contracts in the exercise of the rights, powers, 34653
and duties conferred upon it; 34654

(C) May adopt and alter a seal and use ~~such~~ that seal by 34655
causing it to be impressed, affixed, reproduced, or otherwise 34656
used, but failure to affix the seal shall not affect the validity 34657
of any instrument; 34658

(D) May make, adopt, amend, and repeal bylaws for the 34659
administration of its affairs and rules for the administration and 34660
operation of any artistic or cultural facilities under its control 34661
and for the exercise of all of its rights of ownership ~~therein~~ in 34662
those facilities, provided, however, that it may not be directly 34663
involved in any programatic activities; 34664

(E) May make grants, on such terms and conditions as it may 34665
deem advisable, to any arts or cultural organization within its 34666
district as provided in section 3381.17 of the Revised Code; 34667

(F) May fix, alter, and collect rentals and other charges for 34668
the use of any artistic or cultural facilities under its control, 34669
to be determined exclusively by it for the purpose of providing 34670
for the payment of the expenses of the district, the acquisition, 34671
construction, equipping, improvement, extension, repair, 34672
maintenance, renovation, enlargement, administration, and 34673
operation of artistic or cultural facilities under its control, 34674
and the payment of principal and interest on its obligations, and 34675
~~to fulfill~~ fulfilling the terms of any agreements made with the 34676
purchasers or holders of any such obligations, or with any person 34677
or political subdivision; 34678

(G) Shall have jurisdiction, control, possession, and 34679
supervision over the use and disposition of all property, rights, 34680
licenses, moneys, contracts, accounts, liens, books, records, or 34681
other property rights and interests conveyed, delivered, 34682
transferred, or assigned to it; 34683

(H) May acquire, construct, improve, extend, repair, remodel, 34684
renovate, furnish, equip, enlarge, lease, or maintain artistic or 34685
cultural facilities within its territory as it considers necessary 34686
to accomplish the purposes of this chapter, and make charges for 34687
the use of artistic or cultural facilities; 34688

(I) May levy and collect taxes as provided in section 3381.16 34689
of the Revised Code; 34690

(J) May issue bonds secured by its general credit as provided 34691
in section 3381.08 of the Revised Code; 34692

(K) May hold, encumber, control, acquire by donation, 34693
purchase, construct, own, lease as lessee or lessor, use, and sell 34694
real and personal property, or any interest or right ~~therein in~~ 34695
real or personal property, within or without its territory; 34696

(L) May employ or retain and fix the compensation of ~~such~~ 34697
employees, ~~agent~~ agents, accountants, attorneys, and consultants 34698
or advisors ~~as may be~~ necessary or desirable for the 34699
accomplishment of its purposes; 34700

(M) May procure insurance against loss to it by reason of 34701
damages to its properties resulting from fire, theft, accident, or 34702
other casualties or by reason of its liability for any damages to 34703
persons or property; 34704

(N) May maintain ~~such~~ funds as it determines necessary or 34705
desirable for the efficient performance of its duties; 34706

(O) May procure a policy or policies insuring members of its 34707
board of trustees, and its officers, employees, and agents, 34708
against liability on account of damages or injury to persons and 34709
property resulting from any act or omission of such person in ~~his~~ 34710
the person's official capacity or resulting solely out of ~~his~~ the 34711
person's service to ~~such~~ the district; 34712

(P) May receive and expend gifts, grants, bequests, or 34713

devices, or grants, including, but not limited to, grants of 34714
public funds. 34715

Sec. 3381.15. (A) The board of county commissioners of any 34716
county, the legislative authority of any municipal corporation, 34717
and the board of township trustees of any township, included 34718
within a regional arts and cultural district may appropriate 34719
annually, from moneys to the credit of the general fund of the 34720
county, the municipal corporation, or the township and not 34721
otherwise appropriated, that portion of the expense of the 34722
district to be paid by ~~such~~ the county, municipal corporation, or 34723
township as provided in the resolution creating or enlarging the 34724
district adopted under section 3381.03 of the Revised Code, or by 34725
any amendment ~~thereto~~ to the resolution. 34726

(B) In addition to the authority granted to a board of county 34727
commissioners under division (A) of this section, a board of 34728
county commissioners in a county with a population of five hundred 34729
thousand or more may establish and provide local funding options 34730
for the support of arts and cultural organizations operating 34731
within the regional arts and cultural district in which the county 34732
is included. 34733

Sec. 3383.02. (A) There is hereby created the Ohio cultural 34734
facilities commission. The commission shall engage in and provide 34735
for the development, performance, and presentation or making 34736
available of culture and professional sports and athletics to the 34737
public in this state, and the provision of training or education 34738
in culture, by the exercise of its powers under this chapter, 34739
including the provision, operation, management, and cooperative 34740
use of Ohio cultural facilities and Ohio sports facilities. The 34741
commission is a body corporate and politic, an agency of state 34742
government and an instrumentality of the state, performing 34743

essential governmental functions of this state. The carrying out 34744
of the purposes and the exercise by the commission of its powers 34745
conferred by this chapter are essential public functions and 34746
public purposes of the state and of state government. The 34747
commission may, in its own name, sue and be sued, enter into 34748
contracts, and perform all the powers and duties given to it by 34749
this chapter; however, it does not have and shall not exercise the 34750
power of eminent domain. 34751

(B) The commission shall consist of ~~ten~~ twelve members, ~~seven~~ 34752
nine of whom shall be voting members and three of whom shall be 34753
nonvoting members. The ~~seven~~ nine voting members shall be 34754
appointed by the governor, with the advice and consent of the 34755
senate, from different geographical regions of the state. In 34756
addition, one of the voting members shall represent the state 34757
architect. Not more than ~~four~~ five of the members appointed by the 34758
governor shall be affiliated with the same political party. The 34759
nonvoting members shall be the staff director of the Ohio arts 34760
council, a member of the senate appointed by the president of the 34761
senate, and a member of the house of representatives appointed by 34762
the speaker of the house. 34763

(C) Of the five initial appointments made by the governor, 34764
one shall be for a term expiring December 31, 1989, two shall be 34765
for terms expiring December 31, 1990, and two shall be for terms 34766
expiring December 31, 1991. Of the initial appointments of the 34767
sixth and seventh voting members made by the governor, one shall 34768
be for a term expiring December 31, 2003, and one shall be for a 34769
term expiring December 31, 2004. Of the initial appointments of 34770
the eighth and ninth voting members made by the governor, one 34771
shall be for a term expiring December 31, 2007, and one shall be 34772
for a term expiring December 31, 2008. These voting members shall 34773
be appointed within sixty days after the effective date of this 34774
amendment. Thereafter, each such term shall be for three years, 34775

commencing on the first day of January and ending on the 34776
thirty-first day of December. Each appointment by the president of 34777
the senate and by the speaker of the house of representatives 34778
shall be for the balance of the then legislative biennium. Each 34779
member shall hold office from the date of the member's appointment 34780
until the end of the term for which the member was appointed. Any 34781
member appointed to fill a vacancy occurring prior to the 34782
expiration of the term for which the member's predecessor was 34783
appointed shall hold office for the remainder of such term. Any 34784
member shall continue in office subsequent to the expiration date 34785
of the member's term until the member's successor takes office, or 34786
until a period of sixty days has elapsed, whichever occurs first. 34787

(D) Members of the commission shall serve without 34788
compensation. 34789

(E) Organizational meetings of the commission shall be held 34790
at the first meeting of each calendar year. At each organizational 34791
meeting, the commission shall elect from among its voting members 34792
a chairperson, a vice-chairperson, and a secretary-treasurer, who 34793
shall serve until the next annual meeting. The commission shall 34794
adopt rules pursuant to section 111.15 of the Revised Code for the 34795
conduct of its internal business and shall keep a journal of its 34796
proceedings. 34797

(F) ~~Four~~ Five voting members of the commission constitute a 34798
quorum, and the affirmative vote of ~~four~~ five members is necessary 34799
for approval of any action taken by the commission. A vacancy in 34800
the membership of the commission does not impair a quorum from 34801
exercising all the rights and performing all the duties of the 34802
commission. Meetings of the commission may be held anywhere in the 34803
state, and shall be held in compliance with section 121.22 of the 34804
Revised Code. 34805

(G) All expenses incurred in carrying out this chapter are 34806
payable solely from money accrued under this chapter or 34807

appropriated for these purposes by the general assembly, and the 34808
commission shall incur no liability or obligation beyond such 34809
money. 34810

(H) The commission shall file an annual report of its 34811
activities and finances with the governor, director of budget and 34812
management, speaker of the house of representatives, president of 34813
the senate, and chairpersons of the house and senate finance 34814
committees. 34815

(I) There is hereby established in the state treasury the 34816
Ohio cultural facilities commission administration fund. All 34817
revenues of the commission shall be credited to that fund and to 34818
any accounts created in ~~the~~ that fund with the commission's 34819
approval. All expenses of the commission, including reimbursement 34820
of, or payment to, any other fund or any governmental agency for 34821
advances made or services rendered to or on behalf of the 34822
commission, shall be paid from ~~the Ohio cultural facilities~~ 34823
~~commission administration~~ that fund as determined by or pursuant 34824
to directions of the commission. All investment earnings of ~~the~~ 34825
~~administration~~ that fund shall be credited to ~~the fund~~ it and 34826
shall be allocated among any accounts created in the fund in the 34827
manner determined by the commission. 34828

(J) Title to all real property and lesser interests in real 34829
property acquired by the commission, including leasehold and other 34830
interests, pursuant to this chapter shall be taken in the name of 34831
the state and shall be held for the use and benefit of the 34832
commission. The commission shall not mortgage such real property 34833
and interests in real property. Title to other property and 34834
interests in it acquired by the commission pursuant to this 34835
chapter shall be taken in its name. 34836

Sec. 3383.09. (A) There is hereby created in the state 34837
treasury the cultural and sports facilities building fund, which 34838

shall consist of proceeds of obligations authorized to pay costs 34839
of Ohio cultural facilities and Ohio sports facilities for which 34840
appropriations are made by the general assembly. All investment 34841
earnings of the fund shall be credited to the fund. 34842

(B) The director of budget and management may transfer, to 34843
the Ohio cultural facilities commission administration fund, 34844
investment earnings credited, or the premium paid on any bonds 34845
issued on behalf of the commission and credited, to the cultural 34846
and sports facilities building fund that exceed the amounts 34847
required to meet estimated federal arbitrage rebate requirements 34848
when requested of the director of budget and management by the 34849
chairperson or executive director of the commission. 34850

Sec. 3501.17. (A) The expenses of the board of elections 34851
shall be paid from the county treasury, in pursuance of 34852
appropriations by the board of county commissioners, in the same 34853
manner as other county expenses are paid. If the board of county 34854
commissioners fails to appropriate an amount sufficient to provide 34855
for the necessary and proper expenses of the board of elections 34856
pertaining to the conduct of elections, such the board of 34857
elections may apply to the court of common pleas within the 34858
county, which shall fix the amount necessary to be appropriated, 34859
and ~~such that~~ amount shall be appropriated. Payments shall be made 34860
upon vouchers of the board of elections certified to by its 34861
chairperson or acting chairperson and the director or deputy 34862
director, upon warrants of the county auditor. ~~The~~ 34863

The board of elections shall not incur any obligation 34864
involving the expenditure of money unless there are moneys 34865
sufficient in the funds appropriated therefor to meet ~~such~~ 34866
~~obligations~~ the obligation pursuant to division (D) of section 34867
5705.41 of the Revised Code. The board may make transfers out of 34868
accounts that contain funds designated for the purpose of 34869

conducting elections only as provided under sections 5705.14 to 34870
5705.16 of the Revised Code. Such 34871

The expenses of the board of elections shall be apportioned 34872
among the county and the various subdivisions as provided in this 34873
section, and the amount chargeable to each subdivision shall be 34874
withheld by the auditor from the moneys payable ~~thereto~~ to the 34875
subdivision at the time of the next tax settlement. At the time of 34876
submitting budget estimates in each year, the board of elections 34877
shall submit to the taxing authority of each subdivision, upon the 34878
request of the subdivision, an estimate of the amount to be 34879
withheld ~~therefrom~~ from the subdivision during the next fiscal 34880
year. 34881

(B) Except as otherwise provided in division (F) of this 34882
section, the entire compensation of the members of the board of 34883
elections and of the director, deputy director, and other 34884
employees in the board's offices; the expenditures for the rental, 34885
furnishing, and equipping of the office of the board and for the 34886
necessary office supplies for the use of the board; the 34887
expenditures for the acquisition, repair, care, and custody of the 34888
polling places, booths, guardrails, and other equipment for 34889
polling places; the cost of pollbooks, tally sheets, maps, flags, 34890
ballot boxes, and all other permanent records and equipment; the 34891
cost of all elections held in and for the state and county; and 34892
all other expenses of the board which are not chargeable to a 34893
political subdivision in accordance with this section shall be 34894
paid in the same manner as other county expenses are paid. 34895

(C) The compensation of judges and clerks of elections; the 34896
cost of renting, moving, heating, and lighting polling places and 34897
of placing and removing ballot boxes and other fixtures and 34898
equipment thereof; the cost of printing and delivering ballots, 34899
cards of instructions, and other election supplies; and all other 34900
expenses of conducting primaries and elections in the odd-numbered 34901

years shall be charged to the subdivisions in and for which such
primaries or elections are held. The charge for each primary or
general election in odd-numbered years for each subdivision shall
be determined in the following manner: first, the total cost of
all chargeable items used in conducting such elections shall be
ascertained; second, the total charge shall be divided by the
number of precincts participating in such election, in order to
fix the cost per precinct; third, the cost per precinct shall be
prorated by the board of elections to the subdivisions conducting
elections for the nomination or election of offices in such
precinct; fourth, the total cost for each subdivision shall be
determined by adding the charges prorated to it in each precinct
within the subdivision.

(D) The entire cost of special elections held on a day other
than the day of a primary or general election, both in
odd-numbered or in even-numbered years, shall be charged to the
subdivision. Where a special election is held on the same day as a
primary or general election in an even-numbered year, the
subdivision submitting the special election shall be charged only
for the cost of ballots and advertising. Where a special election
is held on the same day as a primary or general election in an
odd-numbered year, the subdivision submitting the special election
shall be charged for the cost of ballots and advertising for such
special election, in addition to the charges prorated to such
subdivision for the election or nomination of candidates in each
precinct within the subdivision, as set forth in the preceding
paragraph.

(E) Where a special election is held on the day specified by
division (E) of section 3501.01 of the Revised Code for the
holding of a primary election, for the purpose of submitting to
the voters of the state constitutional amendments proposed by the
general assembly, and a subdivision conducts a special election on

the same day, the entire cost of the special election shall be 34934
divided proportionally between the state and the subdivision based 34935
upon a ratio determined by the number of issues placed on the 34936
ballot by each, except as otherwise provided in division (G) of 34937
this section. Such proportional division of cost shall be made 34938
only to the extent funds are available for such purpose from 34939
amounts appropriated by the general assembly to the secretary of 34940
state. If a primary election is also being conducted in the 34941
subdivision, the costs shall be apportioned as otherwise provided 34942
in this section. 34943

(F) When a precinct is open during a general, primary, or 34944
special election solely for the purpose of submitting to the 34945
voters a statewide ballot issue, the state shall bear the entire 34946
cost of the election in that precinct and shall reimburse the 34947
county for all expenses incurred in opening the precinct. 34948

(G) The state shall bear the entire cost of advertising in 34949
newspapers statewide ballot issues, explanations of those issues, 34950
and arguments for or against those issues, as required by Section 34951
1g of Article II and Section 1 of Article XVI, Ohio Constitution, 34952
and any other section of law and shall reimburse the counties for 34953
all expenses they incur for such advertising. 34954

(H) The cost of renting, heating, and lighting registration 34955
places; the cost of the necessary books, forms, and supplies for 34956
the conduct of registration; and the cost of printing and posting 34957
precinct registration lists shall be charged to the subdivision in 34958
which such registration is held. 34959

(I) As used in this section, "statewide ballot issue" means 34960
any ballot issue, whether proposed by the general assembly or by 34961
initiative or referendum, that is submitted to the voters 34962
throughout the state. 34963

Sec. 3517.13. (A)(1) No campaign committee of a statewide candidate shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code. 34964
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(2) No campaign committee of a statewide candidate shall fail to file a complete and accurate monthly statement, and no campaign committee of a statewide candidate or a candidate for the office of chief justice or justice of the supreme court shall fail to file a complete and accurate two-business-day statement, as required under section 3517.10 of the Revised Code. 34968
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As used in this division, "statewide candidate" has the same meaning as in division (F)(2) of section 3517.10 of the Revised Code. 34974
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(B) No campaign committee shall fail to file a complete and accurate statement required under division (A)(1) of section 3517.10 of the Revised Code. 34977
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(C) No campaign committee shall fail to file a complete and accurate statement required under division (A)(2) of section 3517.10 of the Revised Code. 34980
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(D) No campaign committee shall fail to file a complete and accurate statement required under division (A)(3) or (4) of section 3517.10 of the Revised Code. 34983
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(E) No person other than a campaign committee shall knowingly fail to file a statement required under section 3517.10 or 3517.107 of the Revised Code. 34986
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(F) No person shall make cash contributions to any person totaling more than one hundred dollars in each primary, special, or general election. 34989
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(G)(1) No person shall knowingly conceal or misrepresent contributions given or received, expenditures made, or any other 34992
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information required to be reported by a provision in sections	34994
3517.08 to 3517.13 and 3517.17 of the Revised Code.	34995
(2)(a) No person shall make a contribution to a campaign	34996
committee, political action committee, political contributing	34997
entity, legislative campaign fund, political party, or person	34998
making disbursements to pay the direct costs of producing or	34999
airing electioneering communications in the name of another	35000
person.	35001
(b) A person does not make a contribution in the name of	35002
another when either of the following applies:	35003
(i) An individual makes a contribution from a partnership or	35004
other unincorporated business account, if the contribution is	35005
reported by listing both the name of the partnership or other	35006
unincorporated business and the name of the partner or owner	35007
making the contribution as required under division (I) of section	35008
3517.10 of the Revised Code.	35009
(ii) A person makes a contribution in that person's spouse's	35010
name or in both of their names.	35011
(H) No person within this state, publishing a newspaper or	35012
other periodical, shall charge a campaign committee for political	35013
advertising a rate in excess of the rate such person would charge	35014
if the campaign committee were a general rate advertiser whose	35015
advertising was directed to promoting its business within the same	35016
area as that encompassed by the particular office that the	35017
candidate of the campaign committee is seeking. The rate shall	35018
take into account the amount of space used, as well as the type of	35019
advertising copy submitted by or on behalf of the campaign	35020
committee. All discount privileges otherwise offered by a	35021
newspaper or periodical to general rate advertisers shall be	35022
available upon equal terms to all campaign committees.	35023
No person within this state, operating a radio or television	35024

station or network of stations in this state, shall charge a 35025
campaign committee for political broadcasts a rate that exceeds: 35026

(1) During the forty-five days preceding the date of a 35027
primary election and during the sixty days preceding the date of a 35028
general or special election in which the candidate of the campaign 35029
committee is seeking office, the lowest unit charge of the station 35030
for the same class and amount of time for the same period; 35031

(2) At any other time, the charges made for comparable use of 35032
that station by its other users. 35033

(I) Subject to divisions (K), (L), (M), and (N) of this 35034
section, no agency or department of this state or any political 35035
subdivision shall award any contract, other than one let by 35036
competitive bidding or a contract incidental to such contract or 35037
which is by force account, for the purchase of goods costing more 35038
than five hundred dollars or services costing more than five 35039
hundred dollars to any individual, partnership, association, 35040
including, without limitation, a professional association 35041
organized under Chapter 1785. of the Revised Code, estate, or 35042
trust if the individual has made or the individual's spouse has 35043
made, or any partner, shareholder, administrator, executor, or 35044
trustee or the spouse of any of them has made, as an individual, 35045
within the two previous calendar years, one or more contributions 35046
totaling in excess of one thousand dollars to the holder of the 35047
public office having ultimate responsibility for the award of the 35048
contract or to the public officer's campaign committee. 35049

(J) Subject to divisions (K), (L), (M), and (N) of this 35050
section, no agency or department of this state or any political 35051
subdivision shall award any contract, other than one let by 35052
competitive bidding or a contract incidental to such contract or 35053
which is by force account, for the purchase of goods costing more 35054
than five hundred dollars or services costing more than five 35055

hundred dollars to a corporation or business trust, except a
professional association organized under Chapter 1785. of the
Revised Code, if an owner of more than twenty per cent of the
corporation or business trust or the spouse of that person has
made, as an individual, within the two previous calendar years,
taking into consideration only owners for all of that period, one
or more contributions totaling in excess of one thousand dollars
to the holder of a public office having ultimate responsibility
for the award of the contract or to the public officer's campaign
committee.

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(K) For purposes of divisions (I) and (J) of this section, if
a public officer who is responsible for the award of a contract is
appointed by the governor, whether or not the appointment is
subject to the advice and consent of the senate, excluding members
of boards, commissions, committees, authorities, councils, boards
of trustees, task forces, and other such entities appointed by the
governor, the office of the governor is considered to have
ultimate responsibility for the award of the contract.

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(L) For purposes of divisions (I) and (J) of this section, if
a public officer who is responsible for the award of a contract is
appointed by the elected chief executive officer of a municipal
corporation, or appointed by the elected chief executive officer
of a county operating under an alternative form of county
government or county charter, excluding members of boards,
commissions, committees, authorities, councils, boards of
trustees, task forces, and other such entities appointed by the
chief executive officer, the office of the chief executive officer
is considered to have ultimate responsibility for the award of the
contract.

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(M)(1) Divisions (I) and (J) of this section do not apply to
contracts awarded by the board of commissioners of the sinking
fund, municipal legislative authorities, boards of education,

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boards of county commissioners, boards of township trustees, or 35088
other boards, commissions, committees, authorities, councils, 35089
boards of trustees, task forces, and other such entities created 35090
by law, by the supreme court or courts of appeals, by county 35091
courts consisting of more than one judge, courts of common pleas 35092
consisting of more than one judge, or municipal courts consisting 35093
of more than one judge, or by a division of any court if the 35094
division consists of more than one judge. This division shall 35095
apply to the specified entity only if the members of the entity 35096
act collectively in the award of a contract for goods or services. 35097

(2) Divisions (I) and (J) of this section do not apply to 35098
actions of the controlling board. 35099

(N)(1) Divisions (I) and (J) of this section apply to 35100
contributions made to the holder of a public office having 35101
ultimate responsibility for the award of a contract, or to the 35102
public officer's campaign committee, during the time the person 35103
holds the office and during any time such person was a candidate 35104
for the office. Those divisions do not apply to contributions made 35105
to, or to the campaign committee of, a candidate for or holder of 35106
the office other than the holder of the office at the time of the 35107
award of the contract. 35108

(2) Divisions (I) and (J) of this section do not apply to 35109
contributions of a partner, shareholder, administrator, executor, 35110
trustee, or owner of more than twenty per cent of a corporation or 35111
business trust made before the person held any of those positions 35112
or after the person ceased to hold any of those positions in the 35113
partnership, association, estate, trust, corporation, or business 35114
trust whose eligibility to be awarded a contract is being 35115
determined, nor to contributions of the person's spouse made 35116
before the person held any of those positions, after the person 35117
ceased to hold any of those positions, before the two were 35118
married, after the granting of a decree of divorce, dissolution of 35119

marriage, or annulment, or after the granting of an order in an
action brought solely for legal separation. Those divisions do not
apply to contributions of the spouse of an individual whose
eligibility to be awarded a contract is being determined made
before the two were married, after the granting of a decree of
divorce, dissolution of marriage, or annulment, or after the
granting of an order in an action brought solely for legal
separation.

(0) No beneficiary of a campaign fund or other person shall
convert for personal use, and no person shall knowingly give to a
beneficiary of a campaign fund or any other person, for the
beneficiary's or any other person's personal use, anything of
value from the beneficiary's campaign fund, including, without
limitation, payments to a beneficiary for services the beneficiary
personally performs, except as reimbursement for any of the
following:

(1) Legitimate and verifiable prior campaign expenses
incurred by the beneficiary;

(2) Legitimate and verifiable ordinary and necessary prior
expenses incurred by the beneficiary in connection with duties as
the holder of a public office, including, without limitation,
expenses incurred through participation in nonpartisan or
bipartisan events if the participation of the holder of a public
office would normally be expected;

(3) Legitimate and verifiable ordinary and necessary prior
expenses incurred by the beneficiary while doing any of the
following:

(a) Engaging in activities in support of or opposition to a
candidate other than the beneficiary, political party, or ballot
issue;

(b) Raising funds for a political party, political action

committee, political contributing entity, legislative campaign
fund, campaign committee, or other candidate; 35151
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(c) Participating in the activities of a political party,
political action committee, political contributing entity,
legislative campaign fund, or campaign committee; 35153
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(d) Attending a political party convention or other political
meeting. 35156
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For purposes of this division, an expense is incurred
whenever a beneficiary has either made payment or is obligated to
make payment, as by the use of a credit card or other credit
procedure or by the use of goods or services received on account. 35158
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(P) No beneficiary of a campaign fund shall knowingly accept,
and no person shall knowingly give to the beneficiary of a
campaign fund, reimbursement for an expense under division (O) of
this section to the extent that the expense previously was
reimbursed or paid from another source of funds. If an expense is
reimbursed under division (O) of this section and is later paid or
reimbursed, wholly or in part, from another source of funds, the
beneficiary shall repay the reimbursement received under division
(O) of this section to the extent of the payment made or
reimbursement received from the other source. 35162
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(Q) No candidate or public official or employee shall accept
for personal or business use anything of value from a political
party, political action committee, political contributing entity,
legislative campaign fund, or campaign committee other than the
candidate's or public official's or employee's own campaign
committee, and no person shall knowingly give to a candidate or
public official or employee anything of value from a political
party, political action committee, political contributing entity,
legislative campaign fund, or such a campaign committee, except
for the following: 35172
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(1) Reimbursement for legitimate and verifiable ordinary and necessary prior expenses not otherwise prohibited by law incurred by the candidate or public official or employee while engaged in any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee. Without limitation, reimbursable expenses under this division include those incurred while doing any of the following:

(a) Engaging in activities in support of or opposition to another candidate, political party, or ballot issue;

(b) Raising funds for a political party, legislative campaign fund, campaign committee, or another candidate;

(c) Attending a political party convention or other political meeting.

(2) Compensation not otherwise prohibited by law for actual and valuable personal services rendered under a written contract to the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee for any legitimate activity of the political party, political action committee, political contributing entity, legislative campaign fund, or such campaign committee.

Reimbursable expenses under this division do not include, and it is a violation of this division for a candidate or public official or employee to accept, or for any person to knowingly give to a candidate or public official or employee from a political party, political action committee, political contributing entity, legislative campaign fund, or campaign committee other than the candidate's or public official's or employee's own campaign committee, anything of value for activities primarily related to the candidate's or public official's or employee's own campaign for election, except for

contributions to the candidate's or public official's or 35213
employee's campaign committee. 35214

For purposes of this division, an expense is incurred 35215
whenever a candidate or public official or employee has either 35216
made payment or is obligated to make payment, as by the use of a 35217
credit card or other credit procedure, or by the use of goods or 35218
services on account. 35219

(R)(1) Division (O) or (P) of this section does not prohibit 35220
a campaign committee from making direct advance or post payment 35221
from contributions to vendors for goods and services for which 35222
reimbursement is permitted under division (O) of this section, 35223
except that no campaign committee shall pay its candidate or other 35224
beneficiary for services personally performed by the candidate or 35225
other beneficiary. 35226

(2) If any expense that may be reimbursed under division (O), 35227
(P), or (Q) of this section is part of other expenses that may not 35228
be paid or reimbursed, the separation of the two types of expenses 35229
for the purpose of allocating for payment or reimbursement those 35230
expenses that may be paid or reimbursed may be by any reasonable 35231
accounting method, considering all of the surrounding 35232
circumstances. 35233

(3) For purposes of divisions (O), (P), and (Q) of this 35234
section, mileage allowance at a rate not greater than that allowed 35235
by the internal revenue service at the time the travel occurs may 35236
be paid instead of reimbursement for actual travel expenses 35237
allowable. 35238

(S)(1) As used in division (S) of this section: 35239

(a) "State elective office" has the same meaning as in 35240
section 3517.092 of the Revised Code. 35241

(b) "Federal office" means a federal office as defined in the 35242

Federal Election Campaign Act.	35243
(c) "Federal campaign committee" means a principal campaign committee or authorized committee as defined in the Federal Election Campaign Act.	35244 35245 35246
(2) No person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall transfer any funds or assets from that person's federal campaign committee for nomination or election to the federal office to that person's campaign committee as a candidate for state elective office.	35247 35248 35249 35250 35251 35252
(3) No campaign committee of a person who is a candidate for state elective office and who previously sought nomination or election to a federal office shall accept any funds or assets from that person's federal campaign committee for that person's nomination or election to the federal office.	35253 35254 35255 35256 35257
(T)(1) Except as otherwise provided in division (B)(6)(c) of section 3517.102 of the Revised Code, a state or county political party shall not disburse moneys from any account other than a state candidate fund to make contributions to any of the following:	35258 35259 35260 35261 35262
(a) A state candidate fund;	35263
(b) A legislative campaign fund;	35264
(c) A campaign committee of a candidate for the office of governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, attorney general, member of the state board of education, or member of the general assembly.	35265 35266 35267 35268
(2) No state candidate fund, legislative campaign fund, or campaign committee of a candidate for any office described in division (T)(1)(c) of this section shall knowingly accept a contribution in violation of division (T)(1) of this section.	35269 35270 35271 35272

(U) No person shall fail to file the statement required under 35273
section 3517.12 of the Revised Code. 35274

(V) No campaign committee shall fail to file a statement 35275
required under division (K)(3) of section 3517.10 of the Revised 35276
Code. 35277

(W)(1) No foreign national shall, directly or indirectly 35278
through any other person or entity, make a contribution, 35279
expenditure, or independent expenditure or promise, either 35280
expressly or implicitly, to make a contribution, expenditure, or 35281
independent expenditure in support of or opposition to a candidate 35282
for any elective office in this state, including an office of a 35283
political party. 35284

(2) No candidate, campaign committee, political action 35285
committee, political contributing entity, legislative campaign 35286
fund, state candidate fund, political party, or separate 35287
segregated fund shall solicit or accept a contribution, 35288
expenditure, or independent expenditure from a foreign national. 35289
The secretary of state may direct any candidate, committee, 35290
entity, fund, or party that accepts a contribution, expenditure, 35291
or independent expenditure in violation of this division to return 35292
the contribution, expenditure, or independent expenditure or, if 35293
it is not possible to return the contribution, expenditure, or 35294
independent expenditure, then to return instead the value of it, 35295
to the contributor. 35296

(3) As used in division (W) of this section, "foreign 35297
national" has the same meaning as in section 441e(b) of the 35298
Federal Election Campaign Act. 35299

(X)(1) No state or county political party shall transfer any 35300
moneys from its restricted fund to any account of the political 35301
party into which contributions may be made or from which 35302
contributions or expenditures may be made. 35303

(2)(a) No state or county political party shall deposit a contribution or contributions that it receives into its restricted fund. 35304
35305
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(b) No state or county political party shall make a contribution or an expenditure from its restricted fund. 35307
35308

(3)(a) No corporation or labor organization shall make a gift or gifts from the corporation's or labor organization's money or property aggregating more than ten thousand dollars to any one state or county political party for the party's restricted fund in a calendar year. 35309
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(b) No state or county political party shall accept a gift or gifts for the party's restricted fund aggregating more than ten thousand dollars from any one corporation or labor organization in a calendar year. 35314
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(4) No state or county political party shall transfer any moneys in the party's restricted fund to any other state or county political party. 35318
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(5) No state or county political party shall knowingly fail to file a statement required under section 3517.1012 of the Revised Code. 35321
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(Y) The administrator of workers' compensation and the employees of the bureau of workers' compensation shall not conduct any business with or award any contract, other than one awarded by competitive bidding, for the purchase of goods costing more than five hundred dollars or services costing more than five hundred dollars to any individual, partnership, association, including, without limitation, a professional association organized under Chapter 1785. of the Revised Code, estate, or trust, if the individual has made, or the individual's spouse has made, or any partner, shareholder, administrator, executor, or trustee, or the spouses of any of those individuals has made, as an individual, 35324
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within the two previous calendar years, one or more contributions 35335
totaling in excess of one thousand dollars to the campaign 35336
committee of the governor or lieutenant governor or to the 35337
campaign committee of any candidate for the office of governor or 35338
lieutenant governor. 35339

(Z) The administrator of workers' compensation and the 35340
employees of the bureau of workers' compensation shall not conduct 35341
business with or award any contract, other than one awarded by 35342
competitive bidding, for the purchase of goods costing more than 35343
five hundred dollars or services costing more than five hundred 35344
dollars to a corporation or business trust, except a professional 35345
association organized under Chapter 1785. of the Revised Code, if 35346
an owner of more than twenty per cent of the corporation or 35347
business trust, or the spouse of the owner, has made, as an 35348
individual, within the two previous calendar years, taking into 35349
consideration only owners for all of such period, one or more 35350
contributions totaling in excess of one thousand dollars to the 35351
campaign committee of the governor or lieutenant governor or to 35352
the campaign committee of any candidate for the office of governor 35353
or lieutenant governor. 35354

Sec. 3517.151. (A) On and after January 1, 1996, complaints 35355
with respect to acts or failures to act under the sections listed 35356
in division (A) of section 3517.153 of the Revised Code shall be 35357
filed with the Ohio elections commission created under section 35358
3517.152 of the Revised Code. 35359

(B)(1) If a complaint filed with the Ohio elections 35360
commission created under section 3517.152 of the Revised Code 35361
alleges an act or failure to act that occurred before August 24, 35362
1995, and the commission imposes a fine, sections 3517.99 and 35363
3517.991 of the Revised Code, and not sections 3517.992 and 35364
3517.993 of the Revised Code, shall apply. 35365

(2) If a complaint filed with the Ohio elections commission 35366
created under section 3517.152 of the Revised Code alleges an act 35367
or failure to act that is a violation of section 3517.13 of the 35368
Revised Code, former divisions (A) to (R) of that section apply to 35369
the act or failure to act if it occurred before August 24, 1995, 35370
former divisions (A) to (U) of that section apply to the act or 35371
failure to act if it occurs on or after August 24, 1995, but 35372
before July 13, 1998, former divisions (A) to (V) of that section 35373
apply to the act or failure to act if it occurs on or after July 35374
13, 1998, but before December 22, 1999, former divisions (A) to 35375
(W) of that section apply to the act or failure to act if it 35376
occurs on or after December 22, 1999, but before ~~the effective~~ 35377
~~date of this amendment~~ March 31, 2005, and former divisions (A) to 35378
(X) of that section apply to the act or failure to act if it 35379
occurs on or after ~~the effective date of this amendment~~ March 31, 35380
2005, and divisions (A) to (Z) of that section apply to the act or 35381
failure to act if it occurs on or after the effective date of this 35382
amendment. 35383

(C) The Ohio elections commission created under section 35384
3517.14 of the Revised Code is abolished at the close of business 35385
on December 31, 1995. 35386

Sec. 3701.023. (A) The department of health shall review 35387
applications for eligibility for the program for medically 35388
handicapped children that are submitted to the department by city 35389
and general health districts and physician providers approved in 35390
accordance with division (C) of this section. The department shall 35391
determine whether the applicants meet the medical and financial 35392
eligibility requirements established by the public health council 35393
pursuant to division (A)(1) of section 3701.021 of the Revised 35394
Code, and by the department in the manual of operational 35395
procedures and guidelines for the program for medically 35396

handicapped children developed pursuant to division (B) of that 35397
section. Referrals of potentially eligible children for the 35398
program may be submitted to the department on behalf of the child 35399
by parents, guardians, public health nurses, or any other 35400
interested person. The department of health may designate other 35401
agencies to refer applicants to the department of health. 35402

(B) In accordance with the procedures established in rules 35403
adopted under division (A)(4) of section 3701.021 of the Revised 35404
Code, the department of health shall authorize a provider or 35405
providers to provide to any Ohio resident under twenty-one years 35406
of age, without charge to the resident or the resident's family 35407
and without restriction as to the economic status of the resident 35408
or the resident's family, diagnostic services necessary to 35409
determine whether the resident ~~suffers from~~ has a medically 35410
handicapping or potentially medically handicapping condition. 35411

(C) The department of health shall review the applications of 35412
health professionals, hospitals, medical equipment suppliers, and 35413
other individuals, groups, or agencies that apply to become 35414
providers. The department shall enter into a written agreement 35415
with each applicant who is determined, pursuant to the 35416
requirements set forth in rules adopted under division (A)(2) of 35417
section 3701.021 of the Revised Code, to be eligible to be a 35418
provider in accordance with the provider agreement required by the 35419
medical assistance program established under section 5111.01 of 35420
the Revised Code. No provider shall charge a medically handicapped 35421
child or the child's parent or guardian for services authorized by 35422
the department under division (B) or (D) of this section. 35423

The department, in accordance with rules adopted under 35424
division (A)(3) of section 3701.021 of the Revised Code, may 35425
disqualify any provider from further participation in the program 35426
for violating any requirement set forth in rules adopted under 35427
division (A)(2) of that section. The disqualification shall not 35428

take effect until a written notice, specifying the requirement
violated and describing the nature of the violation, has been
delivered to the provider and the department has afforded the
provider an opportunity to appeal the disqualification under
division (H) of this section.

(D) The department of health shall evaluate applications from
city and general health districts and approved physician providers
for authorization to provide treatment services, service
coordination, and related goods to children determined to be
eligible for the program for medically handicapped children
pursuant to division (A) of this section. The department shall
authorize necessary treatment services, service coordination, and
related goods for each eligible child in accordance with an
individual plan of treatment for the child. As an alternative, the
department may authorize payment of health insurance premiums on
behalf of eligible children when the department determines, in
accordance with criteria set forth in rules adopted under division
(A)(9) of section 3701.021 of the Revised Code, that payment of
the premiums is cost-effective.

(E) The department of health shall pay, from appropriations
to the department, any necessary expenses, including but not
limited to, expenses for diagnosis, treatment, service
coordination, supportive services, transportation, and accessories
and their upkeep, provided to medically handicapped children,
provided that the provision of the goods or services is authorized
by the department under division (B) or (D) of this section. Money
appropriated to the department of health may also be expended for
reasonable administrative costs incurred by the program. The
department of health also may purchase liability insurance
covering the provision of services under the program for medically
handicapped children by physicians and other health care
professionals.

Payments made to providers by the department of health 35461
pursuant to this division for inpatient hospital care, outpatient 35462
care, and all other medical assistance furnished ~~by hospitals~~ to 35463
eligible recipients ~~shall be in accordance with methods~~ 35464
~~established by rules of the public health council. Until such~~ 35465
~~rules are adopted, the department of health shall make payments to~~ 35466
~~hospitals in accordance with reasonable cost principles for~~ 35467
~~reimbursement under the medicare program established under Title~~ 35468
~~XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42~~ 35469
~~U.S.C.A. 1395, as amended. Payments to providers for goods or~~ 35470
~~services other than inpatient or outpatient hospital care shall be~~ 35471
made in accordance with rules adopted by the public health council 35472
pursuant to division (A) of section 3701.021 of the Revised Code. 35473

The departments of health and job and family services shall 35474
jointly implement procedures to ensure that duplicate payments are 35475
not made under the program for medically handicapped children and 35476
the medical assistance program established under section 5111.01 35477
of the Revised Code and to identify and recover duplicate 35478
payments. 35479

(F)(1) At the time of applying for participation in the 35480
program for medically handicapped children, a medically 35481
handicapped child or the child's parent or guardian shall disclose 35482
the identity of any third party against whom the child or the 35483
child's parent or guardian has or may have a right of recovery for 35484
goods and services provided under division (B) or (D) of this 35485
section. ~~Except as provided in division (F)(2) of this section,~~ 35486
~~the~~ The department of health shall require a medically handicapped 35487
child who receives services from the program or the child's parent 35488
or guardian to apply for all third-party benefits for which the 35489
child may be eligible and require the child, parent, or guardian 35490
to apply all third-party benefits received to the amount 35491
determined under division (E) of this section as the amount 35492

payable for goods and services authorized under division (B) or 35493
(D) of this section. The department is the payer of last resort 35494
and shall pay for authorized goods or services, up to the amount 35495
determined under division (E) of this section for the authorized 35496
goods or services, only to the extent that payment for the 35497
authorized goods or services is not made through third-party 35498
benefits. When a third party fails to act on an application or 35499
claim for benefits by a medically handicapped child or the child's 35500
parent or guardian, the department shall pay for the goods or 35501
services only after ninety days have elapsed since the date the 35502
child, parents, or guardians made an application or claim for all 35503
third-party benefits, ~~except as provided in division (F)(2) of~~ 35504
~~this section.~~ Third-party benefits received shall be applied to 35505
the amount determined under division (E) of this section. 35506
Third-party payments for goods and services not authorized under 35507
division (B) or (D) of this section shall not be applied to 35508
payment amounts determined under division (E) of this section. 35509
Payment made by the department shall be considered payment in full 35510
of the amount determined under division (E) of this section. 35511
Medicaid payments for persons eligible for the medical assistance 35512
program established under section 5111.01 of the Revised Code 35513
shall be considered payment in full of the amount determined under 35514
division (E) of this section. 35515

~~(2) A medically handicapped child or the parent or guardian 35516
of such a child is not required to apply for assistance under the 35517
medical assistance program established under section 5111.01 of 35518
the Revised Code as a condition for eligibility under the program 35519
for medically handicapped children if applying for or receiving 35520
assistance under the medical assistance program violates a 35521
religious belief of the child, parent, or guardian and a tenet of 35522
the child's, parent's, or guardian's religion. 35523~~

(G) The department of health shall administer a program to 35524

provide services to Ohio residents who are twenty-one or more 35525
years of age who ~~are suffering from~~ have cystic fibrosis and who 35526
meet the eligibility requirements established by the rules of the 35527
public health council pursuant to division (A)(7) of section 35528
3701.021 of the Revised Code, subject to all provisions of this 35529
section, but not subject to section 3701.024 of the Revised Code. 35530

(H) The department of health shall provide for appeals, in 35531
accordance with rules adopted under section 3701.021 of the 35532
Revised Code, of denials of applications for the program for 35533
medically handicapped children under division (A) or (D) of this 35534
section, disqualification of providers, or amounts paid under 35535
division (E) of this section. Appeals under this division are not 35536
subject to Chapter 119. of the Revised Code. 35537

The department may designate ombudspersons to assist 35538
medically handicapped children or their parents or guardians, upon 35539
the request of the children, parents, or guardians, in filing 35540
appeals under this division and to serve as children's, parents', 35541
or guardians' advocates in matters pertaining to the 35542
administration of the program for medically handicapped children 35543
and eligibility for program services. The ombudspersons shall 35544
receive no compensation but shall be reimbursed by the department, 35545
in accordance with rules of the office of budget and management, 35546
for their actual and necessary travel expenses incurred in the 35547
performance of their duties. 35548

(I) The department of health, and city and general health 35549
districts providing service coordination pursuant to division 35550
(A)(2) of section 3701.024 of the Revised Code, shall provide 35551
service coordination in accordance with the standards set forth in 35552
the rules adopted under section 3701.021 of the Revised Code, 35553
without charge, and without restriction as to economic status. 35554

Sec. 3701.073. (A) The department of health is hereby 35555

designated as the state agency responsible for administering the 35556
medicare rural hospital flexibility program, as established in 42 35557
U.S.C. 1395i-4, as amended. 35558

(B) The director of health shall designate as a critical 35559
access hospital a hospital registered as an acute care hospital 35560
with the department under section 3701.07 of the Revised Code if 35561
the hospital meets the following requirements: 35562

(1) Has not more than twenty-five acute care and swing beds 35563
in use at any time for the furnishing of extended care or acute 35564
care inpatient services; 35565

(2) Has a length of stay not more than ninety-six hours per 35566
patient, on an annual average basis; 35567

(3) Provides inpatient, outpatient, emergency, laboratory, 35568
radiology, and twenty-four hour emergency care services; 35569

(4) Has network agreements in place for patient referral and 35570
transfer, a communication system for telemetry systems, electronic 35571
sharing of patient data, provision for emergency and non-emergency 35572
transportation, and assures credentialing and quality assurance; 35573

(5) Was certified as a critical access hospital by the 35574
centers for medicare and medicaid services between January 1, 35575
2001, and December 31, 2005, or is located in a rural area as 35576
identified below: 35577

(a) An area within an Ohio metropolitan area designated as a 35578
rural area by the United States department of health and human 35579
services, office of rural health policy, in accordance with 42 35580
C.F.R. 412.103 regarding rural urban commuting area codes four 35581
through ten in effect on the effective date of this section; 35582

(b) A non-metropolitan county as designated in United States 35583
office of management and budget bulletin no. 93-17, June 30, 1993, 35584
and its attachments; 35585

(c) A rural zip code within a metropolitan county as 35586
designated in United States office of management and budget 35587
bulletin no. 93-17, June 30, 1993, and its attachments. 35588

Sec. 3701.146. (A) In taking actions regarding tuberculosis, 35589
the director of health has all of the following duties and powers: 35590

~~(1) The director shall make payments to boards of county~~ 35591
~~commissioners in accordance with section 339.77 of the Revised~~ 35592
~~Code.~~ 35593

~~(2)~~ The director shall maintain registries of hospitals, 35594
clinics, physicians, or other care providers to whom the director 35595
shall refer persons who make inquiries to the department of health 35596
regarding possible exposure to tuberculosis. 35597

~~(3)~~(2) The director shall engage in tuberculosis surveillance 35598
activities, including the collection and analysis of 35599
epidemiological information relative to the frequency of 35600
tuberculosis infection, demographic and geographic distribution of 35601
tuberculosis cases, and trends pertaining to tuberculosis. 35602

~~(4)~~(3) The director shall maintain a tuberculosis registry to 35603
record the incidence of tuberculosis in this state. 35604

~~(5)~~(4) The director may appoint physicians to serve as 35605
tuberculosis consultants for geographic regions of the state 35606
specified by the director. Each tuberculosis consultant shall act 35607
in accordance with rules the director establishes and shall be 35608
responsible for advising and assisting physicians and other health 35609
care practitioners who participate in tuberculosis control 35610
activities and for reviewing medical records pertaining to the 35611
treatment provided to individuals with tuberculosis. 35612

(B)(1) The public health council shall adopt rules 35613
establishing standards for the following: 35614

(a) Performing tuberculosis screenings; 35615

(b) Performing examinations of individuals who have been exposed to tuberculosis and individuals who are suspected of having tuberculosis;	35616 35617 35618
(c) Providing treatment to individuals with tuberculosis;	35619
(d) Preventing individuals with communicable tuberculosis from infecting other individuals;	35620 35621
(e) Performing laboratory tests for tuberculosis and studies of the resistance of tuberculosis to one or more drugs;	35622 35623
(f) Selecting laboratories that provide in a timely fashion the results of a laboratory test for tuberculosis. The standards shall include a requirement that first consideration be given to laboratories located in this state.	35624 35625 35626 35627
(2) Rules adopted pursuant to this section shall be adopted in accordance with Chapter 119. of the Revised Code and may be consistent with any recommendations or guidelines on tuberculosis issued by the United States centers for disease control and prevention or by the American thoracic society. The rules shall apply to county or district tuberculosis control units, physicians who examine and treat individuals for tuberculosis, and laboratories that perform tests for tuberculosis.	35628 35629 35630 35631 35632 35633 35634 35635
Sec. 3701.65. (A) There is hereby created in the state treasury the "choose life" fund. The fund shall consist of the contributions that are paid to the registrar of motor vehicles by applicants who voluntarily elect to obtain "choose life" license plates pursuant to section 4503.91 of the Revised Code and any money returned to the fund under division (E)(1)(d) of this section. All investment earnings of the fund shall be credited to the fund.	35636 35637 35638 35639 35640 35641 35642 35643
(B)(1) At least annually, the director of health shall distribute the money in the fund to any private, nonprofit	35644 35645

organization that is eligible to receive funds under this section 35646
and that applies for funding under division (C) of this section. 35647

(2) The director shall distribute the funds based on the 35648
county in which the organization applying for funding is located 35649
and in proportion to the number of "choose life" license plates 35650
issued during the preceding year to vehicles registered in each 35651
county. Within each county, eligible organizations that apply for 35652
funding shall share equally in the funds available for 35653
distribution to organizations located within that county. 35654

(C) Any organization seeking funds under this section 35655
annually shall apply for distribution of the funds. The director 35656
shall develop an application form and may determine the schedule 35657
and procedures that an organization shall follow when annually 35658
applying for funds. The application shall inform the applicant of 35659
the conditions for receiving and using funds under division (E) of 35660
this section. The application shall require evidence that the 35661
organization meets all of the following requirements: 35662

(1) Is a private, nonprofit organization; 35663

(2) Is committed to counseling pregnant women about the 35664
option of adoption; 35665

(3) Provides services within the state to pregnant women who 35666
are planning to place their children for adoption, including 35667
counseling and meeting the material needs of the women; 35668

(4) Does not charge women for any services received; 35669

(5) Is not involved or associated with any abortion 35670
activities, including counseling for or referrals to abortion 35671
clinics, providing medical abortion-related procedures, or 35672
pro-abortion advertising; 35673

(6) Does not discriminate in its provision of any services on 35674
the basis of race, religion, color, age, marital status, national 35675

origin, handicap, gender, or age. 35676

(D) The director shall not distribute funds to an 35677
organization that does not provide verifiable evidence of the 35678
requirements specified in the application under division (C) of 35679
this section and shall not provide additional funds to any 35680
organization that fails to comply with division (E) of this 35681
section in regard to its previous receipt of funds under this 35682
section. 35683

(E)(1) An organization receiving funds under this section 35684
shall do all of the following: 35685

(a) Use not more than sixty per cent of the funds distributed 35686
to it for the material needs of pregnant women who are planning to 35687
place their children for adoption or for infants awaiting 35688
placement with adoptive parents, including clothing, housing, 35689
medical care, food, utilities, and transportation; 35690

(b) Use not more than forty per cent of the funds distributed 35691
to it for counseling, training, or advertising; 35692

(c) Not use any of the funds distributed to it for 35693
administrative expenses, legal expenses, or capital expenditures; 35694

(d) Annually return to the fund created under division (A) of 35695
this section any unused money that exceeds ten per cent of the 35696
money distributed to the organization. 35697

(2) The organization annually shall submit to the director an 35698
audited financial statement verifying its compliance with division 35699
(E)(1) of this section. 35700

(F) The director, in accordance with Chapter 119. of the 35701
Revised Code, shall adopt rules to implement this section. 35702

It is not the intent of the general assembly that the 35703
department create a new position within the department to 35704
implement and administer this section. It is the intent of the 35705

general assembly that the implementation and administration of 35706
this section be accomplished by existing department personnel. 35707

Sec. 3702.141. (A) As used in this section: 35708

(1) "~~existing~~ Existing health care facility" ~~has~~ means a 35709
health care facility that is licensed or otherwise approved to 35710
practice in this state, in accordance with applicable law, is 35711
staffed and equipped to provide health care services, and actively 35712
provides health services or has not been actively providing health 35713
services for less than twelve consecutive months. 35714

(2) "Health care facility" and "health service" have the same 35715
meaning meanings as in section 3702.51 of the Revised Code. 35716

(B) Section 3702.14 of the Revised Code shall not be 35717
construed to require any existing health care facility that is 35718
conducting an activity specified in section 3702.11 of the Revised 35719
Code, which activity was initiated on or before March 20, 1997, to 35720
alter, upgrade, or otherwise improve the structure or fixtures of 35721
the facility in order to comply with any rule adopted under 35722
section 3702.11 of the Revised Code relating to that activity, 35723
unless one of the following applies: 35724

(1) The facility initiates a construction, renovation, or 35725
reconstruction project that involves a capital expenditure of at 35726
least fifty thousand dollars, not including expenditures for 35727
equipment or staffing or operational costs, and that directly 35728
involves the area in which the existing service is conducted. 35729

(2) The facility initiates another activity specified in 35730
section 3702.11 of the Revised Code. 35731

(3) The facility initiates a service level designation change 35732
for obstetric and newborn care. 35733

(4) The facility proposes to add a cardiac catheterization 35734
laboratory to an existing cardiac catheterization service. 35735

(5) The facility proposes to add an open-heart operating room 35736
to an existing open-heart surgery service. 35737

(6) The director of health determines, by clear and 35738
convincing evidence, that failure to comply with the rule would 35739
create an imminent risk to the health and welfare of any patient. 35740

(C) If division (B)(4) or (5) of this section applies, any 35741
alteration, upgrade, or other improvement required shall apply 35742
only to the proposed addition to the existing service if the cost 35743
of the addition is less than the capital expenditure threshold set 35744
forth in division (B)(1) of this section. 35745

(D) No person or government entity shall divide or otherwise 35746
segment a construction, renovation, or reconstruction project in 35747
order to evade application of the capital expenditure threshold 35748
set forth in division (B)(1) of this section. 35749

Sec. 3702.51. As used in sections 3702.51 to 3702.62 of the 35750
Revised Code: 35751

(A) "Applicant" means any person that submits an application 35752
for a certificate of need and who is designated in the application 35753
as the applicant. 35754

(B) "Person" means any individual, corporation, business 35755
trust, estate, firm, partnership, association, joint stock 35756
company, insurance company, government unit, or other entity. 35757

(C) "Certificate of need" means a written approval granted by 35758
the director of health to an applicant to authorize conducting a 35759
reviewable activity. 35760

(D) "Health service area" means a geographic region 35761
designated by the director of health under section 3702.58 of the 35762
Revised Code. 35763

(E) "Health service" means a clinically related service, such 35764

as a diagnostic, treatment, rehabilitative, or preventive service. 35765

(F) "Health service agency" means an agency designated to 35766
serve a health service area in accordance with section 3702.58 of 35767
the Revised Code. 35768

(G) "Health care facility" means: 35769

(1) A hospital registered under section 3701.07 of the 35770
Revised Code; 35771

(2) A nursing home licensed under section 3721.02 of the 35772
Revised Code, or by a political subdivision certified under 35773
section 3721.09 of the Revised Code; 35774

(3) A county home or a county nursing home as defined in 35775
section 5155.31 of the Revised Code that is certified under Title 35776
XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 35777
U.S.C.A. 301, as amended; 35778

(4) A freestanding dialysis center; 35779

(5) A freestanding inpatient rehabilitation facility; 35780

(6) An ambulatory surgical facility; 35781

(7) A freestanding cardiac catheterization facility; 35782

(8) A freestanding birthing center; 35783

(9) A freestanding or mobile diagnostic imaging center; 35784

(10) A freestanding radiation therapy center. 35785

A health care facility does not include the offices of 35786
private physicians and dentists whether for individual or group 35787
practice, residential facilities licensed under section 5123.19 of 35788
the Revised Code, ~~or habilitation centers certified by the~~ 35789
~~director of mental retardation and developmental disabilities~~ 35790
~~under section 5123.041 of the Revised Code,~~ or an institution for 35791
the sick that is operated exclusively for patients who use 35792
spiritual means for healing and for whom the acceptance of medical 35793

care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and providing twenty-four hour nursing care pursuant to the exemption in division (E) of section 4723.32 of the Revised Code from the licensing requirements of Chapter 4723. of the Revised Code.

(H) "Medical equipment" means a single unit of medical equipment or a single system of components with related functions that is used to provide health services.

(I) "Third-party payer" means a health insuring corporation licensed under Chapter 1751. of the Revised Code, a health maintenance organization as defined in division (K) of this section, an insurance company that issues sickness and accident insurance in conformity with Chapter 3923. of the Revised Code, a state-financed health insurance program under Chapter 3701., 4123., or 5111. of the Revised Code, or any self-insurance plan.

(J) "Government unit" means the state and any county, municipal corporation, township, or other political subdivision of the state, or any department, division, board, or other agency of the state or a political subdivision.

(K) "Health maintenance organization" means a public or private organization organized under the law of any state that is qualified under section 1310(d) of Title XIII of the "Public Health Service Act," 87 Stat. 931 (1973), 42 U.S.C. 300e-9.

(L) "Existing health care facility" means a either of the following:

(1) A health care facility that is licensed or otherwise ~~approved~~ authorized to ~~practice~~ operate in this state, in accordance with applicable law, is staffed and equipped to provide health care services, and is actively ~~provides~~ providing health

~~services or has not been actively providing health services for 35825
less than twelve consecutive months; 35826~~

(2) A health care facility that is licensed or has beds 35827
registered under section 3701.07 of the Revised Code as skilled 35828
nursing beds or long-term care beds and has provided services for 35829
at least three hundred sixty-five consecutive days within the 35830
twenty-four months immediately preceding the date a certificate of 35831
need application is filed with the director of health. 35832

(M) "State" means the state of Ohio, including, but not 35833
limited to, the general assembly, the supreme court, the offices 35834
of all elected state officers, and all departments, boards, 35835
offices, commissions, agencies, institutions, and other 35836
instrumentalities of the state of Ohio. "State" does not include 35837
political subdivisions. 35838

(N) "Political subdivision" means a municipal corporation, 35839
township, county, school district, and all other bodies corporate 35840
and politic responsible for governmental activities only in 35841
geographic areas smaller than that of the state to which the 35842
sovereign immunity of the state attaches. 35843

(O) "Affected person" means: 35844

(1) An applicant for a certificate of need, including an 35845
applicant whose application was reviewed comparatively with the 35846
application in question; 35847

(2) The person that requested the reviewability ruling in 35848
question; 35849

(3) Any person that resides or regularly uses health care 35850
facilities within the geographic area served or to be served by 35851
the health care services that would be provided under the 35852
certificate of need or reviewability ruling in question; 35853

(4) Any health care facility that is located in the health 35854

service area where the health care services would be provided 35855
under the certificate of need or reviewability ruling in question; 35856

(5) Third-party payers that reimburse health care facilities 35857
for services in the health service area where the health care 35858
services would be provided under the certificate of need or 35859
reviewability ruling in question; 35860

(6) Any other person who testified at a public hearing held 35861
under division (B) of section 3702.52 of the Revised Code or 35862
submitted written comments in the course of review of the 35863
certificate of need application in question. 35864

(P) "Osteopathic hospital" means a hospital registered under 35865
section 3701.07 of the Revised Code that advocates osteopathic 35866
principles and the practice and perpetuation of osteopathic 35867
medicine by doing any of the following: 35868

(1) Maintaining a department or service of osteopathic 35869
medicine or a committee on the utilization of osteopathic 35870
principles and methods, under the supervision of an osteopathic 35871
physician; 35872

(2) Maintaining an active medical staff, the majority of 35873
which is comprised of osteopathic physicians; 35874

(3) Maintaining a medical staff executive committee that has 35875
osteopathic physicians as a majority of its members. 35876

(Q) "Ambulatory surgical facility" has the same meaning as in 35877
section 3702.30 of the Revised Code. 35878

(R) Except as otherwise provided in division (T) of this 35879
section, and until the termination date specified in section 35880
3702.511 of the Revised Code, "reviewable activity" means any of 35881
the following: 35882

(1) The addition by any person of any of the following health 35883
services, regardless of the amount of operating costs or capital 35884

expenditures:	35885
(a) A heart, heart-lung, lung, liver, kidney, bowel, pancreas, or bone marrow transplantation service, a stem cell harvesting and reinfusion service, or a service for transplantation of any other organ unless transplantation of the organ is designated by public health council rule not to be a reviewable activity;	35886 35887 35888 35889 35890 35891
(b) A cardiac catheterization service;	35892
(c) An open-heart surgery service;	35893
(d) Any new, experimental medical technology that is designated by rule of the public health council.	35894 35895
(2) The acceptance of high-risk patients, as defined in rules adopted under section 3702.57 of the Revised Code, by any cardiac catheterization service that was initiated without a certificate of need pursuant to division (R)(3)(b) of the version of this section in effect immediately prior to April 20, 1995;	35896 35897 35898 35899 35900
(3)(a) The establishment, development, or construction of a new health care facility other than a new long-term care facility or a new hospital;	35901 35902 35903
(b) The establishment, development, or construction of a new hospital or the relocation of an existing hospital;	35904 35905
(c) The relocation of hospital beds, other than long-term care, perinatal, or pediatric intensive care beds, into or out of a rural area.	35906 35907 35908
(4)(a) The replacement of an existing hospital;	35909
(b) The replacement of an existing hospital obstetric or newborn care unit or freestanding birthing center.	35910 35911
(5)(a) The renovation of a hospital that involves a capital expenditure, obligated on or after the effective date of this	35912 35913

~~amendment~~ June 30, 1995, of five million dollars or more, not 35914
including expenditures for equipment, staffing, or operational 35915
costs. For purposes of division (R)(5)(a) of this section, a 35916
capital expenditure is obligated: 35917

(i) When a contract enforceable under Ohio law is entered 35918
into for the construction, acquisition, lease, or financing of a 35919
capital asset; 35920

(ii) When the governing body of a hospital takes formal 35921
action to commit its own funds for a construction project 35922
undertaken by the hospital as its own contractor; 35923

(iii) In the case of donated property, on the date the gift 35924
is completed under applicable Ohio law. 35925

(b) The renovation of a hospital obstetric or newborn care 35926
unit or freestanding birthing center that involves a capital 35927
expenditure of five million dollars or more, not including 35928
expenditures for equipment, staffing, or operational costs. 35929

(6) Any change in the health care services, bed capacity, or 35930
site, or any other failure to conduct the reviewable activity in 35931
substantial accordance with the approved application for which a 35932
certificate of need was granted, if the change is made prior to 35933
the date the activity for which the certificate was issued ceases 35934
to be a reviewable activity; 35935

(7) Any of the following changes in perinatal bed capacity or 35936
pediatric intensive care bed capacity: 35937

(a) An increase in bed capacity; 35938

(b) A change in service or service-level designation of 35939
newborn care beds or obstetric beds in a hospital or freestanding 35940
birthing center, other than a change of service that is provided 35941
within the service-level designation of newborn care or obstetric 35942
beds as registered by the department of health; 35943

(c) A relocation of perinatal or pediatric intensive care beds from one physical facility or site to another, excluding the relocation of beds within a hospital or freestanding birthing center or the relocation of beds among buildings of a hospital or freestanding birthing center at the same site.

(8) The expenditure of more than one hundred ten per cent of the maximum expenditure specified in a certificate of need;

(9) Any transfer of a certificate of need issued prior to April 20, 1995, from the person to whom it was issued to another person before the project that constitutes a reviewable activity is completed, any agreement that contemplates the transfer of a certificate of need issued prior to that date upon completion of the project, and any transfer of the controlling interest in an entity that holds a certificate of need issued prior to that date. However, the transfer of a certificate of need issued prior to that date or agreement to transfer such a certificate of need from the person to whom the certificate of need was issued to an affiliated or related person does not constitute a reviewable transfer of a certificate of need for the purposes of this division, unless the transfer results in a change in the person that holds the ultimate controlling interest in the certificate of need.

(10)(a) The acquisition by any person of any of the following medical equipment, regardless of the amount of operating costs or capital expenditure:

(i) A cobalt radiation therapy unit;

(ii) A linear accelerator;

(iii) A gamma knife unit.

(b) The acquisition by any person of medical equipment with a cost of two million dollars or more. The cost of acquiring medical

equipment includes the sum of the following:	35974
(i) The greater of its fair market value or the cost of its lease or purchase;	35975 35976
(ii) The cost of installation and any other activities essential to the acquisition of the equipment and its placement into service.	35977 35978 35979
(11) The addition of another cardiac catheterization laboratory to an existing cardiac catheterization service.	35980 35981
(S) Except as provided in division (T) of this section, "reviewable activity" also means any of the following activities, none of which are subject to a termination date:	35982 35983 35984
(1) The establishment, development, or construction of a new long-term care facility;	35985 35986
(2) The replacement of an existing long-term care facility;	35987
(3) The renovation of a long-term care facility that involves a capital expenditure of two million dollars or more, not including expenditures for equipment, staffing, or operational costs;	35988 35989 35990 35991
(4) Any of the following changes in long-term care bed capacity:	35992 35993
(a) An increase in bed capacity;	35994
(b) A relocation of beds from one physical facility or site to another, excluding the relocation of beds within a long-term care facility or among buildings of a long-term care facility at the same site;	35995 35996 35997 35998
(c) A recategorization of hospital beds registered under section 3701.07 of the Revised Code from another registration category to skilled nursing beds or long-term care beds.	35999 36000 36001
(5) Any change in the health services, bed capacity, or site,	36002

or any other failure to conduct the reviewable activity in 36003
substantial accordance with the approved application for which a 36004
certificate of need concerning long-term care beds was granted, if 36005
the change is made within five years after the implementation of 36006
the reviewable activity for which the certificate was granted; 36007

(6) The expenditure of more than one hundred ten per cent of 36008
the maximum expenditure specified in a certificate of need 36009
concerning long-term care beds; 36010

(7) Any transfer of a certificate of need that concerns 36011
long-term care beds and was issued prior to April 20, 1995, from 36012
the person to whom it was issued to another person before the 36013
project that constitutes a reviewable activity is completed, any 36014
agreement that contemplates the transfer of such a certificate of 36015
need upon completion of the project, and any transfer of the 36016
controlling interest in an entity that holds such a certificate of 36017
need. However, the transfer of a certificate of need that concerns 36018
long-term care beds and was issued prior to April 20, 1995, or 36019
agreement to transfer such a certificate of need from the person 36020
to whom the certificate was issued to an affiliated or related 36021
person does not constitute a reviewable transfer of a certificate 36022
of need for purposes of this division, unless the transfer results 36023
in a change in the person that holds the ultimate controlling 36024
interest in the certificate of need. 36025

(T) "Reviewable activity" does not include any of the 36026
following activities: 36027

(1) Acquisition of computer hardware or software; 36028

(2) Acquisition of a telephone system; 36029

(3) Construction or acquisition of parking facilities; 36030

(4) Correction of cited deficiencies that are in violation of 36031
federal, state, or local fire, building, or safety laws and rules 36032

and that constitute an imminent threat to public health or safety;	36033
(5) Acquisition of an existing health care facility that does not involve a change in the number of the beds, by service, or in the number or type of health services;	36034 36035 36036
(6) Correction of cited deficiencies identified by accreditation surveys of the joint commission on accreditation of healthcare organizations or of the American osteopathic association;	36037 36038 36039 36040
(7) Acquisition of medical equipment to replace the same or similar equipment for which a certificate of need has been issued if the replaced equipment is removed from service;	36041 36042 36043
(8) Mergers, consolidations, or other corporate reorganizations of health care facilities that do not involve a change in the number of beds, by service, or in the number or type of health services;	36044 36045 36046 36047
(9) Construction, repair, or renovation of bathroom facilities;	36048 36049
(10) Construction of laundry facilities, waste disposal facilities, dietary department projects, heating and air conditioning projects, administrative offices, and portions of medical office buildings used exclusively for physician services;	36050 36051 36052 36053
(11) Acquisition of medical equipment to conduct research required by the United States food and drug administration or clinical trials sponsored by the national institute of health. Use of medical equipment that was acquired without a certificate of need under division (T)(11) of this section and for which premarket approval has been granted by the United States food and drug administration to provide services for which patients or reimbursement entities will be charged shall be a reviewable activity.	36054 36055 36056 36057 36058 36059 36060 36061 36062

(12) Removal of asbestos from a health care facility.	36063
Only that portion of a project that meets the requirements of division (T) of this section is not a reviewable activity.	36064 36065
(U) "Small rural hospital" means a hospital that is located within a rural area, has fewer than one hundred beds, and to which fewer than four thousand persons were admitted during the most recent calendar year.	36066 36067 36068 36069
(V) "Children's hospital" means any of the following:	36070
(1) A hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;	36071 36072 36073 36074 36075
(2) A distinct portion of a hospital registered under section 3701.07 of the Revised Code that provides general pediatric medical and surgical care, has a total of at least one hundred fifty registered pediatric special care and pediatric acute care beds, and in which at least seventy-five per cent of annual inpatient discharges for the preceding two calendar years were individuals less than eighteen years of age;	36076 36077 36078 36079 36080 36081 36082
(3) A distinct portion of a hospital, if the hospital is registered under section 3701.07 of the Revised Code as a children's hospital and the children's hospital meets all the requirements of division (V)(1) of this section.	36083 36084 36085 36086
(W) "Long-term care facility" means any of the following:	36087
(1) A nursing home licensed under section 3721.02 of the Revised Code or by a political subdivision certified under section 3721.09 of the Revised Code;	36088 36089 36090
(2) The portion of any facility, including a county home or county nursing home, that is certified as a skilled nursing	36091 36092

facility or a nursing facility under Title XVIII or XIX of the "Social Security Act"; 36093
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(3) The portion of any hospital that contains beds registered under section 3701.07 of the Revised Code as skilled nursing beds or long-term care beds. 36095
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(X) "Long-term care bed" means a bed in a long-term care facility. 36098
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(Y) "Perinatal bed" means a bed in a hospital that is registered under section 3701.07 of the Revised Code as a newborn care bed or obstetric bed, or a bed in a freestanding birthing center. 36100
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(Z) "Freestanding birthing center" means any facility in which deliveries routinely occur, regardless of whether the facility is located on the campus of another health care facility, and which is not licensed under Chapter 3711. of the Revised Code as a level one, two, or three maternity unit or a limited maternity unit. 36104
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(AA)(1) "Reviewability ruling" means a ruling issued by the director of health under division (A) of section 3702.52 of the Revised Code as to whether a particular proposed project is or is not a reviewable activity. 36110
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(2) "Nonreviewability ruling" means a ruling issued under that division that a particular proposed project is not a reviewable activity. 36114
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(BB)(1) "Metropolitan statistical area" means an area of this state designated a metropolitan statistical area or primary metropolitan statistical area in United States office of management and budget bulletin No. 93-17, June 30, 1993, and its attachments. 36117
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(2) "Rural area" means any area of this state not located 36122

within a metropolitan statistical area. 36123

Sec. 3702.68. (A) Notwithstanding sections 3702.51 to 3702.62 36124
of the Revised Code, this section applies to the review of 36125
certificate of need applications during the period beginning July 36126
1, 1993, and ending June 30, ~~2005~~ 2007. 36127

As used in this section, "existing health care facility" has 36128
the same meaning as in section 3702.51 of the Revised Code. 36129

(B)(1) Except as provided in division (B)(2) of this section, 36130
the director of health shall neither grant nor deny any 36131
application for a certificate of need submitted prior to July 1, 36132
1993, if the application was for any of the following and the 36133
director had not issued a written decision concerning the 36134
application prior to that date: 36135

(a) Approval of beds in a new health care facility or an 36136
increase of beds in an existing health care facility, if the beds 36137
are proposed to be licensed as nursing home beds under Chapter 36138
3721. of the Revised Code; 36139

(b) Approval of beds in a new county home or new county 36140
nursing home as defined in section 5155.31 of the Revised Code, or 36141
an increase of beds in an existing county home or existing county 36142
nursing home, if the beds are proposed to be certified as skilled 36143
nursing facility beds under Title XVIII or nursing facility beds 36144
under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 36145
42 U.S.C.A. 301, as amended; 36146

(c) Recategorization of hospital beds as described in section 36147
3702.522 of the Revised Code, an increase of hospital beds 36148
registered pursuant to section 3701.07 of the Revised Code as 36149
long-term care beds or skilled nursing facility beds, or a 36150
recategorization of hospital beds that would result in an increase 36151
of beds registered pursuant to that section as long-term care beds 36152

or skilled nursing facility beds.

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On July 1, 1993, the director shall return each such application to the applicant and, notwithstanding section 3702.52 of the Revised Code regarding the uses of the certificate of need fund, shall refund to the applicant the application fee paid under that section. Applications returned under division (B)(1) of this section may be resubmitted in accordance with section 3702.52 of the Revised Code no sooner than July 1, ~~2005~~ 2007.

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(2) The director shall continue to review and shall issue a decision regarding any application submitted prior to July 1, 1993, to increase beds for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated.

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(C)(1) Except as provided in division (C)(2) of this section, the director, during the period beginning July 1, 1993, and ending June 30, ~~2005~~ 2007, shall not accept for review under section 3702.52 of the Revised Code any application for a certificate of need for any of the purposes described in divisions (B)(1)(a) to (c) of this section.

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(2)(a) The director shall accept for review any application for either of the purposes described in division (B)(1)(a) or (b) of this section if the proposed increase in beds is attributable solely to a replacement or relocation of existing beds from an existing health care facility within the same county. The director shall authorize under such an application no additional beds beyond those being replaced or relocated. ~~The~~

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The director shall not approve an application for a certificate of need for addition of long-term care beds to an

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existing health care facility by relocation of beds or for the 36184
development of a new health care facility by relocation of beds 36185
unless all of the following conditions are met: 36186

(i) The existing health care facility to which the beds are 36187
being relocated has no life safety code waivers, no state fire 36188
code violations, and no state building code violations; 36189

(ii) During the sixty month period preceding the filing of 36190
the application, no notice of proposed revocation of the 36191
facility's license was issued under section 3721.03 of the Revised 36192
Code to the operator of the existing facility to which the beds 36193
are being relocated or to any health care facility owned or 36194
operated by the applicant or any principal participant in the same 36195
corporation or other business; 36196

(iii) Neither the existing health care facility to which the 36197
beds are being relocated nor any health care facility owned or 36198
operated by the applicant or any principal participant in the same 36199
corporation or other business has had a long-standing pattern of 36200
violations of this chapter or deficiencies that caused one or more 36201
residents physical, emotional, mental, or psychosocial harm. 36202

(b) The director also shall accept for review any application 36203
that seeks certificate of need approval for existing the 36204
conversion of infirmary beds located in an to long-term care beds 36205
if the infirmary that is meets all of the following conditions: 36206

(i) Is operated exclusively by a religious order, provides; 36207

(ii) Provides care exclusively to members of religious orders 36208
who take vows of celibacy and live by virtue of their vows within 36209
the orders as if related, and was; 36210

(iii) Was providing care exclusively to members of such a 36211
religious order on January 1, 1994. 36212

(D) The director shall issue a decision regarding any case 36213

remanded by a court as the result of a decision issued by the 36214
director prior to July 1, 1993, to grant, deny, or withdraw a 36215
certificate of need for any of the purposes described in divisions 36216
(B)(1)(a) to (c) of this section. 36217

(E) The director shall not project the need for beds listed 36218
in division (B)(1) of this section for the period beginning July 36219
1, 1993, and ending June 30, ~~2005~~ 2007. 36220

This section is an interim section effective until July 1, 36221
~~2005~~ 2007. 36222

Sec. 3702.71. As used in sections 3702.71 to 3702.81 of the 36223
Revised Code: 36224

(A) "Primary care physician" means an individual who is 36225
authorized under Chapter 4731. of the Revised Code to practice 36226
medicine and surgery or osteopathic medicine and surgery and is 36227
board certified or board eligible in a primary care specialty. 36228

(B) "Primary care service" means professional comprehensive 36229
personal health services, which may include health education and 36230
disease prevention, treatment of uncomplicated health problems, 36231
diagnosis of chronic health problems, ~~and~~ overall management of 36232
health care services for an individual or a family, and the 36233
services of a psychiatrist. "Primary care service" also includes 36234
providing the initial contact for health care services and making 36235
referrals for secondary and tertiary care and for continuity of 36236
health care services. 36237

(C) "Primary care specialty" means general internal medicine, 36238
pediatrics, obstetrics and gynecology, psychiatry, or family 36239
practice. 36240

Sec. 3702.74. (A) A primary care physician who has signed a 36241
letter of intent under section 3702.73 of the Revised Code, the 36242

director of health, and the Ohio board of regents may enter into a 36243
contract for the physician's participation in the physician loan 36244
repayment program. A lending institution may also be a party to 36245
the contract. 36246

(B) The contract shall include all of the following 36247
obligations: 36248

(1) The primary care physician agrees to provide primary care 36249
services in the health resource shortage area identified in the 36250
letter of intent for at least two years or one year per twenty 36251
thousand dollars of repayment agreed to under division (B)(3) of 36252
this section, whichever is greater; 36253

(2) When providing primary care services in the health 36254
resource shortage area, the primary care physician agrees to do 36255
all of the following: 36256

(a) Provide primary care services for a minimum of forty 36257
hours per week; 36258

(b) Provide primary care services without regard to a 36259
patient's ability to pay; 36260

(c) Meet the conditions prescribed by the "Social Security 36261
Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and the 36262
department of job and family services for participation in the 36263
medical assistance program established under Chapter 5111. of the 36264
Revised Code and enter into a contract with the department to 36265
provide primary care services to recipients of the medical 36266
assistance program; 36267

~~(d) Meet the conditions established by the department of job 36268
and family services for participation in the disability medical 36269
assistance program established under Chapter 5115. of the Revised 36270
Code and enter into a contract with the department to provide 36271
primary care services to recipients of disability medical 36272
assistance. 36273~~

(3) The Ohio board of regents agrees, as provided in section 36274
3702.75 of the Revised Code, to repay, so long as the primary care 36275
physician performs the service obligation agreed to under division 36276
(B)(1) of this section, all or part of the principal and interest 36277
of a government or other educational loan taken by the primary 36278
care physician for expenses described in section 3702.75 of the 36279
Revised Code; 36280

(4) The primary care physician agrees to pay the board the 36281
following as damages if the physician fails to complete the 36282
service obligation agreed to under division (B)(1) of this 36283
section: 36284

(a) If the failure occurs during the first two years of the 36285
service obligation, three times the total amount the board has 36286
agreed to repay under division (B)(3) of this section; 36287

(b) If the failure occurs after the first two years of the 36288
service obligation, three times the amount the board is still 36289
obligated to repay under division (B)(3) of this section. 36290

(C) The contract may include any other terms agreed upon by 36291
the parties, including an assignment to the Ohio board of regents 36292
of the physician's duty to pay the principal and interest of a 36293
government or other educational loan taken by the physician for 36294
expenses described in section 3702.75 of the Revised Code. If the 36295
board assumes the physician's duty to pay a loan, the contract 36296
shall set forth the total amount of principal and interest to be 36297
paid, an amortization schedule, and the amount of each payment to 36298
be made under the schedule. 36299

Sec. 3702.83. The department of health shall administer a 36300
program, to be known as the J-1 visa waiver program, for 36301
recruiting physicians who received graduate medical education or 36302
training in the United States but are not citizens of the United 36303

States to serve in areas of the state designated by the United 36304
States secretary of health and human services as health 36305
professional shortage areas under the "Public Health Service Act," 36306
88 Stat. 682 (1944), 42 U.S.C. 254(e), as amended. Under the 36307
program, the department of health shall accept and review 36308
applications for placement of persons seeking to remain in the 36309
United States pursuant to the "Immigration and Nationality Act," 36310
66 Stat. 163 (1952), 8 U.S.C. 1182(J)(1) and 1184(l), as amended, 36311
by obtaining a waiver of the federal requirement that they return 36312
to their home countries for a minimum of two years after 36313
completing the graduate medical education or training for which 36314
they were admitted to the United States. The department shall 36315
administer the program in accordance with the "Immigration and 36316
Nationality Act" and the regulations adopted under it. 36317

For each application accepted for review under this section, 36318
the department shall charge a fee of three thousand five hundred 36319
seventy-one dollars. The fee is nonrefundable. All fees collected 36320
shall be deposited into the state treasury to the credit of 36321
general operations fund created in section 3701.83 of the Revised 36322
Code. 36323

Sec. 3703.01. (A) The division of industrial compliance in 36324
the department of commerce shall: 36325

(1) Inspect all nonresidential buildings within the meaning 36326
of section 3781.06 of the Revised Code; 36327

(2) Condemn all unsanitary or defective plumbing that is 36328
found in connection with those places; 36329

(3) Order changes in plumbing necessary to insure the safety 36330
of the public health. 36331

(B)(1) The division of industrial compliance and boards of 36332
health of city and general health districts shall not inspect 36333

plumbing or collect fees for inspecting plumbing in particular 36334
types of buildings in any municipal corporation that has been 36335
certified by the board of building standards under section 3781.10 36336
of the Revised Code to exercise enforcement authority for plumbing 36337
in such types of buildings. 36338

(2) The division shall not inspect plumbing or collect fees 36339
for inspecting plumbing in particular types of buildings in any 36340
health district that has employed one or more approved plumbing 36341
inspectors to enforce Chapters 3781. and 3791. of the Revised Code 36342
and the rules adopted pursuant to those chapters relating to 36343
plumbing in such types of buildings. 36344

(3) A municipal corporation does not have jurisdiction to 36345
inspect plumbing or collect fees for the inspection of plumbing in 36346
types of buildings for which it has not been certified by the 36347
board of building standards under section 3781.10 of the Revised 36348
Code to exercise enforcement authority. 36349

(4) A board of health of a health district does not have 36350
jurisdiction to inspect plumbing or collect fees for the 36351
inspection of plumbing in types of buildings for which it does not 36352
have an approved plumbing inspector. 36353

(C) The superintendent of industrial compliance shall adopt 36354
rules prescribing minimum qualifications based on education, 36355
training, experience, or demonstrated ability, which the ~~director~~ 36356
superintendent shall use in ~~approving certifying or recertifying~~ 36357
plumbing inspectors to do plumbing inspections for health 36358
districts and for continuing education of plumbing inspectors. 36359
Such minimum qualifications shall be related to the types of 36360
buildings for which a person seeks approval. 36361

(D) The superintendent may enter into reciprocal 36362
registration, licensure, or certification agreements with other 36363
states and other agencies of this state relative to plumbing 36364

<u>inspectors if both of the following apply:</u>	36365
<u>(1) The requirements for registration, licensure, or certification of plumbing inspectors under the laws of the other state or laws administered by the other agency are substantially equal to the requirements the superintendent adopts under division (C) of this section for certifying plumbing inspectors.</u>	36366 36367 36368 36369 36370
<u>(2) The other state or agency extends similar reciprocity to persons certified under this chapter.</u>	36371 36372
<u>(E) The superintendent may select and contract with one or more persons to do all of the following regarding examinations for certification of plumbing inspectors:</u>	36373 36374 36375
<u>(1) Prepare, administer, score, and maintain the confidentiality of the examination;</u>	36376 36377
<u>(2) Maintain responsibility for all expenses required to comply with division (E)(1) of this section;</u>	36378 36379
<u>(3) Charge each applicant a fee for administering the examination in an amount the superintendent authorizes;</u>	36380 36381
<u>(4) Design the examination for certification of plumbing inspectors to determine an applicant's competence to inspect plumbing.</u>	36382 36383 36384
<u>(F) Standards and methods prescribed in local plumbing regulations shall not be less than those prescribed in Chapters 3781. and 3791. of the Revised Code and the rules adopted pursuant to those chapters.</u>	36385 36386 36387 36388
(E) <u>(G) Notwithstanding any other provision of this section, the division shall make a plumbing inspection of any building or other place that there is reason to believe is in a condition to be a menace to the public health.</u>	36389 36390 36391 36392
Sec. 3703.03. In the administration of sections 3703.01 to	36393

3703.09 of the Revised Code, the division of industrial compliance 36394
~~in the department of commerce~~ shall enforce rules governing 36395
plumbing adopted by the board of building standards under 36396
authority of sections 3781.10 and 3781.11 of the Revised Code, and 36397
register those persons engaged in or at the plumbing business. 36398

Plans and specifications for all plumbing to be installed in 36399
or for buildings coming within such sections shall be submitted to 36400
and approved by the division before the contract for plumbing is 36401
let. 36402

Sec. 3703.04. The ~~director~~ superintendent of ~~commerce~~ 36403
industrial compliance shall appoint such number of plumbing 36404
inspectors as is required. The inspectors shall be practical 36405
plumbers with at least seven years' experience, and skilled and 36406
well-trained in matters pertaining to sanitary regulations 36407
concerning plumbing work. 36408

~~No plumbing inspector employed by the department and assigned 36409
to the enforcement of this chapter shall be engaged or interested 36410
in the plumbing business or the sale of any plumbing supplies, nor 36411
shall the inspector act as agent, directly or indirectly, for any 36412
person so engaged.~~ 36413

Sec. 3703.05. Plumbing inspectors employed by the ~~department~~ 36414
division of ~~commerce~~ industrial compliance assigned to the 36415
enforcement of sections 3703.01 to 3703.09 of the Revised Code, 36416
may, between sunrise and sunset, enter any building where there is 36417
good and sufficient reason to believe that the sanitary condition 36418
of the premises endangers the public health, for the purpose of 36419
making an inspection to ascertain the condition of the premises. 36420

Sec. 3703.06. When any building is found to be in a sanitary 36421
condition or when changes which are ordered, under authority of 36422
this chapter, in the plumbing, drainage, or ventilation have been 36423

made, and after a thorough inspection and approval by the ~~division~~ 36424
~~superintendent~~ of industrial compliance ~~in the department of~~ 36425
~~commerce~~, the ~~division~~ superintendent shall issue a certificate 36426
~~signed by the superintendent of the division of industrial~~ 36427
~~compliance~~, which ~~must~~ shall be posted in a conspicuous place for 36428
the benefit of the public at large. Upon notification by the 36429
superintendent, the certificate shall be revoked for any violation 36430
of those sections. 36431

Sec. 3703.07. No plumbing work shall be done in any building 36432
or place coming within the jurisdiction of the ~~department~~ division 36433
of ~~commerce~~ industrial compliance, except in cases of repairs or 36434
leaks in existing plumbing, until a permit has been issued by the 36435
~~department~~ division. 36436

Before granting such permit, an application shall be made by 36437
the owner of the property or by the person, firm, or corporation 36438
which is to do the work. The application shall be made on a form 36439
prepared by the ~~department~~ division for the purpose, and each 36440
application shall be accompanied by a fee of twenty-seven dollars, 36441
and an additional fee of seven dollars for each trap, vented 36442
fixture, appliance, or device. Each application also shall be 36443
accompanied by a plan approval fee of eighteen dollars for work 36444
containing one through twenty fixtures; thirty-six dollars for 36445
work containing twenty-one through forty fixtures; and fifty-four 36446
dollars for work containing forty-one or more fixtures. 36447

Whenever a reinspection is made necessary by the failure of 36448
the applicant or plumbing contractor to have the work ready for 36449
inspection when so reported, or by reason of faulty or improper 36450
installation, the person shall pay a fee of forty-five dollars for 36451
each reinspection. 36452

All fees collected pursuant to this section shall be paid 36453
into the state treasury to the credit of the industrial compliance 36454

operating fund created in section 121.084 of the Revised Code. 36455

The ~~director~~ superintendent of ~~commerce~~ industrial 36456
compliance, by rule adopted in accordance with Chapter 119. of the 36457
Revised Code, may increase the fees required by this section and 36458
may establish fees to pay the costs of the division to fulfill its 36459
duties established by this chapter, including, but not limited to, 36460
fees for administering a program for continuing education for, and 36461
certifying and recertifying plumbing inspectors. The fees shall 36462
bear some reasonable relationship to the cost of administering and 36463
enforcing the provisions of this chapter. 36464

Sec. 3703.08. Any owner, agent, or manager, of a building in 36465
which an inspection is made by the ~~department~~ division of ~~commerce~~ 36466
industrial compliance, a board of health of a health district, or 36467
a certified department of building inspection of a municipal 36468
corporation, shall have the entire system of drainage and 36469
ventilation repaired, as the ~~department of commerce~~ division, 36470
board of health, or department of building inspection directs by 36471
its order. After due notice to repair such work is given, the 36472
owner, agent, or manager shall notify the public authority that 36473
issued the order when the work is ready for its inspection. No 36474
person shall fail to have the work ready for inspection at the 36475
time specified in the notice. 36476

Sec. 3703.10. All prosecutions and proceedings by the 36477
~~department~~ division of ~~commerce~~ industrial compliance for the 36478
violation of sections 3703.01 to 3703.09 of the Revised Code, or 36479
for the violation of any of the orders or rules of the ~~department~~ 36480
division under those sections, shall be instituted by the ~~director~~ 36481
superintendent of ~~commerce~~ industrial compliance. All fines or 36482
judgments collected by the ~~department~~ division shall be paid into 36483
the state treasury to the credit of the industrial compliance 36484

operating fund created by section 121.084 of the Revised Code. 36485

The ~~director~~ superintendent, the board of health of a general 36486
or city health district, or any person charged with enforcing the 36487
rules of the ~~department~~ division adopted under sections 3703.01 to 36488
3703.09 of the Revised Code may petition the court of common pleas 36489
for injunctive or other appropriate relief requiring any person 36490
violating a rule adopted or order issued by the ~~director~~ 36491
superintendent under those sections to comply with the rule or 36492
order. The court of common pleas of the county in which the 36493
offense is alleged to be occurring may grant injunctive or other 36494
appropriate relief. 36495

The superintendent may do all of the following: 36496

(A) Deny an applicant certification as a plumbing inspector; 36497

(B) Suspend or revoke the certification of a plumbing 36498
inspector; 36499

(C) Examine any certified plumbing inspector under oath; 36500

(D) Examine the records and books of any certified plumbing 36501
inspector if the superintendent finds the material to be examined 36502
relevant to a determination described in division (A), (B), or (C) 36503
of this section. 36504

Sec. 3703.99. Whoever violates sections 3703.01 to 3703.09 of 36505
the Revised Code, or any rule the ~~department~~ division of ~~commerce~~ 36506
industrial compliance is required to enforce under such sections, 36507
shall be fined not less than ten nor more than one hundred dollars 36508
or imprisoned for not less than ten nor more than ninety days, or 36509
both. No person shall be imprisoned under this section for the 36510
first offense, and the prosecution always shall be as for a first 36511
offense unless the affidavit upon which the prosecution is 36512
instituted contains the allegation that the offense is a second or 36513
repeated offense. 36514

Sec. 3704.035. There is hereby created in the state treasury 36515
the clean air fund. Except as otherwise provided in division (K) 36516
of section 3745.11 of the Revised Code, all moneys collected under 36517
divisions (C), (D), (F), (G), (H), (I), and (J) of that section 36518
and under section 3745.111 of the Revised Code, and any gifts, 36519
grants, or contributions received by the director of environmental 36520
protection for the purposes of the fund, shall be credited to the 36521
fund. The director shall expend moneys from the fund exclusively 36522
to pay the cost of administering and enforcing the laws of this 36523
state pertaining to the prevention, control, and abatement of air 36524
pollution and rules adopted and terms and conditions of permits, 36525
variances, and orders issued under those laws, except that the 36526
director shall not expend moneys credited to the fund for the 36527
administration and enforcement of motor vehicle inspection and 36528
maintenance programs and requirements under sections 3704.14, 36529
3704.141, 3704.16, 3704.161, and 3704.162, ~~and 3704.17~~ of the 36530
Revised Code. 36531

Specifically, the director shall expend all moneys credited 36532
to the fund from fees assessed under section 3745.11 of the 36533
Revised Code pursuant to the Title V permit program established 36534
under section 3704.036 of the Revised Code, and from any gifts, 36535
grants, or contributions received for the purposes of that 36536
program, solely to administer and enforce that program pursuant to 36537
the federal Clean Air Act, this chapter, and rules adopted under 36538
it, except as costs relating to enforcement are limited by the 36539
federal Clean Air Act. The director shall establish separate and 36540
distinct accounting for all such moneys. 36541

The director shall report biennially to the general assembly 36542
the amounts of fees and other moneys credited to the fund under 36543
this section and the amounts expended from it for each of the 36544
various air pollution control programs. 36545

Sec. 3704.14. (A) The director of environmental protection shall continue to implement an enhanced motor vehicle inspection and maintenance program for a period of two years beginning on January 1, 2006, and ending on December 31, 2007, in counties in which a motor vehicle inspection and maintenance program is federally mandated. The program shall be substantially similar to the enhanced program implemented in those counties under a contract that is scheduled to expire on December 31, 2005. The program, at a minimum, shall do all of the following:

(1) Comply with the federal Clean Air Act;

(2) Provide for the extension of a contract for a period of two years, beginning on January 1, 2006, and ending on December 31, 2007, with the contractor who conducted the enhanced motor vehicle inspection and maintenance program in those federally mandated counties pursuant to a contract entered into under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly;

(3) Provide for the issuance of inspection certificates;

(4) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during that period.

(B) The director shall not implement a motor vehicle inspection and maintenance program in any county other than a county in which a motor vehicle inspection and maintenance program is federally mandated.

(C) The director shall adopt rules in accordance with Chapter 119. of the Revised Code that the director determines are necessary to implement this section. The director may continue to

implement and enforce rules pertaining to the enhanced motor 36576
vehicle inspection and maintenance program previously implemented 36577
under former section 3704.14 of the Revised Code as that section 36578
existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of 36579
the 126th general assembly, provided that the rules do not 36580
conflict with this section. 36581

(D) There is hereby created in the state treasury the motor 36582
vehicle inspection and maintenance fund, which shall consist of 36583
money received by the director from any fees for inspections that 36584
are established in rules adopted under this section. The director 36585
shall use money in the fund solely for the implementation, 36586
supervision, administration, operation, and enforcement of the 36587
enhanced motor vehicle inspection and maintenance program 36588
established under this section. 36589

(E) The enhanced motor vehicle inspection and maintenance 36590
program established under this section expires on December 31, 36591
2007, and shall not be continued beyond that date unless otherwise 36592
federally mandated. 36593

Sec. 3704.143. (A) As used in this section, "contract" means 36594
a contract entered into by the state under former section 3704.14 36595
of the Revised Code, as that section existed prior to its repeal 36596
and reenactment by Am. Sub. H.B. 66 of the 126th General Assembly, 36597
with a private contractor for the purpose of conducting emissions 36598
inspections under a motor vehicle inspection and maintenance 36599
program. 36600

(B) ~~Notwithstanding division (D)(5) of~~ Except as authorized 36601
in section 3704.14 of the Revised Code, ~~the director of~~ 36602
~~administrative services or~~ as that section was reenacted by Am. 36603
Sub. H.B. 66 of the 126th General Assembly, the director of 36604
environmental protection, ~~as applicable,~~ shall not renew any 36605
contract that is in existence on September 5, 2001. Further, 36606

~~except as authorized in that section,~~ the director ~~of~~ 36607
~~administrative services or the director of environmental~~ 36608
~~protection, as applicable,~~ shall not enter into a new contract 36609
upon the expiration or termination of any contract that is in 36610
existence on September 5, 2001, or enter into any new contract for 36611
the implementation of a motor vehicle inspection and maintenance 36612
program in a county in which such a program is not operating on 36613
that date. 36614

(C) ~~Notwithstanding~~ Except as authorized in section 3704.14 36615
of the Revised Code ~~or any other section of the Revised Code that~~ 36616
~~requires emissions inspections to be conducted or proof of such~~ 36617
~~inspections to be provided,~~ as that section was reenacted by Am. 36618
Sub. H.B. 66 of the 126th General Assembly, upon the expiration or 36619
termination of all contracts that are in existence on September 5, 36620
2001, the director of environmental protection shall terminate all 36621
motor vehicle inspection and maintenance programs in this state 36622
and shall not implement a new motor vehicle inspection and 36623
maintenance program unless ~~this section is repealed and~~ such a 36624
program is authorized by the general assembly. 36625

(D) ~~Notwithstanding~~ ~~section 3704.14 of the Revised Code or~~ 36626
~~any other section of the Revised Code that requires emissions~~ 36627
~~inspections to be conducted or proof of such inspections to be~~ 36628
~~provided, if~~ If the general assembly authorizes any program for 36629
the inspection of motor vehicle emissions under division (C) of 36630
this section after all contracts for a motor vehicle inspection 36631
and maintenance program that are in existence on September 5, 36632
2001, terminate or expire, a motor vehicle, the legal title to 36633
which has never been transferred by a manufacturer, distributor, 36634
or dealer to an ultimate purchaser as defined in section 4517.01 36635
of the Revised Code, shall be exempt from any emissions 36636
inspections that are required under such a program for a period of 36637
~~five~~ not less than four years commencing on the date when the 36638

first certificate of title to the vehicle was issued on behalf of 36639
the ultimate purchaser under Chapter 4503. of the Revised Code. A 36640
motor vehicle that is exempt from any emissions inspections ~~for a~~ 36641
~~period of five years~~ under this division shall remain exempt 36642
during that ~~five-year~~ period regardless of whether legal title to 36643
the motor vehicle is transferred during that period. 36644

Sec. 3704.144. Gifts, grants, and contributions for the 36645
purpose of adding pollution control equipment to diesel-powered 36646
school buses, including contributions that are made pursuant to 36647
the settlement of an administrative action or civil action that is 36648
brought at the request of the director of environmental protection 36649
pursuant to Chapter 3704., 3714., 3734., 6109., or 6111. of the 36650
Revised Code, shall be credited to the clean diesel school bus 36651
fund, which is hereby created in the state treasury. The director 36652
shall use money credited to the fund to make grants to school 36653
districts in the state for the purpose of adding pollution control 36654
equipment to diesel-powered school buses and to pay the 36655
environmental protection agency's costs incurred in administering 36656
this section. In addition, the director may use money credited to 36657
the fund to make grants to school districts for the purpose of 36658
maintaining pollution control equipment that is installed on 36659
diesel-powered school buses and to pay the additional cost 36660
incurred by a school district for using ultra-low sulfur diesel 36661
fuel instead of diesel fuel for the operation of diesel-powered 36662
school buses. 36663

In making grants under this section, the director shall give 36664
priority to school districts that are located in a county that is 36665
designated as nonattainment by the United States environmental 36666
protection agency for the fine particulate national ambient air 36667
quality standard under the federal Clean Air Act. In addition, the 36668
director may give a higher priority to a school district that 36669
employs additional measures that reduce air pollution from the 36670

district's school bus fleet. 36671

The director shall adopt rules establishing procedures and requirements that are necessary to implement this section, including procedures and requirements governing applications for grants. 36672
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Sec. 3704.99. (A) Whoever recklessly violates division (A), 36676
(B), (C), (D), (E), (F), (G), or (I) of section 3704.05 or 36677
division (B)(5) of section 3704.16 of the Revised Code shall be 36678
fined not more than twenty-five thousand dollars or imprisoned not 36679
more than one year, or both, for each violation. Each day the 36680
violation continues after a conviction for a violation is a 36681
separate offense. 36682

(B) Whoever knowingly violates division (H), (J), or (K) of 36683
section 3704.05 of the Revised Code shall be fined not more than 36684
ten thousand dollars for each day of each such violation. 36685

(C) Whoever violates section 3704.15 ~~or division (B)(1) or~~ 36686
~~(2) or (C)(1) or (2) of section 3704.17~~ of the Revised Code is 36687
guilty of a misdemeanor of the first degree. 36688

(D) Whoever violates division (B)(2) or knowingly violates 36689
division (C)(1) of section 3704.16 of the Revised Code is guilty 36690
of a minor misdemeanor. 36691

(E) Whoever violates division (B)(1) or (3) or knowingly 36692
violates division (C)(2) or (3) of section 3704.16 of the Revised 36693
Code shall be fined not less than five hundred nor more than 36694
twenty-five hundred dollars for each day of each violation. 36695

(F) Whoever recklessly violates division (B)(4) of section 36696
3704.16 of the Revised Code shall be fined not more than 36697
twenty-five thousand dollars or imprisoned not more than one year, 36698
or both, for each violation. Each day the violation continues 36699
after a conviction for a violation is a separate offense. 36700

(G) The sentencing court, in addition to the penalty provided 36701
in divisions (D), (E), and (F) of this section, shall order the 36702
offender to restore within thirty days any emission control system 36703
that was tampered with in connection with the violation or to 36704
provide proof that the motor vehicle whose emission control system 36705
was tampered with has been dismantled or destroyed. The court may 36706
extend that deadline for good cause shown. If the offender does 36707
not take the corrective action ordered under this division, each 36708
day that the violation continues is a separate offense. Violation 36709
of a court order entered under this division is punishable as 36710
contempt under Chapter 2705. of the Revised Code. 36711

Sec. 3705.24. (A)(1) The public health council shall, in 36712
accordance with section 111.15 of the Revised Code, adopt rules 36713
prescribing fees for the following services provided by the state 36714
office of vital statistics: 36715

(a) Except as provided in division (A)(4) of this section: 36716

(i) A certified copy of a vital record or a certification of 36717
birth; 36718

(ii) A search by the office of vital statistics of its files 36719
and records pursuant to a request for information, regardless of 36720
whether a copy of a record is provided; 36721

(iii) A copy of a record provided pursuant to a request; 36722

(b) Replacement of a birth certificate following an adoption, 36723
legitimation, paternity determination or acknowledgement, or court 36724
order; 36725

(c) Filing of a delayed registration of a vital record; 36726

(d) Amendment of a vital record that is requested later than 36727
one year after the filing date of the vital record; 36728

(e) Any other documents or services for which the public 36729

health council considers the charging of a fee appropriate. 36730

(2) Fees prescribed under division (A)(1)(a) of this section 36731
shall not be less than seven dollars. 36732

(3) Fees prescribed under division (A)(1) of this section 36733
shall be collected in addition to any ~~fee~~ fees required by ~~section~~ 36734
sections 3109.14 and 3705.242 of the Revised Code. 36735

(4) Fees prescribed under division (A) of this section shall 36736
not apply to certifications issued under division (H) of this 36737
section or copies provided under section 3705.241 of the Revised 36738
Code. 36739

(B) In addition to the fees prescribed under division (A) of 36740
this section or section 3709.09 of the Revised Code, the office of 36741
vital statistics or the board of health of a city or general 36742
health district shall charge a five-dollar fee for each certified 36743
copy of a vital record and each certification of birth. This fee 36744
shall be deposited in the general operations fund created under 36745
section 3701.83 of the Revised Code and be used solely toward the 36746
modernization and automation of the system of vital records in 36747
this state. A board of health shall forward all fees collected 36748
under this division to the department of health not later than 36749
thirty days after the end of each calendar quarter. 36750

(C) Except as otherwise provided in division (H) of this 36751
section, and except as provided in section 3705.241 of the Revised 36752
Code, fees collected by the director of health under sections 36753
3705.01 to 3705.29 of the Revised Code shall be paid into the 36754
state treasury to the credit of the general operations fund 36755
created by section 3701.83 of the Revised Code. Except as provided 36756
in division (B) of this section, money generated by the fees shall 36757
be used only for administration and enforcement of this chapter 36758
and the rules adopted under it. Amounts submitted to the 36759
department of health for copies of vital records or services in 36760

excess of the fees imposed by this section shall be dealt with as follows: 36761
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(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. 36763
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(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment. 36767
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(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district. 36769
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Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be: 36774
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(1) In primary registration districts of over two hundred fifty thousand, twenty cents; 36783
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(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents; 36785
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(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents; 36788
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(4) In primary registration districts of less than fifty 36790

thousand, one dollar. 36791

(E) The director of health shall annually certify to the 36792
county treasurers of the several counties the number of birth, 36793
fetal death, death, and military service certificates registered 36794
from their respective counties with the names of the local 36795
registrars and the amounts due each registrar and health district 36796
at the rates fixed in this section. Such amounts shall be paid by 36797
the treasurer of the county in which the registration districts 36798
are located. No fees shall be charged or collected by registrars 36799
except as provided by this chapter and section 3109.14 of the 36800
Revised Code. 36801

(F) A probate judge shall be paid a fee of fifteen cents for 36802
each certified abstract of marriage prepared and forwarded by the 36803
probate judge to the department of health pursuant to section 36804
3705.21 of the Revised Code. The fee shall be in addition to the 36805
fee paid for a marriage license and shall be paid by the 36806
applicants for the license. 36807

(G) The clerk of a court of common pleas shall be paid a fee 36808
of one dollar for each certificate of divorce, dissolution, and 36809
annulment of marriage prepared and forwarded by the clerk to the 36810
department pursuant to section 3705.21 of the Revised Code. The 36811
fee for the certified abstract of divorce, dissolution, or 36812
annulment of marriage shall be added to the court costs allowed in 36813
these cases. 36814

(H) The fee for an heirloom certification of birth issued 36815
pursuant to division (B)(2) of section 3705.23 of the Revised Code 36816
shall be an amount prescribed by rule by the director of health 36817
plus any fee required by section 3109.14 of the Revised Code. In 36818
setting the amount of the fee, the director shall establish a 36819
surcharge in addition to an amount necessary to offset the expense 36820
of processing heirloom certifications of birth. The fee prescribed 36821

by the director of health pursuant to this division shall be 36822
deposited into the state treasury to the credit of the heirloom 36823
certification of birth fund which is hereby created. Money 36824
credited to the fund shall be used by the office of vital 36825
statistics to offset the expense of processing heirloom 36826
certifications of birth. However, the money collected for the 36827
surcharge, subject to the approval of the controlling board, shall 36828
be used for the purposes specified by the family and children 36829
first council pursuant to section 121.37 of the Revised Code. 36830

Sec. 3705.242. (A)(1) The director of health, a person 36831
authorized by the director, a local commissioner of health, or a 36832
local registrar of vital statistics shall charge and collect a fee 36833
of one dollar and fifty cents for each certified copy of a birth 36834
record, each certification of birth, and each copy of a death 36835
record. The fee is in addition to the fee imposed by section 36836
3705.24 or any other section of the Revised Code. A local 36837
commissioner of health or local registrar of vital statistics may 36838
retain an amount of each additional fee collected, not to exceed 36839
three per cent of the amount of the additional fee, to be used for 36840
costs directly related to the collection of the fee and the 36841
forwarding of the fee to the treasurer of state. 36842

(2) On the filing of a divorce decree under section 3105.10 36843
or a decree of dissolution under section 3105.65 of the Revised 36844
Code, a court of common pleas shall charge and collect a fee of 36845
five dollars and fifty cents. The fee is in addition to any other 36846
court costs or fees. The county clerk of courts may retain an 36847
amount of each additional fee collected, not to exceed three per 36848
cent of the amount of the additional fee, to be used for costs 36849
directly related to the collection of the fee and the forwarding 36850
of the fee to the treasurer of state. 36851

(B) The additional fees collected, but not retained, under 36852

this section during each month shall be forwarded not later than 36853
the tenth day of the immediately following month to the treasurer 36854
of state, who shall deposit the fees in the state treasury to the 36855
credit of the family violence prevention fund, which is hereby 36856
created. A person or government entity that fails to forward the 36857
fees in a timely manner, as determined by the treasurer of state, 36858
shall forward to the treasurer of state, in addition to the fees, 36859
a penalty equal to ten per cent of the fees. 36860

The treasurer of state shall invest the moneys in the fund. 36861
All earnings resulting from investment of the fund shall be 36862
credited to the fund, except that actual administration costs 36863
incurred by the treasurer of state in administering the fund may 36864
be deducted from the earnings resulting from investments. The 36865
amount that may be deducted shall not exceed three per cent of the 36866
total amount of fees credited to the fund in each fiscal year. The 36867
balance of the investment earnings shall be credited to the fund. 36868

(C) The director of public safety shall use money credited to 36869
the fund to provide grants to family violence shelters in Ohio. 36870

Sec. 3709.29. If the estimated amount of money necessary to 36871
meet the expenses of a general health district program will not be 36872
forthcoming to the board of health of ~~such~~ the district out of the 36873
district health fund because the taxes within the ten-mill 36874
limitation will be insufficient, the board of health shall certify 36875
~~the fact of such~~ that there is an insufficiency of funds for the 36876
program to the board of county commissioners of the county in 36877
which ~~such~~ the district is located. ~~Such~~ The board of county 36878
commissioners is ~~hereby ordained~~ considered to be a special taxing 36879
authority for the purposes of this section only, and, 36880
notwithstanding any other law to the contrary, the board of county 36881
commissioners of any county in which a general health district is 36882
located is the taxing authority for ~~such~~ a special levy under this 36883

section outside the ten-mill limitation. ~~The~~ 36884

Upon receipt of the board of health's certification, the 36885
board of county commissioners ~~shall thereupon~~, in the year 36886
preceding that in which ~~such~~ the general health district program 36887
will be effective, by vote of two-thirds of all the members of 36888
that body, shall declare by resolution that the amount of taxes 36889
~~which that~~ may be raised within the ten-mill limitation will be 36890
insufficient to provide an adequate amount for the necessary 36891
requirements of ~~such~~ the district within the county, and that it 36892
is necessary to levy a tax in excess of ~~such~~ the limitation in 36893
order to provide the board of health with sufficient funds to 36894
carry out ~~such health~~ the program, including its costs of office 36895
space and utilities. ~~Such~~ The resolution shall be filed with the 36896
board of elections not later than four p.m. of the seventy-fifth 36897
day before the day of the relevant primary or general election- 36898

~~Such resolution~~ and shall specify the amount of increase in 36899
rate ~~which that~~ it is necessary to levy and the number of years 36900
during which ~~such~~ the increase ~~shall~~ will be in effect, which 36901
shall not be for a longer period than ten years. The 36902

~~The~~ resolution shall conform to section 5705.191 of the 36903
Revised Code and be certified and submitted in the manner provided 36904
in section 5705.25 of the Revised Code, provided that the proposal 36905
shall be placed on the ballot at the next primary or general 36906
election occurring more than seventy-five days after the 36907
resolution is filed with the board of elections. 36908

Sec. 3709.34. (A) ~~The board of county commissioners or the~~ 36909
legislative authority of any city may furnish suitable quarters 36910
for any board of health or health department having jurisdiction 36911
over all or a major part of ~~such county or that~~ city. 36912

(B)(1) Subject to division (B)(6) of this section, through 36913
fiscal year 2006, the board of county commissioners shall provide 36914

office space and utilities for the board of health having 36915
jurisdiction over the county's general health district. 36916
Thereafter, subject to division (B)(6) of this section, the board 36917
of county commissioners shall make payments as provided in 36918
divisions (B)(2) and (3) of this section for the office space and 36919
utilities until fiscal year 2010. Starting in fiscal year 2010, 36920
the board has no duty to provide office space or utilities, or to 36921
make payments for office space or utilities, for the board of 36922
health of the county's general health district. 36923

(2)(a) Not later than the thirtieth day of September 2006, 36924
2007, and 2008, the board of county commissioners shall make a 36925
written estimate of the total cost for the ensuing fiscal year to 36926
provide office space and utilities to the board of health of the 36927
county's general health district. The estimate of total cost shall 36928
include all of the following: 36929

(i) The total square feet of space to be used by the board of 36930
health; 36931

(ii) The total square feet of any common areas that should be 36932
reasonably allocated to the board of health and the method for 36933
making this allocation; 36934

(iii) The actual cost per square foot for both the space used 36935
by and the common areas allocated to the board of health; 36936

(iv) An explanation of the method used to determine the 36937
actual cost per square foot; 36938

(v) The estimated cost of providing utilities, including an 36939
explanation of how this cost was determined; 36940

(vi) Any other estimated costs the board of county 36941
commissioners anticipates will be incurred to provide office space 36942
and utilities to the board of health, including a detailed 36943
explanation of those costs and the rationale used to determine 36944

them. 36945

(b) The board of county commissioners shall forward a copy of 36946
the estimate of total cost to the director of the board of health 36947
not later than the fifth day of October 2006, 2007, and 2008. The 36948
director shall review the estimate and notify the board of county 36949
commissioners not later than twenty days after its receipt of 36950
either agreement with it or any specific objections to it and the 36951
reasons for the objections. If the director agrees with the 36952
estimate, it shall become the final estimate of total cost. 36953
Failure of the director to make objections to the estimate by the 36954
twentieth day after its receipt shall be deemed to mean that the 36955
director is in agreement with the estimate. 36956

If the director timely provides specific objections to the 36957
board of county commissioners, the board shall review the 36958
objections and may modify the original estimate and send a revised 36959
estimate of total cost to the director within ten days after 36960
receipt of the objections. The director shall respond to a revised 36961
estimate within ten days after its receipt. If the director agrees 36962
with it, the revised estimate shall become the final estimate of 36963
total cost. If the director fails to respond within the ten-day 36964
period, the director shall be deemed to have agreed with the 36965
revised estimate. If the director disagrees with the revised 36966
estimate, the director shall send specific objections to the board 36967
of county commissioners within the ten-day period. 36968

(c) If the director sends specific objections to a revised 36969
estimate within the required time, or if there is no revised 36970
estimate and the director timely objected to the original 36971
estimate, the probate judge of the county shall determine the 36972
final estimate of total cost and certify this amount to the 36973
director and the board of county commissioners before the first 36974
day of January 2007, 2008, or 2009, as applicable. 36975

(3)(a) Subject to division (B)(6) of this section, a board of county commissioners shall be responsible for the following percentages of the final estimate of total cost established by division (B)(2) of this section: 36976
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36978
36979

(i) Sixty per cent for fiscal year 2007; 36980

(ii) Forty per cent for fiscal year 2008; 36981

(iii) Twenty per cent for fiscal year 2009. 36982

(b) In fiscal years 2007, 2008, and 2009, the board of health of the county's general health district shall be responsible for the payment of the remainder of any costs incurred in excess of the amount payable under division (B)(3)(a)(i), (ii), or (iii) of this section, as applicable, for the provision of office space and utilities for the board of health, including any unanticipated or unexpected increases in costs beyond the final estimate of total cost. 36983
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(c) Beginning in fiscal year 2010, the board of county commissioners has no obligation to provide office space or utilities, or to make payments for office space or utilities, for the board of health. 36991
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(4) After fiscal year 2009, the board of county commissioners and the board of health of the county's general health district may enter into a contract for the board of county commissioners to provide office space for the use of the board of health and to provide utilities for that office space. The term of any such contract shall not exceed four years and may be renewed for additional periods not to exceed four years. 36995
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(5) In any fiscal year, notwithstanding any contrary provision of divisions (B)(1) to (4) of this section, the board of county commissioners, in its discretion, may provide office space and utilities for the board of health of the county's general 37002
37003
37004
37005

<u>health district free of charge.</u>	37006
<u>(6) If the board of health of a general health district</u>	37007
<u>rents, leases, lease-purchases, or otherwise acquires office space</u>	37008
<u>to facilitate the performance of its functions, or constructs,</u>	37009
<u>enlarges, renovates, or otherwise modifies buildings or other</u>	37010
<u>structures to provide office space to facilitate the performance</u>	37011
<u>of its functions, the board of county commissioners of the county</u>	37012
<u>served by the general health district has no further obligation</u>	37013
<u>under division (B) of this section to provide office space or</u>	37014
<u>utilities, or to make payments for office space or utilities, for</u>	37015
<u>the board of health, unless the board of county commissioners</u>	37016
<u>enters into a contract under division (B)(4) of this section or</u>	37017
<u>exercises its option under division (B)(5) of this section.</u>	37018
Sec. 3712.03. (A) In accordance with Chapter 119. of the	37019
Revised Code, the public health council shall adopt, and may amend	37020
and rescind, rules:	37021
(1) Providing for the licensing of persons or public agencies	37022
providing hospice care programs within this state by the	37023
department of health and for the suspension and revocation of	37024
licenses;	37025
(2) Establishing a license fee and license renewal fee not to	37026
exceed three hundred dollars. The fees shall cover the three-year	37027
period during which an existing license is valid as provided in	37028
division (B) of section 3712.04 of the Revised Code.	37029
(3) <u>Establishing an inspection fee not to exceed one thousand</u>	37030
<u>seven hundred fifty dollars;</u>	37031
(4) Establishing requirements for hospice care program	37032
facilities and services;	37033
(4) (5) Providing for a waiver of the requirement for the	37034
provision of physical, occupational, or speech or language therapy	37035

contained in division (A)(2) of section 3712.01 of the Revised Code when the requirement would create a hardship because such therapy is not readily available in the geographic area served by the provider of a hospice care program;

~~(5)~~(6) Providing for the granting of licenses to provide hospice care programs to persons and public agencies that are accredited or certified to provide such programs by an entity whose standards for accreditation or certification equal or exceed those provided for licensure under this chapter and rules adopted under it; and

~~(6)~~(7) Establishing interpretive guidelines for each rule.

(B) Subject to the approval of the controlling board, the public health council may establish fees in excess of the amounts provided by sections 3712.01 and 3712.03 to 3712.06 of the Revised Code, provided that the fees do not exceed those amounts by greater than fifty per cent.

(C) The department of health shall:

(1) Grant, suspend, and revoke licenses for hospice care programs in accordance with this chapter and rules adopted under it;

(2) Make such inspections as are necessary to determine whether hospice care program facilities and services meet the requirements of this chapter and rules adopted under it; and

(3) Implement and enforce this chapter and rules adopted under it.

Sec. 3714.07. (A)(1) For the purpose of assisting boards of health and the environmental protection agency in administering and enforcing this chapter and rules adopted under it, there is hereby levied on the disposal of construction and demolition debris at a construction and demolition debris facility that is

licensed under this chapter or at a solid waste facility that is 37066
licensed under Chapter 3734. of the Revised Code a fee of thirty 37067
cents per cubic yard or sixty cents per ton, as applicable. 37068

(2) The owner or operator of a construction and demolition 37069
debris facility or a solid waste facility shall determine if cubic 37070
yards or tons will be used as the unit of measurement. In 37071
estimating the fee based on cubic yards, the owner or operator 37072
shall utilize either the maximum cubic yard capacity of the 37073
container, or the hauling volume of the vehicle, that transports 37074
the construction and demolition debris to the facility or the 37075
cubic yards actually logged for disposal by the owner or operator 37076
in accordance with rules adopted under section 3714.02 of the 37077
Revised Code. If basing the fee on tonnage, the owner or operator 37078
shall use certified scales to determine the tonnage of 37079
construction and demolition debris that is transported to the 37080
facility for disposal. 37081

(3) The owner or operator of a construction and demolition 37082
debris facility or a solid waste facility shall collect the fee 37083
levied under division (A) of this section as a trustee for the 37084
health district having jurisdiction over the facility, if that 37085
district is on the approved list under section 3714.09 of the 37086
Revised Code, or for the state. The owner or operator shall 37087
prepare and file with the appropriate board of health or the 37088
director of environmental protection monthly returns indicating 37089
the total volume or weight, as applicable, of construction and 37090
demolition debris received for disposal at the facility and the 37091
total amount of money required to be collected on the construction 37092
and demolition debris disposed of during that month. Not later 37093
than thirty days after the last day of the month to which the 37094
return applies, the owner or operator shall mail to the board of 37095
health or the director the return for that month together with the 37096
money required to be collected on the construction and demolition 37097

debris disposed of during that month. The owner or operator may
request, in writing, an extension of not more than thirty days
after the last day of the month to which the return applies. A
request for extension may be denied. If the owner or operator
submits the money late, the owner or operator shall pay a penalty
of ten per cent of the amount of the money due for each month that
it is late.

(4) Of the money that is collected from a construction and
demolition debris facility or a solid waste facility on a per
cubic yard or per ton basis under this section, a board of health
shall transmit three cents per cubic yard or six cents per ton, as
applicable, to the director not later than forty-five days after
the receipt of the money. The money retained by a board of health
under this section shall be paid into a special fund, which is
hereby created in each health district, and used solely to
administer and enforce this chapter and rules adopted under it.

The director shall transmit all money received from the
boards of health of health districts under this section and all
money from the disposal fee collected by the director under this
section to the treasurer of state to be credited to the
construction and demolition debris facility oversight fund, which
is hereby created in the state treasury. The fund shall be
administered by the director, and money credited to the fund shall
be used exclusively for the administration and enforcement of this
chapter and rules adopted under it.

(B) The board of health of a health district or the director
may enter into an agreement with the owner or operator of a
construction and demolition debris facility or a solid waste
facility for the quarterly payment of the money collected from the
disposal fee. The board of health shall notify the director of any
such agreement. Not later than forty-five days after receipt of
the quarterly payment, the board of health shall transmit the

amount established in division (A)~~(5)~~(4) of this section to the 37130
director. The money retained by the board of health shall be 37131
deposited in the special fund of the district as required under 37132
that division. Upon receipt of the money from a board of health, 37133
the director shall transmit the money to the treasurer of state to 37134
be credited to the construction and demolition debris facility 37135
oversight fund. 37136

(C) If a construction and demolition debris facility or a 37137
solid waste facility is located within the territorial boundaries 37138
of a municipal corporation or the unincorporated area of a 37139
township, the municipal corporation or township may appropriate up 37140
to four cents per cubic yard or up to eight cents per ton of the 37141
disposal fee required to be paid by the facility under division 37142
(A) of this section for the same purposes that a municipal 37143
corporation or township may levy a fee under division (C) of 37144
section 3734.57 of the Revised Code. 37145

The legislative authority of the municipal corporation or 37146
township may appropriate the money from the fee by enacting an 37147
ordinance or adopting a resolution establishing the amount of the 37148
fee to be appropriated. Upon doing so, the legislative authority 37149
shall mail a certified copy of the ordinance or resolution to the 37150
board of health of the health district in which the construction 37151
and demolition debris facility or the solid waste facility is 37152
located or, if the facility is located in a health district that 37153
is not on the approved list under section 3714.09 of the Revised 37154
Code, to the director. Upon receipt of the copy of the ordinance 37155
or resolution and not later than forty-five days after receipt of 37156
money collected from the fee, the board or the director, as 37157
applicable, shall transmit to the treasurer or other appropriate 37158
officer of the municipal corporation or clerk of the township that 37159
portion of the money collected from the disposal fee by the owner 37160
or operator of the facility that is required by the ordinance or 37161

resolution to be paid to that municipal corporation or township. 37162

Money received by the treasurer or other appropriate officer 37163
of a municipal corporation under this division shall be paid into 37164
the general fund of the municipal corporation. Money received by 37165
the clerk of a township under this division shall be paid into the 37166
general fund of the township. The treasurer or other officer of 37167
the municipal corporation or the clerk of the township, as 37168
appropriate, shall maintain separate records of the money received 37169
under this division. 37170

The legislative authority of a municipal corporation or 37171
township may cease collecting money under this division by 37172
repealing the ordinance or resolution that was enacted or adopted 37173
under this division. 37174

(D) The board of county commissioners of a county in which a 37175
construction and demolition debris facility or a solid waste 37176
facility is located may appropriate up to three cents per cubic 37177
yard or up to six cents per ton of the disposal fee required to be 37178
paid by the facility under division (A) of this section for the 37179
same purposes that a solid waste management district may levy a 37180
fee under division (B) of section 3734.57 of the Revised Code. 37181

The board of county commissioners may appropriate the money 37182
from the fee by adopting a resolution establishing the amount of 37183
the fee to be appropriated. Upon doing so, the board of county 37184
commissioners shall mail a certified copy of the resolution to the 37185
board of health of the health district in which the construction 37186
and demolition debris facility or the solid waste facility is 37187
located or, if the facility is located in a health district that 37188
is not on the approved list under section 3714.09 of the Revised 37189
Code, to the director. Upon receipt of the copy of the resolution 37190
and not later than forty-five days after receipt of money 37191
collected from the fee, the board of health or the director, as 37192

applicable, shall transmit to the treasurer of the county that 37193
portion of the money collected from the disposal fee by the owner 37194
or operator of the facility that is required by the resolution to 37195
be paid to that county. 37196

Money received by a county treasurer under this division 37197
shall be paid into the general fund of the county. The county 37198
treasurer shall maintain separate records of the money received 37199
under this division. 37200

A board of county commissioners may cease collecting money 37201
under this division by repealing the resolution that was adopted 37202
under this division. 37203

(E)(1) This section does not apply to the disposal of 37204
construction and demolition debris at a solid waste facility that 37205
is licensed under Chapter 3734. of the Revised Code if there is no 37206
construction and demolition debris facility licensed under this 37207
chapter within ~~forty~~ thirty-five miles of the solid waste facility 37208
as determined by a facility's property boundaries. 37209

(2) This section does not apply to the disposal of 37210
construction and demolition debris at a solid waste facility that 37211
is licensed under Chapter 3734. of the Revised Code if the owner 37212
or operator of the facility chooses to collect fees on the 37213
disposal of the construction and demolition debris that are 37214
identical to the fees that are collected under Chapters 343. and 37215
3734. of the Revised Code on the disposal of solid wastes at that 37216
facility. 37217

(3) This section does not apply to the disposal of source 37218
separated materials that are exclusively composed of reinforced or 37219
nonreinforced concrete, asphalt, clay tile, building or paving 37220
brick, or building or paving stone at a construction and 37221
demolition debris facility that is licensed under this chapter 37222
when either of the following applies: 37223

(a) The materials are placed within the limits of 37224
construction and demolition debris placement at the facility as 37225
specified in the license issued to the facility under section 37226
3714.06 of the Revised Code, are not placed within the unloading 37227
zone of the facility, and are used as a fire prevention measure in 37228
accordance with rules adopted by the director under section 37229
3714.02 of the Revised Code. 37230

(b) The materials are not placed within the unloading zone of 37231
the facility or within the limits of construction and demolition 37232
debris placement at the facility as specified in the license 37233
issued to the facility under section 3714.06 of the Revised Code, 37234
but are used as fill material, either alone or in conjunction with 37235
clean soil, sand, gravel, or other clean aggregates, in legitimate 37236
fill operations for construction purposes at the facility or to 37237
bring the facility up to a consistent grade. 37238

Sec. 3714.073. (A) In addition to the fee levied under 37239
division (A)(1) of section 3714.07 of the Revised Code, beginning 37240
July 1, 2005, there is hereby levied on the disposal of 37241
construction and demolition debris at a construction and 37242
demolition debris facility that is licensed under this chapter or 37243
at a solid waste facility that is licensed under Chapter 3734. of 37244
the Revised Code the following fees: 37245

(1) A fee of twelve and one-half cents per cubic yard or 37246
twenty-five cents per ton, as applicable, the proceeds of which 37247
shall be deposited in the state treasury to the credit of the soil 37248
and water conservation district assistance fund created in section 37249
1515.14 of the Revised Code; 37250

(2) A fee of thirty seven and one-half cents per cubic yard 37251
or seventy-five cents per ton, as applicable, the proceeds of 37252
which shall be deposited in the state treasury to the credit of 37253
the recycling and litter prevention fund created in section 37254

<u>1502.02 of the Revised Code.</u>	37255
<u>(B) The owner or operator of a construction and demolition debris facility or a solid waste facility, as a trustee of the state, shall collect the fees levied under this section and remit the money from the fees in the manner that is established in divisions (A)(2) and (3) of section 3714.07 of the Revised Code for the fee that is levied under division (A)(1) of that section.</u>	37256 37257 37258 37259 37260 37261
<u>(C) The money that is collected from a construction and demolition debris facility or a solid waste facility and remitted to a board of health or the director of environmental protection, as applicable, pursuant to this section shall be transmitted by the board or director to the treasurer of state to be credited to the soil and water conservation district assistance fund or the recycling and litter prevention fund, as applicable.</u>	37262 37263 37264 37265 37266 37267 37268
<u>(D) This section does not apply to the disposal of construction and demolition debris at a solid waste facility that is licensed under Chapter 3734. of the Revised Code if the owner or operator of the facility chooses to collect fees on the disposal of the construction and demolition debris that are identical to the fees that are collected under Chapters 343. and 3734. of the Revised Code on the disposal of solid wastes at that facility.</u>	37269 37270 37271 37272 37273 37274 37275 37276
<u>Sec. 3715.04. (A) As used in this section:</u>	37277
<u>(1) "Certificate of health and freesale" means a document issued by the director of agriculture that certifies to states and countries receiving products that the products have been produced and warehoused in this state under sanitary conditions at a food processing establishment or at a place of business of a manufacturer of over-the-counter drugs or cosmetics, as applicable, that has been inspected by the department of</u>	37278 37279 37280 37281 37282 37283 37284

agriculture. Other names of documents that are synonymous with 37285
"certificate of health and freesale" include, but are not limited 37286
to, "sanitary certificate of health and freesale"; "certificate of 37287
origin"; "certificate of freesale"; "certificate of health and 37288
origin"; "certificate of freesale, sanitary and purity"; and 37289
"certificate of freesale, health and origin." 37290

(2) "Food processing establishment" has the same meaning as 37291
in section 3715.021 of the Revised Code. 37292

(B) Upon the request of a food processing establishment, 37293
manufacturer of over-the-counter drugs, or manufacturer of 37294
cosmetics, the director may issue a certificate of health and 37295
freesale after determining that conditions at the establishment or 37296
place of business of the manufacturer, as applicable, have been 37297
found to be sanitary through an inspection conducted pursuant to 37298
this chapter. For each certificate issued, the director shall 37299
charge the establishment or manufacturer a fee in the amount of 37300
twenty dollars. The director shall deposit all fees collected 37301
under this section to the credit of the food safety fund created 37302
in section 915.24 of the Revised Code. 37303

Sec. 3721.01. (A) As used in sections 3721.01 to 3721.09 and 3721.99 of the Revised Code: 37304
37305

(1)(a) "Home" means an institution, residence, or facility 37306
that provides, for a period of more than twenty-four hours, 37307
whether for a consideration or not, accommodations to three or 37308
more unrelated individuals who are dependent upon the services of 37309
others, including a nursing home, residential care facility, home 37310
for the aging, and a veterans' home operated under Chapter 5907. 37311
of the Revised Code. 37312

(b) "Home" also means both of the following: 37313

(i) Any facility that a person, as defined in section 3702.51 37314

of the Revised Code, proposes for certification as a skilled 37315
nursing facility or nursing facility under Title XVIII or XIX of 37316
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 37317
as amended, and for which a certificate of need, other than a 37318
certificate to recategorize hospital beds as described in section 37319
3702.522 of the Revised Code or division (R)(7)(d) of the version 37320
of section 3702.51 of the Revised Code in effect immediately prior 37321
to April 20, 1995, has been granted to the person under sections 37322
3702.51 to 3702.62 of the Revised Code after August 5, 1989; 37323

(ii) A county home or district home that is or has been 37324
licensed as a residential care facility. 37325

(c) "Home" does not mean any of the following: 37326

(i) Except as provided in division (A)(1)(b) of this section, 37327
a public hospital or hospital as defined in section 3701.01 or 37328
5122.01 of the Revised Code; 37329

(ii) A residential facility for mentally ill persons as 37330
defined under section 5119.22 of the Revised Code; 37331

(iii) A residential facility as defined in section 5123.19 of 37332
the Revised Code; 37333

(iv) ~~A habilitation center as defined in section 5123.041 of~~ 37334
~~the Revised Code;~~ 37335

~~(v)~~ A community alternative home as defined in section 37336
3724.01 of the Revised Code; 37337

~~(vi)~~(v) An adult care facility as defined in section 3722.01 37338
of the Revised Code; 37339

~~(vii)~~(vi) An alcohol or drug addiction program as defined in 37340
section 3793.01 of the Revised Code; 37341

~~(viii)~~(vii) A facility licensed to provide methadone 37342
treatment under section 3793.11 of the Revised Code; 37343

~~(ix)~~(viii) A facility providing services under contract with the department of mental retardation and developmental disabilities under section 5123.18 of the Revised Code;

~~(x)~~(ix) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice patients;

~~(xi)~~(x) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;

~~(xii)~~(xi) A county home or district home that has never been licensed as a residential care facility.

(2) "Unrelated individual" means one who is not related to the owner or operator of a home or to the spouse of the owner or operator as a parent, grandparent, child, grandchild, brother, sister, niece, nephew, aunt, uncle, or as the child of an aunt or uncle.

(3) "Mental impairment" does not mean mental illness as defined in section 5122.01 of the Revised Code or mental retardation as defined in section 5123.01 of the Revised Code.

(4) "Skilled nursing care" means procedures that require technical skills and knowledge beyond those the untrained person possesses and that are commonly employed in providing for the physical, mental, and emotional needs of the ill or otherwise incapacitated. "Skilled nursing care" includes, but is not limited

to, the following:	37375
(a) Irrigations, catheterizations, application of dressings, and supervision of special diets;	37376 37377
(b) Objective observation of changes in the patient's condition as a means of analyzing and determining the nursing care required and the need for further medical diagnosis and treatment;	37378 37379 37380
(c) Special procedures contributing to rehabilitation;	37381
(d) Administration of medication by any method ordered by a physician, such as hypodermically, rectally, or orally, including observation of the patient after receipt of the medication;	37382 37383 37384
(e) Carrying out other treatments prescribed by the physician that involve a similar level of complexity and skill in administration.	37385 37386 37387
(5)(a) "Personal care services" means services including, but not limited to, the following:	37388 37389
(i) Assisting residents with activities of daily living;	37390
(ii) Assisting residents with self-administration of medication, in accordance with rules adopted under section 3721.04 of the Revised Code;	37391 37392 37393
(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted under section 3721.04 of the Revised Code.	37394 37395 37396 37397
(b) "Personal care services" does not include "skilled nursing care" as defined in division (A)(4) of this section. A facility need not provide more than one of the services listed in division (A)(5)(a) of this section to be considered to be providing personal care services.	37398 37399 37400 37401 37402
(6) "Nursing home" means a home used for the reception and	37403

care of individuals who by reason of illness or physical or mental 37404
impairment require skilled nursing care and of individuals who 37405
require personal care services but not skilled nursing care. A 37406
nursing home is licensed to provide personal care services and 37407
skilled nursing care. 37408

(7) "Residential care facility" means a home that provides 37409
either of the following: 37410

(a) Accommodations for seventeen or more unrelated 37411
individuals and supervision and personal care services for three 37412
or more of those individuals who are dependent on the services of 37413
others by reason of age or physical or mental impairment; 37414

(b) Accommodations for three or more unrelated individuals, 37415
supervision and personal care services for at least three of those 37416
individuals who are dependent on the services of others by reason 37417
of age or physical or mental impairment, and, to at least one of 37418
those individuals, any of the skilled nursing care authorized by 37419
section 3721.011 of the Revised Code. 37420

(8) "Home for the aging" means a home that provides services 37421
as a residential care facility and a nursing home, except that the 37422
home provides its services only to individuals who are dependent 37423
on the services of others by reason of both age and physical or 37424
mental impairment. 37425

The part or unit of a home for the aging that provides 37426
services only as a residential care facility is licensed as a 37427
residential care facility. The part or unit that may provide 37428
skilled nursing care beyond the extent authorized by section 37429
3721.011 of the Revised Code is licensed as a nursing home. 37430

(9) "County home" and "district home" mean a county home or 37431
district home operated under Chapter 5155. of the Revised Code. 37432

(B) The public health council may further classify homes. For 37433

the purposes of this chapter, any residence, institution, hotel, 37434
congregate housing project, or similar facility that meets the 37435
definition of a home under this section is such a home regardless 37436
of how the facility holds itself out to the public. 37437

(C) For purposes of this chapter, personal care services or 37438
skilled nursing care shall be considered to be provided by a 37439
facility if they are provided by a person employed by or 37440
associated with the facility or by another person pursuant to an 37441
agreement to which neither the resident who receives the services 37442
nor the resident's sponsor is a party. 37443

(D) Nothing in division (A)(4) of this section shall be 37444
construed to permit skilled nursing care to be imposed on an 37445
individual who does not require skilled nursing care. 37446

Nothing in division (A)(5) of this section shall be construed 37447
to permit personal care services to be imposed on an individual 37448
who is capable of performing the activity in question without 37449
assistance. 37450

(E) Division (A)(1)(c)~~(xi)~~(x) of this section does not 37451
prohibit a facility, infirmary, or other entity described in that 37452
division from seeking licensure under sections 3721.01 to 3721.09 37453
of the Revised Code or certification under Title XVIII or XIX of 37454
the "Social Security Act." However, such a facility, infirmary, or 37455
entity that applies for licensure or certification must meet the 37456
requirements of those sections or titles and the rules adopted 37457
under them and obtain a certificate of need from the director of 37458
health under section 3702.52 of the Revised Code. 37459

(F) Nothing in this chapter, or rules adopted pursuant to it, 37460
shall be construed as authorizing the supervision, regulation, or 37461
control of the spiritual care or treatment of residents or 37462
patients in any home who rely upon treatment by prayer or 37463
spiritual means in accordance with the creed or tenets of any 37464

recognized church or religious denomination. 37465

Sec. 3721.011. (A) In addition to providing accommodations, 37466
supervision, and personal care services to its residents, a 37467
residential care facility may provide skilled nursing care as 37468
follows: 37469

(1) Supervision of special diets; 37470

(2) Application of dressings, in accordance with rules 37471
adopted under section 3721.04 of the Revised Code; 37472

(3) Providing for the administration of medication to 37473
residents, to the extent authorized under division (B)(1) of this 37474
section; 37475

(4) Other skilled nursing care provided on a part-time, 37476
intermittent basis pursuant to division (C) of this section. 37477

A residential care facility may not admit or retain an 37478
individual requiring skilled nursing care that is not authorized 37479
by this section. A residential care facility may not provide 37480
skilled nursing care beyond the limits established by this 37481
section. 37482

(B)(1) A residential care facility may admit or retain an 37483
individual requiring medication, including biologicals, only if 37484
the individual's personal physician has determined in writing that 37485
the individual is capable of self-administering the medication or 37486
the facility provides for the medication to be administered to the 37487
individual by a home health agency certified under Title XVIII of 37488
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 37489
as amended; a hospice care program licensed under Chapter 3712. of 37490
the Revised Code; or a member of the staff of the residential care 37491
facility who is qualified to perform medication administration. 37492
Medication may be administered in a residential care facility only 37493
by the following persons authorized by law to administer 37494

medication:	37495
(a) A registered nurse licensed under Chapter 4723. of the Revised Code;	37496 37497
(b) A licensed practical nurse licensed under Chapter 4723. of the Revised Code who holds proof of successful completion of a course in medication administration approved by the board of nursing and who administers the medication only at the direction of a registered nurse or a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;	37498 37499 37500 37501 37502 37503 37504
(c) <u>A medication aide certified under Chapter 4723. of the Revised Code;</u>	37505 37506
(d) <u>A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.</u>	37507 37508 37509
(2) In assisting a resident with self-administration of medication, any member of the staff of a residential care facility may do the following:	37510 37511 37512
(a) Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;	37513 37514
(b) Assist a resident by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to section 3721.04 of the Revised Code, and handing it to the resident. If the resident is physically unable to open the container, a staff member may open the container for the resident.	37515 37516 37517 37518 37519
(c) Assist a physically impaired but mentally alert resident, such as a resident with arthritis, cerebral palsy, or Parkinson's disease, in removing oral or topical medication from containers and in consuming or applying the medication, upon request by or with the consent of the resident. If a resident is physically	37520 37521 37522 37523 37524

unable to place a dose of medicine to the resident's mouth without 37525
spilling it, a staff member may place the dose in a container and 37526
place the container to the mouth of the resident. 37527

(C) A residential care facility may admit or retain 37528
individuals who require skilled nursing care beyond the 37529
supervision of special diets, application of dressings, or 37530
administration of medication, only if the care will be provided on 37531
a part-time, intermittent basis for not more than a total of one 37532
hundred twenty days in any twelve-month period. In accordance with 37533
Chapter 119. of the Revised Code, the public health council shall 37534
adopt rules specifying what constitutes the need for skilled 37535
nursing care on a part-time, intermittent basis. The council shall 37536
adopt rules that are consistent with rules pertaining to home 37537
health care adopted by the director of job and family services for 37538
the medical assistance program established under Chapter 5111. of 37539
the Revised Code. Skilled nursing care provided pursuant to this 37540
division may be provided by a home health agency certified under 37541
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 37542
U.S.C.A. 301, as amended, a hospice care program licensed under 37543
Chapter 3712. of the Revised Code, or a member of the staff of a 37544
residential care facility who is qualified to perform skilled 37545
nursing care. 37546

A residential care facility that provides skilled nursing 37547
care pursuant to this division shall do both of the following: 37548

(1) Evaluate each resident receiving the skilled nursing care 37549
at least once every seven days to determine whether the resident 37550
should be transferred to a nursing home; 37551

(2) Meet the skilled nursing care needs of each resident 37552
receiving the care. 37553

(D) Notwithstanding any other provision of this chapter, a 37554
residential care facility in which residents receive skilled 37555

nursing care pursuant to this section is not a nursing home. 37556

Sec. 3721.02. (A) The director of health shall license homes 37557
and establish procedures to be followed in inspecting and 37558
licensing homes. The director may inspect a home at any time. Each 37559
home shall be inspected by the director at least once prior to the 37560
issuance of a license and at least once every fifteen months 37561
thereafter. The state fire marshal or a township, municipal, or 37562
other legally constituted fire department approved by the marshal 37563
shall also inspect a home prior to issuance of a license, at least 37564
once every fifteen months thereafter, and at any other time 37565
requested by the director. A home does not have to be inspected 37566
prior to issuance of a license by the director, state fire 37567
marshal, or a fire department if ownership of the home is assigned 37568
or transferred to a different person and the home was licensed 37569
under this chapter immediately prior to the assignment or 37570
transfer. The director may enter at any time, for the purposes of 37571
investigation, any institution, residence, facility, or other 37572
structure that has been reported to the director or that the 37573
director has reasonable cause to believe is operating as a nursing 37574
home, residential care facility, or home for the aging without a 37575
valid license required by section 3721.05 of the Revised Code or, 37576
in the case of a county home or district home, is operating 37577
despite the revocation of its residential care facility license. 37578
The director may delegate the director's authority and duties 37579
under this chapter to any division, bureau, agency, or official of 37580
the department of health. 37581

(B) A single facility may be licensed both as a nursing home 37582
pursuant to this chapter and as an adult care facility pursuant to 37583
Chapter 3722. of the Revised Code if the director determines that 37584
the part or unit to be licensed as a nursing home can be 37585
maintained separate and discrete from the part or unit to be 37586

licensed as an adult care facility. 37587

(C) In determining the number of residents in a home for the 37588
purpose of licensing, the director shall consider all the 37589
individuals for whom the home provides accommodations as one group 37590
unless one of the following is the case: 37591

(1) The home is a home for the aging, in which case all the 37592
individuals in the part or unit licensed as a nursing home shall 37593
be considered as one group, and all the individuals in the part or 37594
unit licensed as a rest home shall be considered as another group. 37595

(2) The home is both a nursing home and an adult care 37596
facility. In that case, all the individuals in the part or unit 37597
licensed as a nursing home shall be considered as one group, and 37598
all the individuals in the part or unit licensed as an adult care 37599
facility shall be considered as another group. 37600

(3) The home maintains, in addition to a nursing home or 37601
residential care facility, a separate and discrete part or unit 37602
that provides accommodations to individuals who do not require or 37603
receive skilled nursing care and do not receive personal care 37604
services from the home, in which case the individuals in the 37605
separate and discrete part or unit shall not be considered in 37606
determining the number of residents in the home if the separate 37607
and discrete part or unit is in compliance with the Ohio basic 37608
building code established by the board of building standards under 37609
Chapters 3781. and 3791. of the Revised Code and the home permits 37610
the director, on request, to inspect the separate and discrete 37611
part or unit and speak with the individuals residing there, if 37612
they consent, to determine whether the separate and discrete part 37613
or unit meets the requirements of this division. 37614

(D) The director of health shall charge an application fee 37615
and an annual renewal licensing and inspection fee of one hundred 37616
~~five~~ seventy dollars for each fifty persons or part thereof of a 37617

home's licensed capacity. All fees collected by the director for 37618
the issuance or renewal of licenses shall be deposited into the 37619
state treasury to the credit of the general operations fund 37620
created in section 3701.83 of the Revised Code for use only in 37621
administering and enforcing this chapter and rules adopted under 37622
it. 37623

(E)(1) Except as otherwise provided in this section, the 37624
results of an inspection or investigation of a home that is 37625
conducted under this section, including any statement of 37626
deficiencies and all findings and deficiencies cited in the 37627
statement on the basis of the inspection or investigation, shall 37628
be used solely to determine the home's compliance with this 37629
chapter or another chapter of the Revised Code in any action or 37630
proceeding other than an action commenced under division (I) of 37631
section 3721.17 of the Revised Code. Those results of an 37632
inspection or investigation, that statement of deficiencies, and 37633
the findings and deficiencies cited in that statement shall not be 37634
used in any court or in any action or proceeding that is pending 37635
in any court and are not admissible in evidence in any action or 37636
proceeding unless that action or proceeding is an appeal of an 37637
action by the department of health under this chapter or is an 37638
action by any department or agency of the state to enforce this 37639
chapter or another chapter of the Revised Code. 37640

(2) Nothing in division (E)(1) of this section prohibits the 37641
results of an inspection or investigation conducted under this 37642
section from being used in a criminal investigation or 37643
prosecution. 37644

Sec. 3721.03. The (A) As used in this section, "person" has 37645
the same meaning as in section 1.59 of the Revised Code. 37646

(B) The director of health shall enforce the provisions of 37647
sections 3721.01 to ~~3721.09~~ 3721.13 and 3721.99 of the Revised 37648

Code and may issue orders to secure compliance with the provisions 37649
of these sections and the rules adopted under them. The director 37650
may hold hearings, issue subpoenas, compel testimony, and make 37651
adjudications. ~~In~~ 37652

The director may issue an order revoking a license in the 37653
event the director finds, upon hearing or opportunity afforded 37654
~~therefor pursuant to Chapter 119. of the Revised Code~~, that any of 37655
the following apply to a person, firm, partnership, association, 37656
~~corporation~~, county home, or district home licensed under section 37657
3721.07 of the Revised Code ~~is in violation of:~~ 37658

(1) Has violated any of the provisions of Chapter 3721. of 37659
the Revised Code or rules adopted by the public health council 37660
under it; ~~is in violation of~~ 37661

(2) Has violated any order issued by the director; ~~is~~ 37662

(3) Is not, or any of its principals are not suitable, 37663
morally or financially to operate such an institution; ~~or is~~ 37664

(4) Is not furnishing humane, kind, and adequate treatment 37665
and care, ~~the director may issue an order revoking the license~~
~~previously issued by the director;~~ 37666
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(5) Has had a long-standing pattern of violations of this 37668
chapter or the rules adopted under it that has caused physical, 37669
emotional, mental, or psychosocial harm to one or more residents. 37670
~~Upon~~ 37671

Upon the issuance of any order of revocation, the person 37672
whose license is revoked, or the county home or district home that 37673
has its license revoked, may appeal in accordance with Chapter 37674
119. of the Revised Code. 37675

~~The state fire marshal shall enforce all statutes and rules~~ 37676
~~pertaining to fire safety in homes and shall adopt rules~~ 37677
~~pertaining to fire safety in homes as the marshal determines~~ 37678

necessary. The rules adopted by the marshal shall be in addition 37679
to those fire safety rules that the board of building standards 37680
and the public health council are empowered to adopt and shall be 37681
adopted prior to December 31, 1972. In the event of a dispute 37682
between the marshal and another officer having responsibilities 37683
under sections 3721.01 to 3721.09 of the Revised Code with respect 37684
to the interpretation or application of a specific fire safety 37685
statute or rule, the interpretation of the marshal shall prevail. 37686

If the ownership of a home is assigned or transferred to a 37687
different person, the new owner is responsible and liable for 37688
compliance with any notice of proposed action or order issued 37689
under this section in accordance with Chapter 119. of the Revised 37690
Code prior to the effective date of the assignment or transfer (C) 37691
Once the director notifies a person, county home, or district home 37692
licensed to operate a home that the license may be revoked or 37693
issues any order under this section, the person, county home, or 37694
district home shall not assign or transfer to another person or 37695
entity the right to operate the home. This prohibition shall 37696
remain in effect until proceedings under Chapter 119. of the 37697
Revised Code concerning the order or license revocation have been 37698
concluded or the director notifies the person, county home, or 37699
district home that the prohibition has been lifted. 37700

If a license is revoked under this section, the former 37701
license holder shall not assign or transfer or consent to 37702
assignment or transfer of the right to operate the home. Any 37703
attempted assignment or transfer to another person or entity is 37704
void. 37705

On revocation of a license, the former licensee shall take 37706
all necessary steps to cease operation of the home. 37707

The director of health shall not accept a certificate of need 37708
application under section 3702.52 of the Revised Code regarding a 37709

home if the license to operate the home has been revoked under 37710
this section. 37711

Sec. 3721.032. The state fire marshal shall enforce all 37712
statutes and rules pertaining to fire safety in homes and shall 37713
adopt rules pertaining to fire safety in homes as the marshal 37714
determines necessary. The rules adopted by the marshal shall be in 37715
addition to those fire safety rules that the board of building 37716
standards and the public health council are empowered to adopt. In 37717
the event of a dispute between the marshal and another officer 37718
having responsibilities under sections 3721.01 to 3721.09 of the 37719
Revised Code with respect to the interpretation or application of 37720
a specific fire safety statute or rule, the interpretation of the 37721
marshal shall prevail. 37722

Sec. 3721.07. Every person desiring to operate a home and the 37723
superintendent or administrator of each county home or district 37724
home for which a license as a residential care facility is sought 37725
shall apply for a license to the director of health. The director 37726
shall issue a license for the home, if after investigation of the 37727
applicant and, if required by section 3721.02 of the Revised Code, 37728
inspection of the home, the following requirements or conditions 37729
are satisfied or complied with: 37730

(A) The applicant has not been convicted of a felony or a 37731
crime involving moral turpitude; 37732

(B) The applicant is not violating any of the rules made by 37733
the public health council or any order issued by the director of 37734
health; 37735

(C) The applicant has not had a license to operate the home 37736
revoked pursuant to section 3721.03 of the Revised Code because of 37737
any act or omission that jeopardized a resident's health, welfare, 37738
or safety nor has the applicant had a long-standing pattern of 37739

violations of this chapter or rules adopted under it that caused 37740
physical, emotional, mental, or psychosocial harm to one or more 37741
residents. 37742

(D) The buildings in which the home is housed have been 37743
approved by the state fire marshal or a township, municipal, or 37744
other legally constituted fire department approved by the marshal. 37745
In the approval of a home such agencies shall apply standards 37746
prescribed by the board of building standards, and by the state 37747
fire marshal, and by section 3721.071 of the Revised Code. 37748

~~(D)~~(E) The applicant, if it is an individual, or the 37749
principal participants, if it is an association or a corporation, 37750
is or are suitable financially and morally to operate a home; 37751

~~(E)~~(F) The applicant is equipped to furnish humane, kind, and 37752
adequate treatment and care; 37753

~~(F)~~(G) The home does not maintain or contain: 37754

(1) Facilities for the performance of major surgical 37755
procedures; 37756

(2) Facilities for providing therapeutic radiation; 37757

(3) An emergency ward; 37758

(4) A clinical laboratory unless it is under the supervision 37759
of a clinical pathologist who is a licensed physician in this 37760
state; 37761

(5) Facilities for radiological examinations unless such 37762
examinations are performed only by a person licensed to practice 37763
medicine, surgery, or dentistry in this state. 37764

~~(G)~~(H) The home does not accept or treat outpatients, except 37765
upon the written orders of a physician licensed in this state, 37766
maternity cases, boarding children, and does not house transient 37767
guests, other than participants in an adult day-care program, for 37768
twenty-four hours or less; 37769

~~(H)~~(I) The home is in compliance with sections 3721.28 and 3721.29 of the Revised Code. 37770
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When the director issues a license, the license shall remain in effect until revoked by the director or voided at the request of the applicant; provided, there shall be an annual renewal fee payable during the month of January of each calendar year. Any licensed home that does not pay its renewal fee in January shall pay, beginning the first day of February, a late fee of one hundred dollars for each week or part thereof that the renewal fee is not paid. If either the renewal fee or the late fee is not paid by the fifteenth day of February, the director may, in accordance with Chapter 119. of the Revised Code, revoke the home's license. 37772
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If, under division (B)(5) of section 3721.03 of the Revised Code, the license of a person has been revoked or the license of a county home or district home to operate as a residential care facility has been revoked, the director of health shall not issue a license to the person or home at any time. A person whose license is revoked, and a county home or district home that has its license as a residential care facility revoked other than under division (B)(5) of section 3721.03 of the Revised Code, for any reason other than nonpayment of the license renewal fee or late fees ~~may shall not apply for~~ be issued a new license under this chapter until a period of one year following the date of revocation has elapsed. 37782
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Any applicant who is denied a license may appeal in accordance with Chapter 119. of the Revised Code. 37794
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Sec. 3721.15. (A) Authorization from a resident or a sponsor with a power of attorney for a home to manage the resident's financial affairs shall be in writing and shall be attested to by a witness who is not connected in any manner whatsoever with the home or its administrator. The home shall maintain accounts 37796
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pursuant to division (A)(27) of section 3721.13 of the Revised Code. Upon the resident's transfer, discharge, or death, the account shall be closed and a final accounting made. All remaining funds shall be returned to the resident or resident's sponsor, except in the case of death, when all remaining funds shall be transferred or used in accordance with section ~~5111.112~~ 5111.113 of the Revised Code.

(B) A home that manages a resident's financial affairs shall deposit the resident's funds in excess of one hundred dollars, and may deposit the resident's funds that are one hundred dollars or less, in an interest-bearing account separate from any of the home's operating accounts. Interest earned on the resident's funds shall be credited to the resident's account. A resident's funds that are one hundred dollars or less and have not been deposited in an interest-bearing account may be deposited in a noninterest-bearing account or petty cash fund.

(C) Each resident whose financial affairs are managed by a home shall be promptly notified by the home when the total of the amount of funds in the resident's accounts and the petty cash fund plus other nonexempt resources reaches two hundred dollars less than the maximum amount permitted a recipient of medicaid. The notice shall include an explanation of the potential effect on the resident's eligibility for medicaid if the amount in the resident's accounts and the petty cash fund, plus the value of other nonexempt resources, exceeds the maximum assets a medicaid recipient may retain.

(D) Each home that manages the financial affairs of residents shall purchase a surety bond or otherwise provide assurance satisfactory to the director of health, or, in the case of a home that participates in the medicaid program, to the director of job and family services, to assure the security of all residents' funds managed by the home.

Sec. 3721.19. (A) As used in this section: 37833

(1) "Home" and "residential care facility" have the same 37834
meanings as in section 3721.01 of the Revised Code; 37835

(2) "Sponsor" and "residents' rights advocate" have the same 37836
meanings as in section 3721.10 of the Revised Code. 37837

A home licensed under this chapter that is not a party to a 37838
provider agreement, as defined in section 5111.20 of the Revised 37839
Code, shall provide each prospective resident, before admission, 37840
with the following information, orally and in a separate written 37841
notice on which is printed in a conspicuous manner: "This home is 37842
not a participant in the medical assistance program administered 37843
by the Ohio department of job and family services. Consequently, 37844
you may be discharged from this home if you are unable to pay for 37845
the services provided by this home." 37846

If the prospective resident has a sponsor whose identity is 37847
made known to the home, the home shall also inform the sponsor, 37848
before admission of the resident, of the home's status relative to 37849
the medical assistance program. Written acknowledgement of the 37850
receipt of the information shall be provided by the resident and, 37851
if the prospective resident has a sponsor who has been identified 37852
to the home, by the sponsor. The written acknowledgement shall be 37853
made part of the resident's record by the home. 37854

No home shall terminate its status as a provider under the 37855
~~medical assistance~~ medicaid program unless it has complied with 37856
section 5111.66 of the Revised Code and, at least ninety days 37857
prior to such termination, provided written notice to the 37858
~~department of job and family services and~~ residents of the home 37859
and their sponsors of such action. This requirement shall not 37860
apply in cases where the department of job and family services 37861
terminates a home's provider agreement or provider status. 37862

(B) A home licensed under this chapter as a residential care facility shall provide notice to each prospective resident or the individual's sponsor of the services offered by the facility and the types of skilled nursing care that the facility may provide. A residential care facility that, pursuant to section 3721.012 of the Revised Code, has a policy of entering into risk agreements with residents or their sponsors shall provide each prospective resident or the individual's sponsor a written explanation of the policy and the provisions that may be contained in a risk agreement. At the time the information is provided, the facility shall obtain a statement signed by the individual receiving the information acknowledging that the individual received the information. The facility shall maintain on file the individual's signed statement.

(C) A resident has a cause of action against a home for breach of any duty imposed by this section. The action may be commenced by the resident, or on the resident's behalf by the resident's sponsor or a residents' rights advocate, by the filing of a civil action in the court of common pleas of the county in which the home is located, or in the court of common pleas of Franklin county.

If the court finds that a breach of any duty imposed by this section has occurred, the court shall enjoin the home from discharging the resident from the home until arrangements satisfactory to the court are made for the orderly transfer of the resident to another mode of health care including, but not limited to, another home, and may award the resident and a person or public agency that brings an action on behalf of a resident reasonable attorney's fees. If a home discharges a resident to whom or to whose sponsor information concerning its status relative to the medical assistance program was not provided as required under this section, the court shall grant any appropriate

relief including, but not limited to, actual damages, reasonable attorney's fees, and costs. 37895
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Sec. 3721.21. As used in sections 3721.21 to 3721.34 of the Revised Code: 37897
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(A) "Long-term care facility" means either of the following: 37899

(1) A nursing home as defined in section 3721.01 of the Revised Code, other than a nursing home or part of a nursing home certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; 37900
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(2) A facility or part of a facility that is certified as a skilled nursing facility or a nursing facility under Title XVIII or XIX of the "Social Security Act." 37905
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(B) "Residential care facility" has the same meaning as in section 3721.01 of the Revised Code. 37908
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(C) "Abuse" means knowingly causing physical harm or recklessly causing serious physical harm to a resident by physical contact with the resident or by use of physical or chemical restraint, medication, or isolation as punishment, for staff convenience, excessively, as a substitute for treatment, or in amounts that preclude habilitation and treatment. 37910
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(D) "Neglect" means recklessly failing to provide a resident with any treatment, care, goods, or service necessary to maintain the health or safety of the resident when the failure results in serious physical harm to the resident. "Neglect" does not include allowing a resident, at the resident's option, to receive only treatment by spiritual means through prayer in accordance with the tenets of a recognized religious denomination. 37916
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(E) "Misappropriation" means depriving, defrauding, or otherwise obtaining the real or personal property of a resident by 37923
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any means prohibited by the Revised Code, including violations of Chapter 2911. or 2913. of the Revised Code. 37925
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(F) "Resident" includes a resident, patient, former resident or patient, or deceased resident or patient of a long-term care facility or a residential care facility. 37927
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(G) "Physical restraint" has the same meaning as in section 3721.10 of the Revised Code. 37930
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(H) "Chemical restraint" has the same meaning as in section 3721.10 of the Revised Code. 37932
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(I) "Nursing and nursing-related services" means the personal care services and other services not constituting skilled nursing care that are specified in rules the public health council shall adopt in accordance with Chapter 119. of the Revised Code. 37934
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(J) "Personal care services" has the same meaning as in section 3721.01 of the Revised Code. 37938
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(K)(1) Except as provided in division (K)(2) of this section, "Nurse nurse aide" means an individual, ~~other than a licensed health professional practicing within the scope of the professional's license,~~ who provides nursing and nursing-related services to residents in a long-term care facility, either as a member of the staff of the facility for monetary compensation or as a volunteer without monetary compensation. 37940
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(2) "Nurse aide" does not include either of the following: 37947

(a) A licensed health professional practicing within the scope of the professional's license; 37948
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(b) An individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by 37950
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<u>the residents of the institution.</u>	37955
(L) "Licensed health professional" means all of the following:	37956
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(1) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;	37958
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(2) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;	37960
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(3) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry;	37962
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(4) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;	37965
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(5) A registered nurse or licensed practical nurse licensed under Chapter 4723. of the Revised Code;	37967
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(6) A social worker or independent social worker licensed under Chapter 4757. of the Revised Code or a social work assistant registered under that chapter;	37969
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(7) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;	37972
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(8) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;	37974
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(9) An optometrist licensed under Chapter 4725. of the Revised Code;	37976
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(10) A pharmacist licensed under Chapter 4729. of the Revised Code;	37978
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(11) A psychologist licensed under Chapter 4732. of the Revised Code;	37980
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(12) A chiropractor licensed under Chapter 4734. of the Revised Code;	37982
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(13) A nursing home administrator licensed or temporarily licensed under Chapter 4751. of the Revised Code; 37984
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(14) A professional counselor or professional clinical counselor licensed under Chapter 4757. of the Revised Code. 37986
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(M) "Religious nonmedical health care institution" means an institution that meets or exceeds the conditions to receive payment under the medicare program established under Title XVIII of the "Social Security Act" for inpatient hospital services or post-hospital extended care services furnished to an individual in a religious nonmedical health care institution, as defined in section 1861(ss)(1) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395x(ss)(1), as amended. 37988
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(N) "Competency evaluation program" means a program through which the competency of a nurse aide to provide nursing and nursing-related services is evaluated. 37996
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~~(N)~~(O) "Training and competency evaluation program" means a program of nurse aide training and evaluation of competency to provide nursing and nursing-related services. 37999
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Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code: 38002
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(A) "Hospital" has the same meaning as in section 3727.01 of the Revised Code. 38004
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(B) "Inpatient days" means all days during which a resident of a nursing facility, regardless of payment source, occupies a bed in the nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered inpatient days proportionate to the percentage of the facility's per resident per day rate paid for those days. 38006
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(C) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code. 38014
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(D) "Medicaid day" means all days during which a resident who is a medicaid recipient occupies a bed in a nursing facility that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.26 of the Revised Code are considered medicaid days proportionate to the percentage of the nursing facility's per resident per day rate for those days. 38016
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(E) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 38023
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(F)(1) "Nursing home" means all of the following: 38025

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home; 38026
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(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII of the "~~Social Security Act,~~" 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; 38029
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(c) A nursing facility ~~as defined in section 5111.20 of the Revised Code~~, other than a portion of a hospital certified as a nursing facility. 38033
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(2) "Nursing home" does not include a any of the following: 38036

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code ~~or a~~ 38037
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(b) A nursing home maintained and operated by the Ohio veterans' home agency under section 5907.01 of the Revised Code; 38039
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(c) A nursing home or part of a nursing home licensed under section 3721.02 or 3721.09 of the Revised Code that is certified as an intermediate care facility for the mentally retarded under 38041
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Title XIX of the "Social Security Act."	38044
(B) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.	38045 38046
(G) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.	38047 38048
(H) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.	38049 38050
Sec. 3721.51. The department of job and family services shall do all of the following:	38051 38052
(A) For <u>Subject to division (C) of this section and for the purposes specified in section sections 3721.56 and 3721.561</u> of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to three dollars and thirty cents for fiscal year 2002, four <u>six</u> dollars and thirty <u>twenty-five</u> cents for fiscal years 2003 through 2005, 2006 and 2007 and one dollar for each fiscal year thereafter, multiplied by the product of the following:	38053 38054 38055 38056 38057 38058 38059 38060
(1) The number of beds licensed as nursing home beds, plus any other beds certified as skilled nursing facility beds under Title XVIII or nursing facility beds under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, on July 1, 1993, and, for each subsequent year, the first day of May of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code;	38061 38062 38063 38064 38065 38066 38067
(2) The number of days in fiscal year 1994 and, for each subsequent year, the number of days in the fiscal year beginning on the first day of July of the calendar year in which the fee is determined pursuant to division (A) of section 3721.53 of the Revised Code.	38068 38069 38070 38071 38072
(B) For <u>Subject to division (C) of this section and for the</u>	38073

purposes specified in ~~section~~ sections 3721.56 and 3721.561 of the 38074
Revised Code, determine an annual franchise permit fee on each 38075
hospital in an amount equal to ~~three dollars and thirty cents for~~ 38076
~~fiscal year 2002, four~~ six dollars and ~~thirty~~ twenty-five cents 38077
for fiscal years ~~2003 through 2005, 2006 and 2007~~ and one dollar 38078
for each fiscal year thereafter, multiplied by the product of the 38079
following: 38080

(1) The number of beds registered pursuant to section 3701.07 38081
of the Revised Code as skilled nursing facility beds or long-term 38082
care beds, plus any other beds licensed as nursing home beds under 38083
section 3721.02 or 3721.09 of the Revised Code, on ~~July 1, 1993,~~ 38084
~~and, for each subsequent year,~~ the first day of May of the 38085
calendar year in which the fee is determined pursuant to division 38086
(A) of section 3721.53 of the Revised Code; 38087

(2) The ~~number of days in fiscal year 1994 and, for each~~ 38088
~~subsequent year,~~ the number of days in the fiscal year beginning 38089
on the first day of July of the calendar year in which the fee is 38090
determined pursuant to division (A) of section 3721.53 of the 38091
Revised Code. 38092

(C) If the United States centers for medicare and medicaid 38093
services determines that the franchise permit fee established by 38094
sections 3721.50 to 3721.58 of the Revised Code ~~would be~~ is an 38095
impermissible health care related tax under section 1903(w) of the 38096
"Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 1396b(w), as 38097
amended, ~~the department of job and family services shall~~ take all 38098
necessary actions to cease implementation of ~~these~~ sections 38099
3721.50 to 3721.58 of the Revised Code in accordance with rules 38100
adopted under section 3721.58 of the Revised Code. 38101

Sec. 3721.52. (A) For the purpose of the fee under division 38102
(A) of section 3721.51 of the Revised Code, the department of 38103
health shall, ~~not later than August 1, 1993, and, for each~~ 38104

~~subsequent year~~, not later than the first day of each June, report 38105
to the department of job and family services the number of beds in 38106
each nursing home licensed on ~~July 1, 1993, and, for each~~ 38107
~~subsequent year~~, the preceding first day of May under section 38108
3721.02 or 3721.09 of the Revised Code or certified on that date 38109
under Title XVIII or XIX ~~of the "Social Security Act," 49 Stat.~~ 38110
~~620 (1935), 42 U.S.C.A. 301, as amended.~~ 38111

(B) For the purpose of the fee under division (B) of section 38112
3721.51 of the Revised Code, the department of health shall, ~~not~~ 38113
~~later than August 1, 1993, and, for each subsequent year~~, not 38114
later than the first day of each June, report to the department of 38115
job and family services the number of beds in each hospital 38116
registered on ~~July 1, 1993, and, for each subsequent year~~, the 38117
preceding first day of May pursuant to section 3701.07 of the 38118
Revised Code as skilled nursing facility or long-term care beds or 38119
licensed on that date under section 3721.02 or 3721.09 of the 38120
Revised Code as nursing home beds. 38121

Sec. 3721.541. (A) In addition to assessing a penalty 38122
pursuant to section 3721.54 of the Revised Code, the department of 38123
job and family services may do either of the following if a 38124
nursing facility or hospital fails to pay the full amount of a 38125
franchise permit fee installment when due: 38126

(1) Withhold an amount equal to the installment and penalty 38127
assessed under section 3721.54 of the Revised Code from a medicaid 38128
payment due the nursing facility or hospital until the nursing 38129
facility or hospital pays the installment and penalty; 38130

(2) Terminate the nursing facility or hospital's medicaid 38131
provider agreement. 38132

(B) The department may withhold a medicaid payment under 38133
division (A)(1) of this section without providing notice to the 38134
nursing facility or hospital and without conducting an 38135

adjudication under Chapter 119. of the Revised Code.

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~~Sec. 3721.56. (A) Thirty and three tenths~~ There is hereby
created in the state treasury the home- and community-based
services for the aged fund. Sixteen per cent of all payments and
penalties paid by nursing homes and hospitals under sections
3721.53 and 3721.54 of the Revised Code for fiscal year ~~2002,~~
~~twenty three and twenty six hundredths per cent of such payments~~
~~and penalties paid for fiscal years 2003 through 2005~~ 2006 and
2007, and all such payments and penalties paid for subsequent
fiscal years, shall be deposited into the "~~home and~~
~~community based services for the aged fund,~~" which is hereby
~~created in the state treasury.~~ The departments of job and family
services and aging shall use the moneys in the fund to fund the
following in accordance with rules adopted under section 3721.58
of the Revised Code:

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~~(1)(A) The medical assistance~~ medicaid program established
under Chapter 5111. of the Revised Code;

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~~(2) The,~~ including the PASSPORT program established under
section 173.40 of the Revised Code;

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~~(3)(B) The residential state supplement~~ program established
under section 173.35 of the Revised Code.

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~~(B) Sixty nine and seven tenths per cent of all payments and~~
~~penalties paid by nursing homes and hospitals under sections~~
~~3721.53 and 3721.54 of the Revised Code for fiscal year 2002, and~~
~~seventy six and seventy four hundredths per cent of such payments~~
~~and penalties paid for fiscal years 2003 through 2005, shall be~~
~~deposited into the nursing facility stabilization fund, which is~~
~~hereby created in the state treasury.~~ The department of job and
family services shall use the money in the fund in the manner
provided by Am. Sub. H.B. 94 and Am. Sub. S.B. 261 of the 124th

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~~general assembly.~~ 38166

Sec. 3721.561. (A) There is hereby created in the state 38167
treasury the nursing facility stabilization fund. All payments and 38168
penalties paid by nursing homes and hospitals under sections 38169
3721.53 and 3721.54 of the Revised Code that are not deposited 38170
into the home and community-based services for the aged fund shall 38171
be deposited into the fund. The department of job and family 38172
services shall use the money in the fund to make medicaid payments 38173
to nursing facilities. 38174

(B) Any money remaining in the nursing facility stabilization 38175
fund after payments specified in division (A) of this section are 38176
made shall be retained in the fund. Any interest or other 38177
investment proceeds earned on money in the fund shall be credited 38178
to the fund and used to make medicaid payments in accordance with 38179
division (A) of this section. 38180

Sec. 3721.58. The director of job and family services shall 38181
adopt rules in accordance with Chapter 119. of the Revised Code to 38182
do ~~both~~ all of the following: 38183

(A) Prescribe the actions the department of job and family 38184
services will take to cease implementation of sections 3721.50 38185
through 3721.57 of the Revised Code if the United States ~~health~~ 38186
~~care financing administration~~ centers for medicare and medicaid 38187
services determines that the franchise permit fee established by 38188
those sections is an impermissible health-care related tax under 38189
section 1903(w) of the "Social Security Act," 49 Stat. 620 (1935), 38190
42 U.S.C. ~~1396(b)(w)~~ 1396b(w), as amended; 38191

(B) Establish the method of distributing moneys in the home 38192
and community-based services for the aged fund created under 38193
section 3721.56 of the Revised Code; 38194

(C) Establish any requirements or procedures the director 38195

considers necessary to implement sections 3721.50 to 3721.58 of the Revised Code. 38196
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Sec. 3722.01. (A) As used in this chapter: 38198

(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the manager, if different from the owner, is responsible. 38199
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(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person. 38202
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(3) "Adult" means an individual eighteen years of age or older. 38205
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(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle. 38207
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(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code. 38212
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(6)(a) "Personal care services" means services including, but not limited to, the following: 38214
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(i) Assisting residents with activities of daily living; 38216

(ii) Assisting residents with self-administration of medication, in accordance with rules adopted by the public health council pursuant to this chapter; 38217
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(iii) Preparing special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted by the public health council pursuant to this chapter. 38220
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(b) "Personal care services" does not include "skilled 38224

nursing care" as defined in section 3721.01 of the Revised Code. A 38225
facility need not provide more than one of the services listed in 38226
division (A)(6)(a) of this section to be considered to be 38227
providing personal care services. 38228

(7) "Adult family home" means a residence or facility that 38229
provides accommodations to three to five unrelated adults and 38230
supervision and personal care services to at least three of those 38231
adults. 38232

(8) "Adult group home" means a residence or facility that 38233
provides accommodations to six to sixteen unrelated adults and 38234
provides supervision and personal care services to at least three 38235
of the unrelated adults. 38236

(9) "Adult care facility" means an adult family home or an 38237
adult group home. For the purposes of this chapter, any residence, 38238
facility, institution, hotel, congregate housing project, or 38239
similar facility that provides accommodations and supervision to 38240
three to sixteen unrelated adults, at least three of whom are 38241
provided personal care services, is an adult care facility 38242
regardless of how the facility holds itself out to the public. 38243
"Adult care facility" does not include: 38244

(a) A facility operated by a hospice care program licensed 38245
under section 3712.04 of the Revised Code that is used exclusively 38246
for care of hospice patients; 38247

(b) A nursing home, residential care facility, or home for 38248
the aging as defined in section 3721.01 of the Revised Code; 38249

(c) A community alternative home as defined in section 38250
3724.01 of the Revised Code; 38251

(d) An alcohol and drug addiction program as defined in 38252
section 3793.01 of the Revised Code; 38253

(e) ~~A habilitation center as defined in section 5123.041 of~~ 38254

the Revised Code;	38255
(f) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;	38256 38257 38258
(g) <u>(f)</u> A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;	38259 38260
(h) <u>(g)</u> A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of mental retardation and developmental disabilities;	38261 38262 38263
(i) <u>(h)</u> Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;	38264 38265 38266 38267 38268 38269 38270
(j) <u>(i)</u> Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;	38271 38272 38273 38274
(k) <u>(j)</u> A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;	38275 38276 38277
(l) <u>(k)</u> A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans;	38278 38279 38280 38281
(m) <u>(l)</u> Until January 1, 1994, the portion of a facility in which care is provided exclusively to members of a religious order if the facility is owned by or part of a nonprofit institution of	38282 38283 38284

higher education authorized to award degrees by the Ohio board of regents under Chapter 1713. of the Revised Code. 38285
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(10) "Residents' rights advocate" means: 38287

(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code; 38288
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(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax-exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and complaints concerning their care and treatment, and assisting them in securing adequate services. 38292
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(11) "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare. 38302
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(12) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code. 38305
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(13) "Mental health agency" means a community mental health agency, as defined in section 5119.22 of the Revised Code, under contract with a board of alcohol, drug addiction, and mental health services pursuant to division (A)(8)(a) of section 340.03 of the Revised Code. 38308
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(B) For purposes of this chapter, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or 38313
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associated with the facility or by another person pursuant to an 38316
agreement to which neither the resident who receives the services 38317
nor the resident's sponsor is a party. 38318

(C) Nothing in division (A)(6) of this section shall be 38319
construed to permit personal care services to be imposed upon a 38320
resident who is capable of performing the activity in question 38321
without assistance. 38322

Sec. 3722.02. A person seeking a license to operate an adult 38323
care facility shall submit to the director of health an 38324
application on a form prescribed by the director and the 38325
following: 38326

(A) In the case of an adult group home seeking licensure as 38327
an adult care facility, evidence that the home has been inspected 38328
and approved by a local certified building department or by the 38329
division of industrial compliance in the department of commerce as 38330
meeting the applicable requirements of sections 3781.06 to 3781.18 38331
and 3791.04 of the Revised Code and any rules adopted under those 38332
sections and evidence that the home has been inspected by the 38333
state fire marshal or fire prevention officer of a municipal, 38334
township, or other legally constituted fire department approved by 38335
the state fire marshal and found to be in compliance with rules 38336
adopted under section 3737.83 of the Revised Code regarding fire 38337
prevention and safety in adult group homes; 38338

(B) Valid approvals of the facility's water and sewage 38339
systems issued by the responsible governmental entity, if 38340
applicable; 38341

(C) A statement of ownership containing the following 38342
information: 38343

(1) If the owner is an individual, the owner's name, address, 38344
telephone number, business address, business telephone number, and 38345

occupation. If the owner is an association, corporation, or 38346
partnership, the business activity, address, and telephone number 38347
of the entity and the name of every person who has an ownership 38348
interest of five per cent or more in the entity. 38349

(2) If the owner does not own the building or if the owner 38350
owns only part of the building in which the facility is housed, 38351
the name of each person who has an ownership interest of five per 38352
cent or more in the building; 38353

(3) The address of any adult care facility and any facility 38354
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 38355
the Revised Code in which the owner has an ownership interest of 38356
five per cent or more; 38357

(4) The identity of the manager of the adult care facility, 38358
if different from the owner; 38359

(5) The name and address of any adult care facility and any 38360
facility described in divisions (A)(9)(a) to ~~(i)~~(h) of section 38361
3722.01 of the Revised Code with which either the owner or manager 38362
has been affiliated through ownership or employment in the five 38363
years prior to the date of the application; 38364

(6) The names and addresses of three persons not employed by 38365
or associated in business with the owner who will provide 38366
information about the character, reputation, and competence of the 38367
owner and the manager and the financial responsibility of the 38368
owner; 38369

(7) Information about any arrest of the owner or manager for, 38370
or adjudication or conviction of, a criminal offense related to 38371
the provision of care in an adult care facility or any facility 38372
described in divisions (A)(9)(a) to ~~(i)~~(h) of section 3722.01 of 38373
the Revised Code or the ability to operate a facility; 38374

(8) Any other information the director may require regarding 38375

the owner's ability to operate the facility. 38376

(D) If the facility is an adult group home, a balance sheet 38377
showing the assets and liabilities of the owner and a statement 38378
projecting revenues and expenses for the first twelve months of 38379
the facility's operation; 38380

(E) Proof of insurance in an amount and type determined in 38381
rules adopted by the public health council pursuant to this 38382
chapter to be adequate; 38383

(F) A nonrefundable license application fee in an amount 38384
established in rules adopted by the public health council pursuant 38385
to this chapter. 38386

Sec. 3722.04. (A)(1) The director of health shall inspect, 38387
license, and regulate adult care facilities. Except as otherwise 38388
provided in division (D) of this section, the director shall issue 38389
a license to an adult care facility that meets the requirements of 38390
section 3722.02 of the Revised Code and that the director 38391
determines to be in substantial compliance with the rules adopted 38392
by the public health council pursuant to this chapter. The 38393
director shall consider the past record of the owner and manager 38394
and any individuals who are principal participants in an entity 38395
that is the owner or manager in operating facilities providing 38396
care to adults. The director may, in accordance with Chapter 119. 38397
of the Revised Code, deny a license if the past record indicates 38398
that the owner or manager is not suitable to own or manage an 38399
adult care facility. 38400

The license shall contain the name and address of the 38401
facility for which it was issued, the date of expiration of the 38402
license, and the maximum number of residents that may be 38403
accommodated by the facility. A license for an adult care facility 38404
shall be valid for a period of two years after the date of 38405

issuance. No single facility may be licensed to operate as more
than one adult care facility.

(2) Notwithstanding division (A)(1) of this section and
sections 3722.02 and 3722.041 of the Revised Code, the director
may issue a temporary license if the requirements of divisions
(C), (D), and (F) of section 3722.02 of the Revised Code have been
met. A temporary license shall be valid for a period of ninety
days and, except as otherwise provided in division (A)(3) of
section 3722.05 of the Revised Code, may be renewed, without
payment of an additional application fee, for an additional ninety
days.

(B) The director shall renew a license for a two-year period
if the facility continues to be in compliance with the
requirements of this chapter and in substantial compliance with
the rules adopted under this chapter. The owner shall submit a
nonrefundable license renewal application fee in an amount
established in rules adopted by the public health council pursuant
to this chapter. Before the license of an adult group home is
renewed, if any alterations have been made to the buildings, a
certificate of occupancy for the facility shall have been issued
by the division of industrial compliance in the department of
commerce or a local certified building department. The facility
shall have water and sewage system approvals, if required by law,
and, in the case of an adult group home, documentation of
continued compliance with the rules adopted by the state fire
marshal under division (F) of section 3737.83 of the Revised Code.

(C) The director shall make at least one unannounced
inspection of an adult care facility during each licensure period
in addition to inspecting the facility to determine whether a
license should be issued or renewed, and may make additional
unannounced inspections as the director considers necessary. Other
inspections may be made at any time that the director considers

appropriate. The director shall take all reasonable actions to
avoid giving notice of an inspection by the manner in which the
inspection is scheduled or performed. Not later than sixty days
after the date of an inspection of a facility, the director shall
send a report of the inspection to the ombudsperson in whose
region the facility is located. The state fire marshal or fire
prevention officer of a municipal, township, or other legally
constituted fire department approved by the state fire marshal
shall inspect an adult group home seeking a license or renewal
under this chapter as an adult care facility prior to issuance of
a license or renewal, at least once annually thereafter, and at
any other time at the request of the director, to determine
compliance with the rules adopted under division (F) of section
3737.83 of the Revised Code.

(D) The director may waive any of the licensing requirements
having to do with fire and safety requirements or building
standards established by rule adopted by the public health council
pursuant to this chapter upon written request of the facility. The
director may grant a waiver if the director determines that the
strict application of the licensing requirement would cause undue
hardship to the facility and that granting the waiver would not
jeopardize the health or safety of any resident. The director may
provide a facility with an informal hearing concerning the denial
of a waiver request, but the facility shall not be entitled to a
hearing under Chapter 119. of the Revised Code unless the director
takes an action that requires a hearing to be held under section
3722.05 of the Revised Code.

(E)(1) Not later than thirty days after ~~the issuance or~~
~~renewal of the license, other than a temporary license, of an~~
~~adult care facility under this section~~ each of the following, the
owner of an adult care facility shall submit an inspection fee of
~~ten~~ twenty dollars for each bed for which the facility is

licensed:	38470
<u>(a) Issuance or renewal of a license, other than a temporary license;</u>	38471
<u>(b) The unannounced inspection required by division (C) of this section;</u>	38472
<u>(c) If, during an inspection conducted in addition to the two inspections required by division (C) of this section, the facility was found to be in violation of this chapter or the rules adopted under it, receipt by the facility of the report of that investigation. The</u>	38473
<u>(2) The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period. All</u>	38474
<u>(3) All inspection fees received by the director, all civil penalties assessed under section 3722.08 of the Revised Code, all fines imposed under section 3722.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section 3722.02 of the Revised Code or under division (B) of this section shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and shall be used only to pay the costs of administering and enforcing the requirements of this chapter and rules adopted under it.</u>	38475
(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section 3722.02 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.	38476
(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:	38477
(a) Any civil penalties imposed against the facility under	38478
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section 3722.08 of the Revised Code for violations that occur 38500
before the date of transfer of ownership or during any period in 38501
which the seller or the seller's agent operates the facility; 38502

(b) Any outstanding liability to the state, unless the buyer 38503
or transferee has agreed, as a condition of the sale or transfer, 38504
to accept the outstanding liabilities and to guarantee their 38505
payment, except that if the buyer or transferee fails to meet 38506
these obligations the seller or transferor shall remain 38507
responsible for the outstanding liability. 38508

(G) The director shall annually publish a list of licensed 38509
adult care facilities, facilities whose licenses have been revoked 38510
or not renewed, any facilities under an order suspending 38511
admissions pursuant to section 3722.07 of the Revised Code, and 38512
any facilities that have been assessed a civil penalty pursuant to 38513
section 3722.08 of the Revised Code. The director shall furnish 38514
information concerning the status of licensure of any facility to 38515
any person upon request. The director shall annually send a copy 38516
of the list to the department of job and family services, to the 38517
department of mental health, and to the department of aging. 38518

Sec. 3734.01. As used in this chapter: 38519

(A) "Board of health" means the board of health of a city or 38520
general health district or the authority having the duties of a 38521
board of health in any city as authorized by section 3709.05 of 38522
the Revised Code. 38523

(B) "Director" means the director of environmental 38524
protection. 38525

(C) "Health district" means a city or general health district 38526
as created by or under authority of Chapter 3709. of the Revised 38527
Code. 38528

(D) "Agency" means the environmental protection agency. 38529

(E) "Solid wastes" means such unwanted residual solid or 38530
semisolid material as results from industrial, commercial, 38531
agricultural, and community operations, excluding earth or 38532
material from construction, mining, or demolition operations, or 38533
other waste materials of the type that normally would be included 38534
in demolition debris, nontoxic fly ash and bottom ash, including 38535
at least ash that results from the combustion of coal and ash that 38536
results from the combustion of coal in combination with scrap 38537
tires where scrap tires comprise not more than fifty per cent of 38538
heat input in any month, spent nontoxic foundry sand, nontoxic, 38539
nonhazardous, unwanted fired and unfired, glazed and unglazed, 38540
structural shale and clay products, and slag and other substances 38541
that are not harmful or inimical to public health, and includes, 38542
but is not limited to, garbage, scrap tires, combustible and 38543
noncombustible material, street dirt, and debris. "Solid wastes" 38544
does not include any either of the following: 38545

(1) Any material that is an infectious waste or a hazardous 38546
waste; 38547

(2) Spent petroleum refinery hydrotreating, hydrorefining, 38548
and hydrocracking catalysts that are used to produce 38549
ferrovanadium, iron nickel molybdenum, and calcium aluminate 38550
alloys for the steel, iron, and nickel industries unless the 38551
catalysts are disposed of at a solid waste facility licensed under 38552
this chapter or are accumulated speculatively. 38553

(F) "Disposal" means the discharge, deposit, injection, 38554
dumping, spilling, leaking, emitting, or placing of any solid 38555
wastes or hazardous waste into or on any land or ground or surface 38556
water or into the air, except if the disposition or placement 38557
constitutes storage or treatment or, if the solid wastes consist 38558
of scrap tires, the disposition or placement constitutes a 38559
beneficial use or occurs at a scrap tire recovery facility 38560
licensed under section 3734.81 of the Revised Code. 38561

(G) "Person" includes the state, any political subdivision 38562
and other state or local body, the United States and any agency or 38563
instrumentality thereof, and any legal entity defined as a person 38564
under section 1.59 of the Revised Code. 38565

(H) "Open burning" means the burning of solid wastes in an 38566
open area or burning of solid wastes in a type of chamber or 38567
vessel that is not approved or authorized in rules adopted by the 38568
director under section 3734.02 of the Revised Code or, if the 38569
solid wastes consist of scrap tires, in rules adopted under 38570
division (V) of this section or section 3734.73 of the Revised 38571
Code, or the burning of treated or untreated infectious wastes in 38572
an open area or in a type of chamber or vessel that is not 38573
approved in rules adopted by the director under section 3734.021 38574
of the Revised Code. 38575

(I) "Open dumping" means the depositing of solid wastes into 38576
a body or stream of water or onto the surface of the ground at a 38577
site that is not licensed as a solid waste facility under section 38578
3734.05 of the Revised Code or, if the solid wastes consist of 38579
scrap tires, as a scrap tire collection, storage, monocell, 38580
monofill, or recovery facility under section 3734.81 of the 38581
Revised Code; the depositing of solid wastes that consist of scrap 38582
tires onto the surface of the ground at a site or in a manner not 38583
specifically identified in divisions (C)(2) to (5), (7), or (10) 38584
of section 3734.85 of the Revised Code; the depositing of 38585
untreated infectious wastes into a body or stream of water or onto 38586
the surface of the ground; or the depositing of treated infectious 38587
wastes into a body or stream of water or onto the surface of the 38588
ground at a site that is not licensed as a solid waste facility 38589
under section 3734.05 of the Revised Code. 38590

(J) "Hazardous waste" means any waste or combination of 38591
wastes in solid, liquid, semisolid, or contained gaseous form that 38592
in the determination of the director, because of its quantity, 38593

concentration, or physical or chemical characteristics, may do 38594
either of the following: 38595

(1) Cause or significantly contribute to an increase in 38596
mortality or an increase in serious irreversible or incapacitating 38597
reversible illness; 38598

(2) Pose a substantial present or potential hazard to human 38599
health or safety or to the environment when improperly stored, 38600
treated, transported, disposed of, or otherwise managed. 38601

"Hazardous waste" includes any substance identified by 38602
regulation as hazardous waste under the "Resource Conservation and 38603
Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as 38604
amended, and does not include any substance that is subject to the 38605
"Atomic Energy Act of 1954," 68 Stat. 919, 42 U.S.C.A. 2011, as 38606
amended. 38607

(K) "Treat" or "treatment," when used in connection with 38608
hazardous waste, means any method, technique, or process designed 38609
to change the physical, chemical, or biological characteristics or 38610
composition of any hazardous waste; to neutralize the waste; to 38611
recover energy or material resources from the waste; to render the 38612
waste nonhazardous or less hazardous, safer to transport, store, 38613
or dispose of, or amenable for recovery, storage, further 38614
treatment, or disposal; or to reduce the volume of the waste. When 38615
used in connection with infectious wastes, "treat" or "treatment" 38616
means any method, technique, or process designed to render the 38617
wastes noninfectious, including, without limitation, steam 38618
sterilization and incineration, or, in the instance of wastes 38619
identified in division (R)(7) of this section, to substantially 38620
reduce or eliminate the potential for the wastes to cause 38621
lacerations or puncture wounds. 38622

(L) "Manifest" means the form used for identifying the 38623
quantity, composition, origin, routing, and destination of 38624

hazardous waste during its transportation from the point of 38625
generation to the point of disposal, treatment, or storage. 38626

(M) "Storage," when used in connection with hazardous waste, 38627
means the holding of hazardous waste for a temporary period in 38628
such a manner that it remains retrievable and substantially 38629
unchanged physically and chemically and, at the end of the period, 38630
is treated; disposed of; stored elsewhere; or reused, recycled, or 38631
reclaimed in a beneficial manner. When used in connection with 38632
solid wastes that consist of scrap tires, "storage" means the 38633
holding of scrap tires for a temporary period in such a manner 38634
that they remain retrievable and, at the end of that period, are 38635
beneficially used; stored elsewhere; placed in a scrap tire 38636
monocell or monofill facility licensed under section 3734.81 of 38637
the Revised Code; processed at a scrap tire recovery facility 38638
licensed under that section or a solid waste incineration or 38639
energy recovery facility subject to regulation under this chapter; 38640
or transported to a scrap tire monocell, monofill, or recovery 38641
facility, any other solid waste facility authorized to dispose of 38642
scrap tires, or a facility that will beneficially use the scrap 38643
tires, that is located in another state and is operating in 38644
compliance with the laws of the state in which the facility is 38645
located. 38646

(N) "Facility" means any site, location, tract of land, 38647
installation, or building used for incineration, composting, 38648
sanitary landfilling, or other methods of disposal of solid wastes 38649
or, if the solid wastes consist of scrap tires, for the 38650
collection, storage, or processing of the solid wastes; for the 38651
transfer of solid wastes; for the treatment of infectious wastes; 38652
or for the storage, treatment, or disposal of hazardous waste. 38653

(O) "Closure" means the time at which a hazardous waste 38654
facility will no longer accept hazardous waste for treatment, 38655
storage, or disposal, the time at which a solid waste facility 38656

will no longer accept solid wastes for transfer or disposal or, if 38657
the solid wastes consist of scrap tires, for storage or 38658
processing, or the effective date of an order revoking the permit 38659
for a hazardous waste facility or the registration certificate, 38660
permit, or license for a solid waste facility, as applicable. 38661
"Closure" includes measures performed to protect public health or 38662
safety, to prevent air or water pollution, or to make the facility 38663
suitable for other uses, if any, including, but not limited to, 38664
the removal of processing residues resulting from solid wastes 38665
that consist of scrap tires; the establishment and maintenance of 38666
a suitable cover of soil and vegetation over cells in which 38667
hazardous waste or solid wastes are buried; minimization of 38668
erosion, the infiltration of surface water into such cells, the 38669
production of leachate, and the accumulation and runoff of 38670
contaminated surface water; the final construction of facilities 38671
for the collection and treatment of leachate and contaminated 38672
surface water runoff, except as otherwise provided in this 38673
division; the final construction of air and water quality 38674
monitoring facilities, except as otherwise provided in this 38675
division; the final construction of methane gas extraction and 38676
treatment systems; or the removal and proper disposal of hazardous 38677
waste or solid wastes from a facility when necessary to protect 38678
public health or safety or to abate or prevent air or water 38679
pollution. With regard to a solid waste facility that is a scrap 38680
tire facility, "closure" includes the final construction of 38681
facilities for the collection and treatment of leachate and 38682
contaminated surface water runoff and the final construction of 38683
air and water quality monitoring facilities only if those actions 38684
are determined to be necessary. 38685

(P) "Premises" means either of the following: 38686

(1) Geographically contiguous property owned by a generator; 38687

(2) Noncontiguous property that is owned by a generator and 38688

connected by a right-of-way that the generator controls and to 38689
which the public does not have access. Two or more pieces of 38690
property that are geographically contiguous and divided by public 38691
or private right-of-way or rights-of-way are a single premises. 38692

(Q) "Post-closure" means that period of time following 38693
closure during which a hazardous waste facility is required to be 38694
monitored and maintained under this chapter and rules adopted 38695
under it, including, without limitation, operation and maintenance 38696
of methane gas extraction and treatment systems, or the period of 38697
time after closure during which a scrap tire monocell or monofill 38698
facility licensed under section 3734.81 of the Revised Code is 38699
required to be monitored and maintained under this chapter and 38700
rules adopted under it. 38701

(R) "Infectious wastes" includes all of the following 38702
substances or categories of substances: 38703

(1) Cultures and stocks of infectious agents and associated 38704
biologicals, including, without limitation, specimen cultures, 38705
cultures and stocks of infectious agents, wastes from production 38706
of biologicals, and discarded live and attenuated vaccines; 38707

(2) Laboratory wastes that were, or are likely to have been, 38708
in contact with infectious agents that may present a substantial 38709
threat to public health if improperly managed; 38710

(3) Pathological wastes, including, without limitation, human 38711
and animal tissues, organs, and body parts, and body fluids and 38712
excreta that are contaminated with or are likely to be 38713
contaminated with infectious agents, removed or obtained during 38714
surgery or autopsy or for diagnostic evaluation, provided that, 38715
with regard to pathological wastes from animals, the animals have 38716
or are likely to have been exposed to a zoonotic or infectious 38717
agent; 38718

(4) Waste materials from the rooms of humans, or the 38719

enclosures of animals, that have been isolated because of 38720
diagnosed communicable disease that are likely to transmit 38721
infectious agents. Such waste materials from the rooms of humans 38722
do not include any wastes of patients who have been placed on 38723
blood and body fluid precautions under the universal precaution 38724
system established by the centers for disease control in the 38725
public health service of the United States department of health 38726
and human services, except to the extent specific wastes generated 38727
under the universal precautions system have been identified as 38728
infectious wastes by rules adopted under division (R)(8) of this 38729
section. 38730

(5) Human and animal blood specimens and blood products that 38731
are being disposed of, provided that, with regard to blood 38732
specimens and blood products from animals, the animals were or are 38733
likely to have been exposed to a zoonotic or infectious agent. 38734
"Blood products" does not include patient care waste such as 38735
bandages or disposable gowns that are lightly soiled with blood or 38736
other body fluids unless those wastes are soiled to the extent 38737
that the generator of the wastes determines that they should be 38738
managed as infectious wastes. 38739

(6) Contaminated carcasses, body parts, and bedding of 38740
animals that were intentionally exposed to infectious agents from 38741
zoonotic or human diseases during research, production of 38742
biologicals, or testing of pharmaceuticals, and carcasses and 38743
bedding of animals otherwise infected by zoonotic or infectious 38744
agents that may present a substantial threat to public health if 38745
improperly managed; 38746

(7) Sharp wastes used in the treatment, diagnosis, or 38747
inoculation of human beings or animals or that have, or are likely 38748
to have, come in contact with infectious agents in medical, 38749
research, or industrial laboratories, including, without 38750
limitation, hypodermic needles and syringes, scalpel blades, and 38751

glass articles that have been broken; 38752

(8) Any other waste materials generated in the diagnosis, 38753
treatment, or immunization of human beings or animals, in research 38754
pertaining thereto, or in the production or testing of 38755
biologicals, that the public health council created in section 38756
3701.33 of the Revised Code, by rules adopted in accordance with 38757
Chapter 119. of the Revised Code, identifies as infectious wastes 38758
after determining that the wastes present a substantial threat to 38759
human health when improperly managed because they are contaminated 38760
with, or are likely to be contaminated with, infectious agents. 38761

(S) "Infectious agent" means a type of microorganism, 38762
helminth, or virus that causes, or significantly contributes to 38763
the cause of, increased morbidity or mortality of human beings. 38764

(T) "Zoonotic agent" means a type of microorganism, helminth, 38765
or virus that causes disease in vertebrate animals and that is 38766
transmissible to human beings and causes or significantly 38767
contributes to the cause of increased morbidity or mortality of 38768
human beings. 38769

(U) "Solid waste transfer facility" means any site, location, 38770
tract of land, installation, or building that is used or intended 38771
to be used primarily for the purpose of transferring solid wastes 38772
that were generated off the premises of the facility from vehicles 38773
or containers into other vehicles for transportation to a solid 38774
waste disposal facility. "Solid waste transfer facility" does not 38775
include any facility that consists solely of portable containers 38776
that have an aggregate volume of fifty cubic yards or less nor any 38777
facility where legitimate recycling activities are conducted. 38778

(V) "Beneficially use" means to use a scrap tire in a manner 38779
that results in a commodity for sale or exchange or in any other 38780
manner authorized as a beneficial use in rules adopted by the 38781
director in accordance with Chapter 119. of the Revised Code. 38782

(W) "Commercial car," "commercial tractor," "farm machinery," 38783
"motor bus," "vehicles," "motor vehicle," and "semitrailer" have 38784
the same meanings as in section 4501.01 of the Revised Code. 38785

(X) "Construction equipment" means road rollers, traction 38786
engines, power shovels, power cranes, and other equipment used in 38787
construction work, or in mining or producing or processing 38788
aggregates, and not designed for or used in general highway 38789
transportation. 38790

(Y) "Motor vehicle salvage dealer" has the same meaning as in 38791
section 4738.01 of the Revised Code. 38792

(Z) "Scrap tire" means an unwanted or discarded tire. 38793

(AA) "Scrap tire collection facility" means any facility that 38794
meets all of the following qualifications: 38795

(1) The facility is used for the receipt and storage of whole 38796
scrap tires from the public prior to their transportation to a 38797
scrap tire storage, monocell, monofill, or recovery facility 38798
licensed under section 3734.81 of the Revised Code; a solid waste 38799
incineration or energy recovery facility subject to regulation 38800
under this chapter; a premises within the state where the scrap 38801
tires will be beneficially used; or a scrap tire storage, 38802
monocell, monofill, or recovery facility, any other solid waste 38803
disposal facility authorized to dispose of scrap tires, or a 38804
facility that will beneficially use the scrap tires, that is 38805
located in another state, and that is operating in compliance with 38806
the laws of the state in which the facility is located+ 38807

(2) The facility exclusively stores scrap tires in portable 38808
containers+ 38809

(3) The aggregate storage of the portable containers in which 38810
the scrap tires are stored does not exceed five thousand cubic 38811
feet. 38812

(BB) "Scrap tire monocell facility" means an individual site 38813
within a solid waste landfill that is used exclusively for the 38814
environmentally sound storage or disposal of whole scrap tires or 38815
scrap tires that have been shredded, chipped, or otherwise 38816
mechanically processed. 38817

(CC) "Scrap tire monofill facility" means an engineered 38818
facility used or intended to be used exclusively for the storage 38819
or disposal of scrap tires, including at least facilities for the 38820
submergence of whole scrap tires in a body of water. 38821

(DD) "Scrap tire recovery facility" means any facility, or 38822
portion thereof, for the processing of scrap tires for the purpose 38823
of extracting or producing usable products, materials, or energy 38824
from the scrap tires through a controlled combustion process, 38825
mechanical process, or chemical process. "Scrap tire recovery 38826
facility" includes any facility that uses the controlled 38827
combustion of scrap tires in a manufacturing process to produce 38828
process heat or steam or any facility that produces usable heat or 38829
electric power through the controlled combustion of scrap tires in 38830
combination with another fuel, but does not include any solid 38831
waste incineration or energy recovery facility that is designed, 38832
constructed, and used for the primary purpose of incinerating 38833
mixed municipal solid wastes and that burns scrap tires in 38834
conjunction with mixed municipal solid wastes, or any tire 38835
retreading business, tire manufacturing finishing center, or tire 38836
adjustment center having on the premises of the business a single, 38837
covered scrap tire storage area at which not more than four 38838
thousand scrap tires are stored. 38839

(EE) "Scrap tire storage facility" means any facility where 38840
whole scrap tires are stored prior to their transportation to a 38841
scrap tire monocell, monofill, or recovery facility licensed under 38842
section 3734.81 of the Revised Code; a solid waste incineration or 38843
energy recovery facility subject to regulation under this chapter; 38844

a premises within the state where the scrap tires will be 38845
beneficially used; or a scrap tire storage, monocell, monofill, or 38846
recovery facility, any other solid waste disposal facility 38847
authorized to dispose of scrap tires, or a facility that will 38848
beneficially use the scrap tires, that is located in another 38849
state, and that is operating in compliance with the laws of the 38850
state in which the facility is located. 38851

(FF) "Used oil" means any oil that has been refined from 38852
crude oil, or any synthetic oil, that has been used and, as a 38853
result of that use, is contaminated by physical or chemical 38854
impurities. "Used oil" includes only those substances identified 38855
as used oil by the United States environmental protection agency 38856
under the "Used Oil Recycling Act of 1980," 94 Stat. 2055, 42 38857
U.S.C.A. 6901a, as amended. 38858

(GG) "Accumulated speculatively" has the same meaning as in 38859
rules adopted by the director under section 3734.12 of the Revised 38860
Code. 38861

Sec. 3734.20. (A) If the director of environmental protection 38862
has reason to believe that hazardous waste was treated, stored, or 38863
disposed of at any location within the state, ~~he~~ the director may 38864
conduct such investigations and make such inquiries, including 38865
obtaining samples and examining and copying records, as are 38866
reasonable or necessary to determine if conditions at a hazardous 38867
waste facility, solid waste facility, or other location where the 38868
director has reason to believe hazardous waste was treated, 38869
stored, or disposed of constitute a substantial threat to public 38870
health or safety or are causing or contributing to or threatening 38871
to cause or contribute to air or water pollution or soil 38872
contamination. The director or the director's authorized 38873
representative may apply for, and any judge of a court of common 38874
pleas shall issue, an appropriate search warrant necessary to 38875

achieve the purposes of this section within the court's 38876
territorial jurisdiction. The director may expend moneys from the 38877
hazardous waste clean-up fund created in section 3734.28 of the 38878
Revised Code or the environmental protection remediation fund 38879
created in section 3734.281 of the Revised Code for conducting 38880
investigations under this section. 38881

(B) If the director determines that conditions at a hazardous 38882
waste facility, solid waste facility, or other location where 38883
hazardous waste was treated, stored, or disposed of constitute a 38884
substantial threat to public health or safety or are causing or 38885
contributing to or threatening to cause or contribute to air or 38886
water pollution or soil contamination, the director shall initiate 38887
appropriate action under this chapter or Chapter 3704. or 6111. of 38888
the Revised Code or seek any other appropriate legal or equitable 38889
remedies to abate the pollution or contamination or to protect 38890
public health or safety. 38891

If an order of the director to abate or prevent air or water 38892
pollution or soil contamination or to remedy a threat to public 38893
health or safety caused by conditions at such a facility issued 38894
pursuant to this chapter or Chapter 3704. or 6111. of the Revised 38895
Code is not wholly complied with within the time prescribed in the 38896
order, the director may, through officers or employees of the 38897
environmental protection agency or through contractors employed 38898
for that purpose in accordance with the bidding procedure 38899
established in division (C) of section 3734.23 of the Revised 38900
Code, enter upon the facility and perform those measures necessary 38901
to abate or prevent air or water pollution or soil contamination 38902
from the facility or to protect public health or safety, 38903
including, but not limited to, measures prescribed in division (B) 38904
of section 3734.23 of the Revised Code. The director shall keep an 38905
itemized record of the cost of the investigation and measures 38906
performed, including costs for labor, materials, and any contract 38907

services required. Upon completion of the investigation or 38908
measures, the director shall record the cost of performing those 38909
measures at the office of the county recorder of the county in 38910
which the facility is located. The cost so recorded constitutes a 38911
lien against the property on which the facility is located until 38912
discharged. Upon written request of the director, the attorney 38913
general shall institute a civil action to recover the cost. Any 38914
moneys so received shall be credited to the hazardous waste 38915
clean-up fund ~~created in section 3734.28 of the Revised Code~~ or 38916
the environmental protection remediation fund, as applicable. 38917

When entering upon a facility under this division, the 38918
director shall perform or cause to be performed only those 38919
measures necessary to abate or prevent air or water pollution or 38920
soil contamination caused by conditions at the facility or to 38921
abate threats to public health or safety caused by conditions at 38922
the facility. For this purpose the director may expend moneys from 38923
~~the~~ either fund and may expend moneys from loans from the Ohio 38924
water development authority to the environmental protection agency 38925
that pledge moneys from ~~the~~ either fund for the repayment of and 38926
for the interest on such loans. 38927

Sec. 3734.21. (A) The director of environmental protection 38928
may expend moneys credited to the hazardous waste clean-up fund 38929
created in section 3734.28 of the Revised Code or the 38930
environmental protection remediation fund created in section 38931
3734.281 of the Revised Code for the payment of the cost of 38932
measures necessary for the proper closure of hazardous waste 38933
facilities or any solid waste facilities containing significant 38934
quantities of hazardous waste, for the payment of costs of the 38935
development and construction of suitable hazardous waste 38936
facilities required by division (B) of section 3734.23 of the 38937
Revised Code to the extent the director determines that such 38938

facilities are not available, and for the payment of costs that 38939
are necessary to abate conditions thereon that are causing or 38940
contributing to or threatening to cause or contribute to air or 38941
water pollution or soil contamination or that constitute a 38942
substantial threat to public health or safety. In addition, the 38943
director may expend and pledge moneys credited to ~~the~~ either fund 38944
for repayment of and for interest on any loan made by the Ohio 38945
water development authority to the environmental protection agency 38946
for the payment of such costs. 38947

(B) Before beginning to clean up any facility under this 38948
section, the director shall develop a plan for the cleanup and an 38949
estimate of the cost thereof. The plan shall include only those 38950
measures necessary to abate conditions thereon that are causing or 38951
contributing to or threatening to cause or contribute to air or 38952
water pollution or soil contamination or that constitute a 38953
substantial threat to public health or safety, including, but not 38954
limited to, establishment and maintenance of an adequate cover of 38955
soil and vegetation on any facility for the burial of hazardous 38956
waste to prevent the infiltration of water into cells where 38957
hazardous waste is buried, the accumulation or runoff of 38958
contaminated surface water, the production of leachate, and air 38959
emissions of hazardous waste; the collection and treatment of 38960
contaminated surface water runoff; the collection and treatment of 38961
leachate; or, if conditions so require, the removal of hazardous 38962
waste from the facility and the treatment or disposal of the waste 38963
at a suitable hazardous waste facility. The plan or any part of 38964
the plan for the cleanup of the facility shall be carried out by 38965
entering into contracts therefor in accordance with the procedures 38966
established in division (C) of section 3734.23 of the Revised 38967
Code. 38968

Sec. 3734.22. Before beginning to clean up any facility under 38969
section 3734.21 of the Revised Code, the director of environmental 38970

protection shall endeavor to enter into an agreement with the 38971
owner of the land on which the facility is located, or with the 38972
owner of the facility, specifying the measures to be performed and 38973
authorizing the director, employees of the agency, or contractors 38974
retained by the director to enter upon the land and perform the 38975
specified measures. 38976

Each agreement ~~shall~~ may contain provisions for the 38977
reimbursement of the state for the costs of the cleanup. 38978

All reimbursements and payments shall be credited to the 38979
hazardous waste clean-up fund created in section 3734.28 of the 38980
Revised Code or the environmental protection remediation fund 38981
created in section 3734.281 of the Revised Code, as applicable. 38982

The agreement may require the owner to execute an easement 38983
whereby the director, an authorized employee of the agency, or a 38984
contractor employed by the agency in accordance with the bidding 38985
procedure established in division (C) of section 3734.23 of the 38986
Revised Code may enter upon the facility to sample, repair, or 38987
reconstruct air and water quality monitoring equipment constructed 38988
under the agreement. Such easements shall be for a specified 38989
period of years and may be extinguished by agreement between the 38990
owner and the director. When necessary to protect the public 38991
health or safety, the agreement may require the owner to enter 38992
into an environmental covenant with the director in accordance 38993
with sections 5301.80 to 5301.92 of the Revised Code. 38994

Upon a breach of the reimbursement provisions of the 38995
agreement by the owner of the land or facility, or upon 38996
notification to the director by the owner that the owner is unable 38997
to perform the duties under the reimbursement provisions of the 38998
agreement, the director ~~shall~~ may record the unreimbursed portion 38999
of the costs of cleanup at the office of the county recorder of 39000
the county in which the facility is located. The costs so recorded 39001
constitute a lien against the property on which the facility is 39002

located until discharged. Upon written request of the director, 39003
the attorney general shall institute a civil action to recover the 39004
unreimbursed portion of the costs of cleanup. Any moneys so 39005
recovered shall be credited to the hazardous waste clean-up fund 39006
or the environmental protection remediation fund, as applicable. 39007

Sec. 3734.23. (A) The director of environmental protection 39008
may acquire by purchase, gift, donation, contribution, or 39009
appropriation in accordance with sections 163.01 to 163.21 of the 39010
Revised Code any hazardous waste facility or any solid waste 39011
facility containing significant quantities of hazardous waste 39012
that, because of its condition and the types and quantities of 39013
hazardous waste contained in the facility, constitutes an imminent 39014
and substantial threat to public health or safety or results in 39015
air pollution, pollution of the waters of the state, or soil 39016
contamination. For this purpose and for the purposes of division 39017
(B) of this section, the director may expend moneys from the 39018
hazardous waste clean-up fund created in section 3734.28 of the 39019
Revised Code or the environmental protection remediation fund 39020
created in section 3734.281 of the Revised Code and may expend 39021
moneys from loans from the Ohio water development authority to the 39022
environmental protection agency that pledge moneys from ~~the~~ either 39023
fund for the repayment of and for the interest on such loans. Any 39024
lands or facilities purchased or acquired under this section shall 39025
be deeded to the state, but no deed shall be accepted or the 39026
purchase price paid until the title has been approved by the 39027
attorney general. 39028

(B) The director shall, with respect to any land or facility 39029
acquired under this section or cleaned up under section 3734.20 of 39030
the Revised Code, perform closure or other measures necessary to 39031
abate conditions thereon that are causing or contributing to or 39032
threatening to cause or contribute to air or water pollution or 39033
soil contamination or that constitute a substantial threat to 39034

public health or safety, including, but not limited to, 39035
establishment and maintenance of an adequate cover of soil and 39036
vegetation on any facility for the burial of hazardous waste to 39037
prevent the infiltration of water into cells where hazardous waste 39038
is buried, the accumulation or runoff of contaminated surface 39039
water, the production of leachate, and air emissions of hazardous 39040
waste; the collection and treatment of contaminated surface water 39041
runoff; the collection and treatment of leachate; or, if 39042
conditions so require, the removal of hazardous waste from the 39043
facility and the treatment or disposal of the waste at a suitable 39044
hazardous waste facility. After performing these measures, the 39045
director shall provide for the post-closure care, maintenance, and 39046
monitoring of facilities cleaned up under this section. 39047

(C) Before proceeding to clean up any facility under this 39048
section or section 3734.20 or 3734.21 of the Revised Code, the 39049
director shall develop a plan for the cleanup of the facility and 39050
an estimate of the cost thereof. The director may carry out the 39051
plan or any part of the plan by contracting for the services, 39052
construction, and repair necessary therefor. The director shall 39053
award each such contract to the lowest responsible bidder after 39054
sealed bids therefor are received, opened, and published at the 39055
time fixed by the director and notice of the time and place at 39056
which the sealed bids will be received, opened, and published has 39057
been published by the director in a newspaper of general 39058
circulation in the county in which the facility to be cleaned up 39059
under the contract is located at least once within the ten days 39060
before the opening of the bids. However, if after advertising for 39061
bids for the contract, no bids are received by the director at the 39062
time and place fixed for receiving them, the director may 39063
advertise again for bids, or ~~he~~ the director may, if ~~he~~ the 39064
director considers the public interest will best be served 39065
thereby, enter into a contract for the cleanup of the facility 39066

without further advertisement for bids. The director may reject 39067
any or all bids received and fix and publish again notice of the 39068
time and place at which bids for the contracts will be received, 39069
opened, and published. 39070

(D) The director shall keep an itemized record of the costs 39071
of any acquisition under division (A) of this section and the 39072
costs of cleanup under division (B) of this section. 39073

Sec. 3734.28. All moneys collected under sections 3734.122, 39074
3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised 39075
Code and natural resource damages collected by the state under the 39076
"Comprehensive Environmental Response, Compensation, and Liability 39077
Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, shall 39078
be paid into the state treasury to the credit of the hazardous 39079
waste clean-up fund, which is hereby created. In addition, any 39080
moneys recovered for costs paid from the fund for activities 39081
described in division (A)(1) and (2) of section 3745.12 of the 39082
Revised Code shall be credited to the fund. The environmental 39083
protection agency shall use the moneys in the fund for the 39084
purposes set forth in division (D) of section 3734.122, sections 39085
3734.19, 3734.20, 3734.21, 3734.23, 3734.25, 3734.26, and 3734.27, 39086
and, through October 15, 2005, divisions (A)(1) and (2) of section 39087
3745.12 and Chapter 3746. of the Revised Code, including any 39088
related enforcement expenses. In addition, the agency shall use 39089
the moneys in the fund to pay the state's long-term operation and 39090
maintenance costs or matching share for actions taken under the 39091
"Comprehensive Environmental Response, Compensation, and Liability 39092
Act of 1980," as amended. If those moneys are reimbursed by grants 39093
or other moneys from the United States or any other person, the 39094
moneys shall be placed in the fund and not in the general revenue 39095
fund. 39096

Sec. 3734.57. (A) ~~For the purposes of paying the state's~~ 39097

~~long term operation costs or matching share for actions taken 39098~~
~~under the "Comprehensive Environmental Response, Compensation, and 39099~~
~~Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as 39100~~
~~amended; paying the costs of measures for proper clean up of sites 39101~~
~~where polychlorinated biphenyls and substances, equipment, and 39102~~
~~devices containing or contaminated with polychlorinated biphenyls 39103~~
~~have been stored or disposed of; paying the costs of conducting 39104~~
~~surveys or investigations of solid waste facilities or other 39105~~
~~locations where it is believed that significant quantities of 39106~~
~~hazardous waste were disposed of and for conducting enforcement 39107~~
~~actions arising from the findings of such surveys or 39108~~
~~investigations; paying the costs of acquiring and cleaning up, or 39109~~
~~providing financial assistance for cleaning up, any hazardous 39110~~
~~waste facility or solid waste facility containing significant 39111~~
~~quantities of hazardous waste, that constitutes an imminent and 39112~~
~~substantial threat to public health or safety or the environment; 39113~~
~~and, from July 1, 2003, through June 30, 2006, for the purposes of 39114~~
~~paying the costs of administering and enforcing the laws 39115~~
~~pertaining to solid wastes, infectious wastes, and construction 39116~~
~~and demolition debris, including, without limitation, ground water 39117~~
~~evaluations related to solid wastes, infectious wastes, and 39118~~
~~construction and demolition debris, under this chapter and Chapter 39119~~
~~3714. of the Revised Code and any rules adopted under them, and 39120~~
~~paying a share of the administrative costs of the environmental 39121~~
~~protection agency pursuant to section 3745.014 of the Revised 39122~~
~~Code, the The following fees are hereby levied on the disposal of 39123~~
~~solid wastes in this state: 39124~~

(1) One dollar per ton on and after July 1, 1993, one-half of 39125
the proceeds of which shall be deposited in the state treasury to 39126
the credit of the hazardous waste facility management fund created 39127
in section 3734.18 of the Revised Code and one-half of the 39128
proceeds of which shall be deposited in the state treasury to the 39129
credit of the hazardous waste clean-up fund created in section 39130

3734.28 of the Revised Code; 39131

(2) An additional one dollar per ton on and after July 1, 2003, through June 30, ~~2006~~ 2008, the proceeds of which shall be deposited in the state treasury to the credit of the solid waste fund, which is hereby created. The environmental protection agency shall use money in the solid waste fund to pay the costs of administering and enforcing the laws pertaining to solid wastes, infectious wastes, and construction and demolition debris, including, without limitation, ground water evaluations related to solid wastes, infectious wastes, and construction and demolition debris, under this chapter and Chapter 3714. of the Revised Code and any rules adopted under them, providing compliance assistance to small businesses, and paying a share of the administrative costs of the environmental protection agency pursuant to section 3745.014 of the Revised Code. 39132
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(3) An additional one dollar and fifty cents per ton on and after July 1, 2005, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code. 39146
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In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised 39150
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Code. 39163

The owner or operator of a solid waste transfer facility or 39164
disposal facility shall collect the fees levied under this 39165
division as a trustee for the state and, as applicable, shall 39166
prepare and file with the director of environmental protection 39167
monthly returns each month a return indicating the total tonnage 39168
of solid wastes received for disposal at the gate of the facility 39169
during that month and the total amount of the fees required to be 39170
collected under this division during that month. The amount of 39171
fees required to be collected under this division shall equal the 39172
total tonnage of solid wastes received at the facility multiplied 39173
by the fees levied under this division. The monthly returns shall 39174
be filed on a form prescribed by the director. Not later than 39175
thirty days after the last day of the month to which ~~such~~ a return 39176
applies, the owner or operator shall mail to the director the 39177
return for that month together with the fees required to be 39178
collected under this division during that month as indicated on 39179
the return. ~~The~~ If the return is filed and the amount of the fees 39180
due is paid in a timely manner as required in this division, the 39181
owner or operator may retain a discount of three-fourths of one 39182
per cent of the total amount of the fees that are required to be 39183
paid as indicated on the return. 39184

The owner or operator may request an extension of not more 39185
than thirty days for filing the return and remitting the fees, 39186
provided that the owner or operator has submitted such a request 39187
in writing to the director together with a detailed description of 39188
why the extension is requested, the director has received the 39189
request not later than the day on which the return is required to 39190
be filed, and the director has approved the request. If the fees 39191
are not remitted within thirty days after the last day of the 39192
month ~~during which they were collected~~ to which the return applies 39193
or are not remitted by the last day of an extension approved by 39194

the director, the owner or operator shall not retain the 39195
three-fourths of one per cent discount and shall pay an additional 39196
fifty ten per cent of the amount of the fees for each month that 39197
they are late. For purposes of calculating the late fee, the first 39198
month in which fees are late begins on the first day after the 39199
deadline has passed for timely submitting the return and fees, and 39200
one additional month shall be counted every thirty days 39201
thereafter. 39202

~~One half of the moneys remitted to the director under~~ 39203
~~division (A)(1) of this section shall be credited to the hazardous~~ 39204
~~waste facility management fund created in section 3734.18 of the~~ 39205
~~Revised Code, and one half shall be credited to the hazardous~~ 39206
~~waste clean up fund created in section 3734.28 of the Revised~~ 39207
~~Code. The moneys remitted to the director under division (A)(2) of~~ 39208
~~this section shall be credited to the solid waste fund, which is~~ 39209
~~hereby created in the state treasury. The environmental protection~~ 39210
~~agency shall use moneys in the solid waste fund only to pay the~~ 39211
~~costs of administering and enforcing the laws pertaining to solid~~ 39212
~~wastes, infectious wastes, and construction and demolition debris,~~ 39213
~~including, without limitation, ground water evaluations related to~~ 39214
~~solid wastes, infectious wastes, and construction and demolition~~ 39215
~~debris, under this chapter and Chapter 3714. of the Revised Code~~ 39216
~~and rules adopted under them and to pay a share of the~~ 39217
~~administrative costs of the environmental protection agency~~ 39218
~~pursuant to section 3745.014 of the Revised Code.~~ 39219

For purposes of computing the fees levied under this division 39220
or division (B) of this section, any solid waste transfer or 39221
disposal facility that does not use scales as a means of 39222
determining gate receipts shall use a conversion factor of three 39223
cubic yards per ton of solid waste or one cubic yard per ton for 39224
baled waste, as applicable. 39225

The fees levied under this division and divisions (B) and (C) 39226

of this section are in addition to all other applicable fees and 39227
taxes and shall be added to any other fee or amount specified in a 39228
contract that is charged by the owner or operator of a solid waste 39229
transfer or disposal facility or to any other fee or amount that 39230
is specified in a contract ~~entered into on or after March 4, 1992,~~ 39231
and that is charged by a transporter of solid wastes. 39232

(B) For the ~~purpose of preparing, revising, and implementing~~ 39233
~~the solid waste management plan of the county or joint solid waste~~ 39234
~~management district, including, without limitation, the~~ 39235
~~development and implementation of solid waste recycling or~~ 39236
~~reduction programs; providing financial assistance to boards of~~ 39237
~~health within the district, if solid waste facilities are located~~ 39238
~~within the district, for the enforcement of this chapter and rules~~ 39239
~~adopted and orders and terms and conditions of permits, licenses,~~ 39240
~~and variances issued under it, other than the hazardous waste~~ 39241
~~provisions of this chapter and rules adopted and orders and terms~~ 39242
~~and conditions of permits issued under those provisions; providing~~ 39243
~~financial assistance to the county to defray the added costs of~~ 39244
~~maintaining roads and other public facilities and of providing~~ 39245
~~emergency and other public services resulting from the location~~ 39246
~~and operation of a solid waste facility within the county under~~ 39247
~~the district's approved solid waste management plan; paying the~~ 39248
~~costs incurred by boards of health for collecting and analyzing~~ 39249
~~water samples from public or private wells on lands adjacent to~~ 39250
~~solid waste facilities that are contained in the approved or~~ 39251
~~amended plan of the district; paying the costs of developing and~~ 39252
~~implementing a program for the inspection of solid wastes~~ 39253
~~generated outside the boundaries of this state that are disposed~~ 39254
~~of at solid waste facilities included in the district's approved~~ 39255
~~solid waste management plan or amended plan; providing financial~~ 39256
~~assistance to boards of health within the district for enforcing~~ 39257
~~laws prohibiting open dumping; providing financial assistance to~~ 39258

~~local law enforcement agencies within the district for enforcing laws and ordinances prohibiting littering; providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code for the training and certification required for their employees responsible for solid waste enforcement by rules adopted under division (L) of section 3734.02 of the Revised Code; providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district; and payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:~~

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

~~If any such fees are levied prior to January 1, 1994, fees~~

Fees levied under division (B)(1) of this section always shall be 39291
equal to one-half of the fees levied under division (B)(2) of this 39292
section, and fees levied under division (B)(3) of this section, 39293
~~which shall be in addition to fees levied under division (B)(2) of~~ 39294
~~this section,~~ always shall be equal to fees levied under division 39295
(B)(1) of this section, ~~except as otherwise provided in this~~ 39296
~~division.~~ The solid waste management plan of the county or joint 39297
district approved under section 3734.521 or 3734.55 of the Revised 39298
Code and any amendments to it, or the resolution adopted under 39299
this division, as appropriate, shall establish the rates of the 39300
fees levied under divisions (B)(1), (2), and (3) of this section, 39301
if any, and shall specify whether the fees are levied on the basis 39302
of tons or cubic yards as the unit of measurement. ~~Although the~~ 39303
~~fees under divisions (A)(1) and (2) of this section are levied on~~ 39304
~~the basis of tons as the unit of measurement, the A solid waste~~ 39305
~~management plan of the district and any amendments to it or the~~ 39306
~~solid waste management policy committee in its resolution levying~~ 39307
~~fees under this division may direct that the levies fees levied~~ 39308
~~under those divisions be levied this division~~ on the basis of 39309
cubic yards as the unit of measurement based upon a conversion 39310
factor of three cubic yards per ton generally or one cubic yard 39311
per ton for baled wastes if the fees under divisions (B)(1) to (3) 39312
of this section are being levied on the basis of cubic yards as 39313
the unit of measurement under the plan, amended plan, or 39314
resolution shall do so in accordance with division (A) of this 39315
section. 39316

~~On and after January 1, 1994, the The~~ fee levied under 39317
division (B)(1) of this section shall be not less than one dollar 39318
per ton nor more than two dollars per ton, the fee levied under 39319
division (B)(2) of this section shall be not less than two dollars 39320
per ton nor more than four dollars per ton, and the fee levied 39321
under division (B)(3) of this section shall be not more than the 39322
fee levied under division (B)(1) of this section, ~~except as~~ 39323

~~otherwise provided in this division and notwithstanding any~~ 39324
~~schedule of those fees established in the solid waste management~~ 39325
~~plan of a county or joint district approved under section 3734.55~~ 39326
~~of the Revised Code or a resolution adopted and ratified under~~ 39327
~~this division that is in effect on that date. If the fee that a~~ 39328
~~district is levying under division (B)(1) of this section on that~~ 39329
~~date under its approved plan or such a resolution is less than one~~ 39330
~~dollar per ton, the fee shall be one dollar per ton on and after~~ 39331
~~January 1, 1994, and if the fee that a district is so levying~~ 39332
~~under that division exceeds two dollars per ton, the fee shall be~~ 39333
~~two dollars per ton on and after that date. If the fee that a~~ 39334
~~district is so levying under division (B)(2) of this section is~~ 39335
~~less than two dollars per ton, the fee shall be two dollars per~~ 39336
~~ton on and after that date, and if the fee that the district is so~~ 39337
~~levying under that division exceeds four dollars per ton, the fee~~ 39338
~~shall be four dollars per ton on and after that date. On that~~ 39339
~~date, the fee levied by a district under division (B)(3) of this~~ 39340
~~section shall be equal to the fee levied under division (B)(1) of~~ 39341
~~this section. Except as otherwise provided in this division, the~~ 39342
~~fees established by the operation of this amendment shall remain~~ 39343
~~in effect until the district's resolution levying fees under this~~ 39344
~~division is amended or repealed in accordance with this division~~ 39345
~~to amend or abolish the schedule of fees, the schedule of fees is~~ 39346
~~amended or abolished in an amended plan of the district approved~~ 39347
~~under section 3734.521 or division (A) or (D) of section 3734.56~~ 39348
~~of the Revised Code, or the schedule of fees is amended or~~ 39349
~~abolished through an amendment to the district's plan under~~ 39350
~~division (E) of section 3734.56 of the Revised Code; the~~ 39351
~~notification of the amendment or abolishment of the fees has been~~ 39352
~~given in accordance with this division; and collection of the~~ 39353
~~amended fees so established commences, or collection of the fees~~ 39354
~~ceases, in accordance with this division.~~ 39355

The solid waste management policy committee of a district 39356

~~levying fees under divisions (B)(1) to (3) of this section on~~ 39357
~~October 29, 1993, under its solid waste management plan approved~~ 39358
~~under section 3734.55 of the Revised Code or a resolution adopted~~ 39359
~~and ratified under this division that are within the ranges of~~ 39360
~~rates prescribed by this amendment, by adoption of a resolution~~ 39361
~~not later than December 1, 1993, and without the necessity for~~ 39362
~~ratification of the resolution under this division, may amend~~ 39363
~~those fees within the prescribed ranges, provided that the~~ 39364
~~estimated revenues from the amended fees will not substantially~~ 39365
~~exceed the estimated revenues set forth in the district's budget~~ 39366
~~for calendar year 1994. Not later than seven days after the~~ 39367
~~adoption of such a resolution, the committee shall notify by~~ 39368
~~certified mail the owner or operator of each solid waste disposal~~ 39369
~~facility that is required to collect the fees of the adoption of~~ 39370
~~the resolution and of the amount of the amended fees. Collection~~ 39371
~~of the amended fees shall take effect on the first day of the~~ 39372
~~first month following the month in which the notification is sent~~ 39373
~~to the owner or operator. The fees established in such a~~ 39374
~~resolution shall remain in effect until the district's resolution~~ 39375
~~levying fees that was adopted and ratified under this division is~~ 39376
~~amended or repealed, and the amendment or repeal of the resolution~~ 39377
~~is ratified, in accordance with this division, to amend or abolish~~ 39378
~~the fees, the schedule of fees is amended or abolished in an~~ 39379
~~amended plan of the district approved under section 3734.521 or~~ 39380
~~division (A) or (D) of section 3734.56 of the Revised Code, or the~~ 39381
~~schedule of fees is amended or abolished through an amendment to~~ 39382
~~the district's plan under division (E) of section 3734.56 of the~~ 39383
~~Revised Code; the notification of the amendment or abolishment of~~ 39384
~~the fees has been given in accordance with this division; and~~ 39385
~~collection of the amended fees so established commences, or~~ 39386
~~collection of the fees ceases, in accordance with this division.~~ 39387

Prior to the approval of the solid waste management plan of 39388

the a district under section 3734.55 of the Revised Code, the 39389
solid waste management policy committee of a district may levy 39390
fees under this division by adopting a resolution establishing the 39391
proposed amount of the fees. Upon adopting the resolution, the 39392
committee shall deliver a copy of the resolution to the board of 39393
county commissioners of each county forming the district and to 39394
the legislative authority of each municipal corporation and 39395
township under the jurisdiction of the district and shall prepare 39396
and publish the resolution and a notice of the time and location 39397
where a public hearing on the fees will be held. Upon adopting the 39398
resolution, the committee shall deliver written notice of the 39399
adoption of the resolution; of the amount of the proposed fees; 39400
and of the date, time, and location of the public hearing to the 39401
director and to the fifty industrial, commercial, or institutional 39402
generators of solid wastes within the district that generate the 39403
largest quantities of solid wastes, as determined by the 39404
committee, and to their local trade associations. The committee 39405
shall make good faith efforts to identify those generators within 39406
the district and their local trade associations, but the 39407
nonprovision of notice under this division to a particular 39408
generator or local trade association does not invalidate the 39409
proceedings under this division. The publication shall occur at 39410
least thirty days before the hearing. After the hearing, the 39411
committee may make such revisions to the proposed fees as it 39412
considers appropriate and thereafter, by resolution, shall adopt 39413
the revised fee schedule. Upon adopting the revised fee schedule, 39414
the committee shall deliver a copy of the resolution doing so to 39415
the board of county commissioners of each county forming the 39416
district and to the legislative authority of each municipal 39417
corporation and township under the jurisdiction of the district. 39418
Within sixty days after the delivery of a copy of the resolution 39419
adopting the proposed revised fees by the policy committee, each 39420
such board and legislative authority, by ordinance or resolution, 39421

shall approve or disapprove the revised fees and deliver a copy of 39422
the ordinance or resolution to the committee. If any such board or 39423
legislative authority fails to adopt and deliver to the policy 39424
committee an ordinance or resolution approving or disapproving the 39425
revised fees within sixty days after the policy committee 39426
delivered its resolution adopting the proposed revised fees, it 39427
shall be conclusively presumed that the board or legislative 39428
authority has approved the proposed revised fees. The committee 39429
shall determine if the resolution has been ratified in the same 39430
manner in which it determines if a draft solid waste management 39431
plan has been ratified under division (B) of section 3734.55 of 39432
the Revised Code. 39433

~~In the case of a county district or a joint district formed 39434
by two or three counties, the committee shall declare the proposed 39435
revised fees to be ratified as the fee schedule of the district 39436
upon determining that the board of county commissioners of each 39437
county forming the district has approved the proposed revised fees 39438
and that the legislative authorities of a combination of municipal 39439
corporations and townships with a combined population within the 39440
district comprising at least sixty per cent of the total 39441
population of the district have approved the proposed revised 39442
fees, provided that in the case of a county district, that 39443
combination shall include the municipal corporation having the 39444
largest population within the boundaries of the district, and 39445
provided further that in the case of a joint district formed by 39446
two or three counties, that combination shall include for each 39447
county forming the joint district the municipal corporation having 39448
the largest population within the boundaries of both the county in 39449
which the municipal corporation is located and the joint district. 39450
In the case of a joint district formed by four or more counties, 39451
the committee shall declare the proposed revised fees to be 39452
ratified as the fee schedule of the joint district upon 39453
determining that the boards of county commissioners of a majority 39454~~

~~of the counties forming the district have approved the proposed revised fees; that, in each of a majority of the counties forming the joint district, the proposed revised fees have been approved by the municipal corporation having the largest population within the county and the joint district; and that the legislative authorities of a combination of municipal corporations and townships with a combined population within the joint district comprising at least sixty per cent of the total population of the joint district have approved the proposed revised fees.~~

~~For the purposes of this division, only the population of the unincorporated area of a township shall be considered. For the purpose of determining the largest municipal corporation within each county under this division, a municipal corporation that is located in more than one solid waste management district, but that is under the jurisdiction of one county or joint solid waste management district in accordance with division (A) of section 3734.52 of the Revised Code shall be considered to be within the boundaries of the county in which a majority of the population of the municipal corporation resides.~~

The committee may amend the schedule of fees levied pursuant to a resolution ~~or amended resolution~~ adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may ~~abolish~~ repeal the fees levied pursuant to such a resolution ~~or amended resolution~~ by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees ~~or amended fees~~ to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees

or of the repeal of the fees. Collection of any fees ~~or amended~~ 39487
~~fees ratified on or after March 24, 1992,~~ shall commence or 39488
collection of repealed fees shall cease on the first day of the 39489
second month following the month in which notification is sent to 39490
the owner or operator. 39491

~~Not later than fourteen days after declaring the repeal of~~ 39492
~~the district's schedule of fees to be ratified under this~~ 39493
~~division, the committee shall notify by certified mail the owner~~ 39494
~~or operator of each facility that is collecting the fees of the~~ 39495
~~repeal. Collection of the fees shall cease on the first day of the~~ 39496
~~second month following the month in which notification is sent to~~ 39497
~~the owner or operator.~~ 39498

Fees levied under this division also may be established, 39499
amended, or repealed by a solid waste management policy committee 39500
through the adoption of a new district solid waste management 39501
plan, the adoption of an amended plan, or the amendment of the 39502
plan or amended plan in accordance with sections 3734.55 and 39503
3734.56 of the Revised Code or the adoption or amendment of a 39504
district plan in connection with a change in district composition 39505
under section 3734.521 of the Revised Code. 39506

Not later than fourteen days after the director issues an 39507
order approving a district's solid waste management plan ~~under~~ 39508
~~section 3734.55 of the Revised Code or,~~ amended plan ~~under~~ 39509
~~division (A) or (D) of section 3734.56 of the Revised Code, or~~ 39510
amendment to a plan or amended plan that establishes ~~or,~~ amends, 39511
or repeals a schedule of fees levied by the district, ~~or the~~ 39512
~~ratification of an amendment to the district's approved plan or~~ 39513
~~amended plan under division (E) of section 3734.56 of the Revised~~ 39514
~~Code that establishes or amends a schedule of fees, as~~ 39515
~~appropriate,~~ the committee shall notify by certified mail the 39516
owner or operator of each solid waste disposal facility that is 39517
required to collect the fees of the approval of the plan or 39518

amended plan, or the amendment to the plan, as appropriate, and 39519
the amount of the fees ~~or amended fees, if any~~. In the case of an 39520
initial or amended plan approved under section 3734.521 of the 39521
Revised Code in connection with a change in district composition, 39522
other than one involving the withdrawal of a county from a joint 39523
district, ~~that establishes or amends a schedule of fees levied~~ 39524
~~under divisions (B)(1) to (3) of this section by a district~~ 39525
~~resulting from the change,~~ the committee, within fourteen days 39526
after the change takes effect pursuant to division (G) of that 39527
section, shall notify by certified mail the owner or operator of 39528
each solid waste disposal facility that is required to collect the 39529
fees that the change has taken effect and of the amount of the 39530
fees ~~or amended fees, if any~~. Collection of any fees ~~set forth in~~ 39531
~~a plan or amended plan approved by the director on or after April~~ 39532
~~16, 1993, or an amendment of a plan or amended plan under division~~ 39533
~~(E) of section 3734.56 of the Revised Code that is ratified on or~~ 39534
~~after April 16, 1993,~~ shall commence or collection of repealed 39535
fees shall cease on the first day of the second month following 39536
the month in which notification is sent to the owner or operator. 39537

~~Not later than fourteen days after the director issues an~~ 39538
~~order approving a district's plan under section 3734.55 of the~~ 39539
~~Revised Code or amended plan under division (A) or (D) of section~~ 39540
~~3734.56 of the Revised Code that abolishes the schedule of fees~~ 39541
~~levied under divisions (B)(1) to (3) of this section, or an~~ 39542
~~amendment to the district's approved plan or amended plan~~ 39543
~~abolishing the schedule of fees is ratified pursuant to division~~ 39544
~~(E) of section 3734.56 of the Revised Code, as appropriate, the~~ 39545
~~committee shall notify by certified mail the owner or operator of~~ 39546
~~each facility that is collecting the fees of the approval of the~~ 39547
~~plan or amended plan, or the amendment of the plan or amended~~ 39548
~~plan, as appropriate, and the abolishment of the fees. In the case~~ 39549
~~of an initial or amended plan approved under section 3734.521 of~~ 39550
~~the Revised Code in connection with a change in district~~ 39551

~~composition, other than one involving the withdrawal of a county
from a joint district, that abolishes the schedule of fees levied
under divisions (B)(1) to (3) of this section by a district
resulting from the change, the committee, within fourteen days
after the change takes effect pursuant to division (C) of that
section, shall notify by certified mail the owner or operator of
each solid waste disposal facility that is required to collect the
fees that the change has taken effect and of the abolishment of
the fees. Collection of the fees shall cease on the first day of
the second month following the month in which notification is sent
to the owner or operator.~~

~~Except as otherwise provided in this division, if the
schedule of fees that a district is levying under divisions (B)(1)
to (3) of this section pursuant to a resolution or amended
resolution adopted and ratified under this division, the solid
waste management plan of the district approved under section
3734.55 of the Revised Code, an amended plan approved under
division (A) or (D) of section 3734.56 of the Revised Code, or an
amendment to the district's approved plan or amended plan under
division (E) of section 3734.56 of the Revised Code, is amended by
the adoption and ratification of an amendment to the resolution or
amended resolution or an amendment of the district's approved plan
or amended plan, the fees in effect immediately prior to the
approval of the plan or the amendment of the resolution, amended
resolution, plan, or amended plan, as appropriate, shall continue
to be collected until collection of the amended fees commences
pursuant to this division.~~

~~If, in the case of a change in district composition involving
the withdrawal of a county from a joint district, the director
completes the actions required under division (G)(1) or (3) of
section 3734.521 of the Revised Code, as appropriate, forty-five
days or more before the beginning of a calendar year, the policy~~

committee of each of the districts resulting from the change that 39584
obtained the director's approval of an initial or amended plan in 39585
connection with the change, within fourteen days after the 39586
director's completion of the required actions, shall notify by 39587
certified mail the owner or operator of each solid waste disposal 39588
facility that is required to collect the district's fees that the 39589
change is to take effect on the first day of January immediately 39590
following the issuance of the notice and of the amount of the fees 39591
or amended fees levied under divisions (B)(1) to (3) of this 39592
section pursuant to the district's initial or amended plan as so 39593
approved or, if appropriate, the ~~abolishment~~ repeal of the 39594
district's fees by that initial or amended plan. Collection of any 39595
fees set forth in such a plan or amended plan shall commence on 39596
the first day of January immediately following the issuance of the 39597
notice. If such an initial or amended plan ~~abolishes~~ repeals a 39598
schedule of fees, collection of the fees shall cease on that first 39599
day of January. 39600

If, in the case of a change in district composition involving 39601
the withdrawal of a county from a joint district, the director 39602
completes the actions required under division (G)(1) or (3) of 39603
section 3734.521 of the Revised Code, as appropriate, less than 39604
forty-five days before the beginning of a calendar year, the 39605
director, on behalf of each of the districts resulting from the 39606
change that obtained the director's approval of an initial or 39607
amended plan in connection with the change proceedings, shall 39608
notify by certified mail the owner or operator of each solid waste 39609
disposal facility that is required to collect the district's fees 39610
that the change is to take effect on the first day of January 39611
immediately following the mailing of the notice and of the amount 39612
of the fees or amended fees levied under divisions (B)(1) to (3) 39613
of this section pursuant to the district's initial or amended plan 39614
as so approved or, if appropriate, the ~~abolishment~~ repeal of the 39615

district's fees by that initial or amended plan. Collection of any 39616
fees set forth in such a plan or amended plan shall commence on 39617
the first day of the second month following the month in which 39618
notification is sent to the owner or operator. If such an initial 39619
or amended plan ~~abolishes~~ repeals a schedule of fees, collection 39620
of the fees shall cease on the first day of the second month 39621
following the month in which notification is sent to the owner or 39622
operator. 39623

~~If the schedule of fees that a solid waste management 39624
district is levying under divisions (B)(1) to (3) of this section 39625
is amended or repealed, the fees in effect immediately prior to 39626
the amendment or repeal shall continue to be collected until 39627
collection of the amended fees commences or collection of the 39628
repealed fees ceases, as applicable, as specified in this 39629
division. In the case of a change in district composition, the 39630
schedule of fees that the former districts that existed prior to 39631
the change were levying under divisions (B)(1) to (3) of this 39632
section pursuant to a resolution or amended resolution adopted and 39633
ratified under this division, the solid waste management plan of a 39634
former district approved under section 3734.521 or 3734.55 of the 39635
Revised Code, an amended plan approved under section 3734.521 or 39636
division (A) or (D) of section 3734.56 of the Revised Code, or an 39637
amendment to a former district's approved plan or amended plan 39638
under division (E) of section 3734.56 of the Revised Code, and 39639
that were in effect on the date that the director completed the 39640
actions required under division (C)(1) or (3) of section 3734.521 39641
of the Revised Code shall continue to be collected until the 39642
collection of the fees or amended fees of the districts resulting 39643
from the change is required to commence, or if an initial or 39644
amended plan of a resulting district abolishes a schedule of fees, 39645
collection of the fees is required to cease, under this division. 39646
~~Moneys~~ money so received from the collection of the fees of the 39647
former districts shall be divided among the resulting districts in 39648~~

accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or ~~abolished~~ repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or

township is located or, if a regional solid waste management 39681
authority has been formed under section 343.011 of the Revised 39682
Code, to the board of trustees of that regional authority, the 39683
owner or operator of each solid waste disposal facility in the 39684
municipal corporation or township that is required to collect the 39685
fee by the ordinance or resolution, and the director of 39686
environmental protection. Although the fees levied under this 39687
division are levied on the basis of tons as the unit of 39688
measurement, the legislative authority, in its ordinance or 39689
resolution levying the fees under this division, may direct that 39690
the fees be levied on the basis of cubic yards as the unit of 39691
measurement based upon a conversion factor of three cubic yards 39692
per ton generally or one cubic yard per ton for baled wastes. 39693

Not later than five days after enacting an ordinance or 39694
adopting a resolution under this division, the legislative 39695
authority shall so notify by certified mail the owner or operator 39696
of each solid waste disposal facility that is required to collect 39697
the fee. Collection of any fee levied on or after March 24, 1992, 39698
shall commence on the first day of the second month following the 39699
month in which notification is sent to the owner or operator. 39700

(D)(1) The fees levied under divisions (A), (B), and (C) of 39701
this section do not apply to the disposal of solid wastes that: 39702

(a) Are disposed of at a facility owned by the generator of 39703
the wastes when the solid waste facility exclusively disposes of 39704
solid wastes generated at one or more premises owned by the 39705
generator regardless of whether the facility is located on a 39706
premises where the wastes are generated; 39707

(b) Are disposed of at facilities that exclusively dispose of 39708
wastes that are generated from the combustion of coal, or from the 39709
combustion of primarily coal in combination with scrap tires, that 39710
is not combined in any way with garbage at one or more premises 39711

owned by the generator. 39712

(2) Except as provided in section 3734.571 of the Revised 39713
Code, any fees levied under division (B)(1) of this section apply 39714
to solid wastes originating outside the boundaries of a county or 39715
joint district that are covered by an agreement for the joint use 39716
of solid waste facilities entered into under section 343.02 of the 39717
Revised Code by the board of county commissioners or board of 39718
directors of the county or joint district where the wastes are 39719
generated and disposed of. 39720

(3) When solid wastes, other than solid wastes that consist 39721
of scrap tires, are burned in a disposal facility that is an 39722
incinerator or energy recovery facility, the fees levied under 39723
divisions (A), (B), and (C) of this section shall be levied upon 39724
the disposal of the fly ash and bottom ash remaining after burning 39725
of the solid wastes and shall be collected by the owner or 39726
operator of the sanitary landfill where the ash is disposed of. 39727

(4) When solid wastes are delivered to a solid waste transfer 39728
facility, the fees levied under divisions (A), (B), and (C) of 39729
this section shall be levied upon the disposal of solid wastes 39730
transported off the premises of the transfer facility for disposal 39731
and shall be collected by the owner or operator of the solid waste 39732
disposal facility where the wastes are disposed of. 39733

(5) The fees levied under divisions (A), (B), and (C) of this 39734
section do not apply to sewage sludge that is generated by a waste 39735
water treatment facility holding a national pollutant discharge 39736
elimination system permit and that is disposed of through 39737
incineration, land application, or composting or at another 39738
resource recovery or disposal facility that is not a landfill. 39739

(6) The fees levied under divisions (A), (B), and (C) of this 39740
section do not apply to solid wastes delivered to a solid waste 39741
composting facility for processing. When any unprocessed solid 39742

waste or compost product is transported off the premises of a 39743
composting facility and disposed of at a landfill, the fees levied 39744
under divisions (A), (B), and (C) of this section shall be 39745
collected by the owner or operator of the landfill where the 39746
unprocessed waste or compost product is disposed of. 39747

(7) When solid wastes that consist of scrap tires are 39748
processed at a scrap tire recovery facility, the fees levied under 39749
divisions (A), (B), and (C) of this section shall be levied upon 39750
the disposal of the fly ash and bottom ash or other solid wastes 39751
remaining after the processing of the scrap tires and shall be 39752
collected by the owner or operator of the solid waste disposal 39753
facility where the ash or other solid wastes are disposed of. 39754

(8) The fees levied under this section do not apply to solid 39755
wastes, including, but not limited to, scrap tires, that are 39756
generated, transferred, or disposed of as a result of a contract 39757
providing for the expenditure of public funds entered into by the 39758
administrator or regional administrator of the United States 39759
environmental protection agency, the director of environmental 39760
protection, or the director of administrative services on behalf 39761
of the director of environmental protection for the purpose of 39762
remediating conditions at a hazardous waste facility, solid waste 39763
facility, or other location at which the administrator or regional 39764
administrator or the director of environmental protection has 39765
reason to believe that there is a substantial threat to public 39766
health or safety or the environment or that the conditions are 39767
causing or contributing to air or water pollution or soil 39768
contamination. 39769

(E) The fees levied under divisions (B) and (C) of this 39770
section shall be collected by the owner or operator of the solid 39771
waste disposal facility where the wastes are disposed of as a 39772
trustee for the county or joint district and municipal corporation 39773
or township where the wastes are disposed of. Moneys from the fees 39774

levied under division (B) of this section shall be forwarded to
the board of county commissioners or board of directors of the
district in accordance with rules adopted under division (H) of
this section. Moneys from the fees levied under division (C) of
this section shall be forwarded to the treasurer or such other
officer of the municipal corporation as, by virtue of the charter,
has the duties of the treasurer or to the clerk of the township,
as appropriate, in accordance with those rules.

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(F) Moneys received by the treasurer or such other officer of
the municipal corporation under division (E) of this section shall
be paid into the general fund of the municipal corporation. Moneys
received by the clerk of the township under that division shall be
paid into the general fund of the township. The treasurer or such
other officer of the municipal corporation or the clerk, as
appropriate, shall maintain separate records of the moneys
received from the fees levied under division (C) of this section.

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(G) Moneys received by the board of county commissioners or
board of directors under division (E) of this section or section
3734.571, 3734.572, 3734.573, or 3734.574 of the Revised Code
shall be paid to the county treasurer, or other official acting in
a similar capacity under a county charter, in a county district or
to the county treasurer or other official designated by the board
of directors in a joint district and kept in a separate and
distinct fund to the credit of the district. If a regional solid
waste management authority has been formed under section 343.011
of the Revised Code, moneys received by the board of trustees of
that regional authority under division (E) of this section shall
be kept by the board in a separate and distinct fund to the credit
of the district. Moneys in the special fund of the county or joint
district arising from the fees levied under division (B) of this
section and the fee levied under division (A) of section 3734.573
of the Revised Code shall be expended by the board of county

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commissioners or directors of the district in accordance with the 39807
district's solid waste management plan or amended plan approved 39808
under section 3734.521, 3734.55, or 3734.56 of the Revised Code 39809
exclusively for the following purposes: 39810

(1) Preparation of the solid waste management plan of the 39811
district under section 3734.54 of the Revised Code, monitoring 39812
implementation of the plan, and conducting the periodic review and 39813
amendment of the plan required by section 3734.56 of the Revised 39814
Code by the solid waste management policy committee; 39815

(2) Implementation of the approved solid waste management 39816
plan or amended plan of the district, including, without 39817
limitation, the development and implementation of solid waste 39818
recycling or reduction programs; 39819

(3) Providing financial assistance to boards of health within 39820
the district, if solid waste facilities are located within the 39821
district, for enforcement of this chapter and rules, orders, and 39822
terms and conditions of permits, licenses, and variances adopted 39823
or issued under it, other than the hazardous waste provisions of 39824
this chapter and rules adopted and orders and terms and conditions 39825
of permits issued under those provisions; 39826

(4) Providing financial assistance to each county within the 39827
district to defray the added costs of maintaining roads and other 39828
public facilities and of providing emergency and other public 39829
services resulting from the location and operation of a solid 39830
waste facility within the county under the district's approved 39831
solid waste management plan or amended plan; 39832

(5) Pursuant to contracts entered into with boards of health 39833
within the district, if solid waste facilities contained in the 39834
district's approved plan or amended plan are located within the 39835
district, for paying the costs incurred by those boards of health 39836
for collecting and analyzing samples from public or private water 39837

wells on lands adjacent to those facilities;	39838
(6) Developing and implementing a program for the inspection	39839
of solid wastes generated outside the boundaries of this state	39840
that are disposed of at solid waste facilities included in the	39841
district's approved solid waste management plan or amended plan;	39842
(7) Providing financial assistance to boards of health within	39843
the district for the enforcement of section 3734.03 of the Revised	39844
Code or to local law enforcement agencies having jurisdiction	39845
within the district for enforcing anti-littering laws and	39846
ordinances;	39847
(8) Providing financial assistance to boards of health of	39848
health districts within the district that are on the approved list	39849
under section 3734.08 of the Revised Code to defray the costs to	39850
the health districts for the participation of their employees	39851
responsible for enforcement of the solid waste provisions of this	39852
chapter and rules adopted and orders and terms and conditions of	39853
permits, licenses, and variances issued under those provisions in	39854
the training and certification program as required by rules	39855
adopted under division (L) of section 3734.02 of the Revised Code;	39856
(9) Providing financial assistance to individual municipal	39857
corporations and townships within the district to defray their	39858
added costs of maintaining roads and other public facilities and	39859
of providing emergency and other public services resulting from	39860
the location and operation within their boundaries of a	39861
composting, energy or resource recovery, incineration, or	39862
recycling facility that either is owned by the district or is	39863
furnishing solid waste management facility or recycling services	39864
to the district pursuant to a contract or agreement with the board	39865
of county commissioners or directors of the district;	39866
(10) Payment of any expenses that are agreed to, awarded, or	39867
ordered to be paid under section 3734.35 of the Revised Code and	39868

of any administrative costs incurred pursuant to that section. In 39869
the case of a joint solid waste management district, if the board 39870
of county commissioners of one of the counties in the district is 39871
negotiating on behalf of affected communities, as defined in that 39872
section, in that county, the board shall obtain the approval of 39873
the board of directors of the district in order to expend moneys 39874
for administrative costs incurred. 39875

Prior to the approval of the district's solid waste 39876
management plan under section 3734.55 of the Revised Code, moneys 39877
in the special fund of the district arising from the fees shall be 39878
expended for those purposes in the manner prescribed by the solid 39879
waste management policy committee by resolution. 39880

Notwithstanding division (G)(6) of this section as it existed 39881
prior to October 29, 1993, or any provision in a district's solid 39882
waste management plan prepared in accordance with division 39883
(B)(2)(e) of section 3734.53 of the Revised Code as it existed 39884
prior to that date, any moneys arising from the fees levied under 39885
division (B)(3) of this section prior to January 1, 1994, may be 39886
expended for any of the purposes authorized in divisions (G)(1) to 39887
(10) of this section. 39888

(H) The director shall adopt rules in accordance with Chapter 39889
119. of the Revised Code prescribing procedures for collecting and 39890
forwarding the fees levied under divisions (B) and (C) of this 39891
section to the boards of county commissioners or directors of 39892
county or joint solid waste management districts and to the 39893
treasurers or other officers of municipal corporations or to the 39894
clerks of townships. The rules also shall prescribe the dates for 39895
forwarding the fees to the boards and officials and may prescribe 39896
any other requirements the director considers necessary or 39897
appropriate to implement and administer divisions (A), (B), and 39898
(C) of this section. ~~Collection of the fees levied under division 39899~~
~~(A)(1) of this section shall commence on July 1, 1993. Collection 39900~~

~~of the fees levied under division (A)(2) of this section shall 39901
commence on January 1, 1994. 39902~~

Sec. 3734.573. (A) ~~For the purpose of preparing, revising, 39903
and implementing the solid waste management plan of the district, 39904
including, without limitation, the development and implementation 39905
of solid waste recycling or reduction programs; providing 39906
financial assistance to boards of health within the district, if 39907
solid waste facilities are located in the district, for the 39908
enforcement of this chapter and rules adopted and orders and terms 39909
and conditions of permits, licenses, and variances issued under 39910
it, other than the hazardous waste provisions of this chapter and 39911
rules adopted and orders and terms and conditions of permits 39912
issued under those provisions; providing financial assistance to 39913
the county to defray the added costs of maintaining roads and 39914
other public facilities and of providing emergency and other 39915
public services resulting from the location and operation of a 39916
solid waste facility within the county under the district's 39917
approved plan or amended plan; paying the costs incurred by boards 39918
of health for collecting and analyzing water samples from public 39919
and private wells on lands adjacent to solid waste facilities that 39920
are contained in the approved or amended plan of the district; 39921
paying the costs of developing and implementing a program for the 39922
inspection of solid wastes generated outside the boundaries of 39923
this state that are disposed of at solid waste facilities included 39924
in the district's approved plan or amended plan; providing 39925
financial assistance to boards of health within the district for 39926
enforcing laws prohibiting open dumping; providing financial 39927
assistance to local law enforcement agencies within the district 39928
for enforcing laws and ordinances prohibiting littering; providing 39929
financial assistance to boards of health of health districts 39930
within the district that are on the approved list under section 39931
3734.08 of the Revised Code for the training and certification 39932~~

~~required for their employees responsible for solid waste 39933
enforcement by rules adopted under division (L) of section 3734.02 39934
of the Revised Code; providing financial assistance to individual 39935
municipal corporations and townships within the district to defray 39936
their added costs of maintaining roads and other public facilities 39937
and of providing emergency and other public services resulting 39938
from the location and operation within their boundaries of a 39939
composting, energy or resource recovery, incineration, or 39940
recycling facility that either is owned by the district or is 39941
furnishing solid waste management facility or recycling services 39942
to the district pursuant to a contract or agreement with the board 39943
of county commissioners or directors of the district; and paying 39944
any expenses provided for or incurred under section 3734.35 39945
purposes specified in division (G) of section 3734.57 of the 39946
Revised Code, the solid waste management policy committee of a 39947
county or joint solid waste management district may levy a fee on 39948
the generation of solid wastes within the district. 39949~~

The initial or amended solid waste management plan of the 39950
county or joint district approved under section 3734.521, 3734.55, 39951
or 3734.56 of the Revised Code, an amendment to the district's 39952
plan adopted under division (E) of section 3734.56 of the Revised 39953
Code, or the resolution adopted and ratified under division (B) of 39954
this section shall establish the rate of the fee levied under this 39955
division and shall specify whether the fee is levied on the basis 39956
of tons or cubic yards as the unit of measurement. 39957

(B) Prior to the approval under division (A) of section 39958
3734.56 of the Revised Code of the first amended plan that the 39959
district is required to submit for approval under that section, 39960
the approval of an initial plan under section 3734.521 of the 39961
Revised Code, the approval of an amended plan under section 39962
3734.521 or division (D) of section 3734.56 of the Revised Code, 39963
or the amendment of the district's plan under division (E) of 39964

section 3734.56 of the Revised Code, the solid waste management 39965
policy committee of a county or joint district that is operating 39966
under an initial plan approved under section 3734.55 of the 39967
Revised Code, or one for which approval of its initial plan is 39968
pending before the director of environmental protection on October 39969
29, 1993, under section 3734.55 of the Revised Code, may levy a 39970
fee under division (A) of this section by adopting and obtaining 39971
ratification of a resolution establishing the amount of the fee. A 39972
policy committee that, after December 1, 1993, concurrently 39973
proposes to levy a fee under division (A) of this section and to 39974
amend the fees levied by the district under divisions (B)(1) to 39975
(3) of section 3734.57 of the Revised Code may adopt and obtain 39976
ratification of one resolution proposing to do both. The 39977
requirements and procedures set forth in division (B) of section 39978
3734.57 of the Revised Code governing the adoption, amendment, and 39979
repeal of resolutions levying fees under divisions (B)(1) to (3) 39980
of that section, the ratification of those resolutions, and the 39981
notification of owners and operators of solid waste facilities 39982
required to collect fees levied under those divisions govern the 39983
adoption of the resolutions authorized to be adopted under this 39984
division, the ratification thereof, and the notification of owners 39985
and operators required to collect the fees, except as otherwise 39986
specifically provided in division (C) of this section. 39987

(C) Any initial or amended plan of a district adopted under 39988
section 3734.521 or 3734.56 of the Revised Code, or resolution 39989
adopted under division (B) of this section, that proposes to levy 39990
a fee under division (A) of this section that exceeds five dollars 39991
per ton shall be ratified in accordance with the provisions of 39992
section 3734.55 or division (B) of section 3734.57 of the Revised 39993
Code, as applicable, except that such an initial or amended plan 39994
or resolution shall be approved by a combination of municipal 39995
corporations and townships with a combined population within the 39996

boundaries of the district comprising at least seventy-five per cent, rather than at least sixty per cent, of the total population of the district.

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(D) The policy committee of a county or joint district may amend the fee levied by the district under division (A) of this section by adopting and obtaining ratification of a resolution establishing the amount of the amended fee. The policy committee may abolish the fee or an amended fee established under this division by adopting and obtaining ratification of a resolution proposing to repeal it. The requirements and procedures under division (B) and, if applicable, division (C) of this section govern the adoption and ratification of a resolution authorized to be adopted under this division and the notification of owners and operators of solid waste facilities required to collect the fees.

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(E) Collection of a fee or amended fee levied under division (A) or (D) of this section shall commence or cease in accordance with division (B) of section 3734.57 of the Revised Code. If a district is levying a fee under section 3734.572 of the Revised Code, collection of that fee shall cease on the date on which collection of the fee levied under division (A) of this section commences in accordance with division (B) of section 3734.57 of the Revised Code.

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(F) In the case of solid wastes that are taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility for disposal, the fee levied under division (A) of this section shall be collected by the owner or operator of the transfer facility as a trustee for the district. In the case of solid wastes that are not taken to a solid waste transfer facility prior to being transported to a solid waste disposal facility, the fee shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of. An owner or operator of a solid waste transfer or

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disposal facility who is required to collect the fee shall collect 40029
and forward the fee to the district in accordance with section 40030
3734.57 of the Revised Code and rules adopted under division (H) 40031
of that section. 40032

If the owner or operator of a solid waste transfer or 40033
disposal facility who did not receive notice pursuant to division 40034
(B) of this section to collect the fee levied by a district under 40035
division (A) of this section receives solid wastes generated in 40036
the district, the owner or operator, within thirty days after 40037
receiving the wastes, shall send written notice of that fact to 40038
the board of county commissioners or directors of the district. 40039
Within thirty days after receiving such a notice, the board of 40040
county commissioners or directors shall send written notice to the 40041
owner or operator indicating whether the district is levying a fee 40042
under division (A) of this section and, if so, the amount of the 40043
fee. 40044

(G) Moneys received by a district levying a fee under 40045
division (A) of this section shall be credited to the special fund 40046
of the district created in division (G) of section 3734.57 of the 40047
Revised Code and shall be used exclusively for the purposes ~~set~~ 40048
~~forth specified in divisions (G)(1) to (10) of that section~~ 40049
division. Prior to the approval under division (A) of section 40050
3734.56 of the Revised Code of the first amended plan that the 40051
district is required to submit for approval under that section, 40052
the approval of an initial plan under section 3734.521 of the 40053
Revised Code, the approval of an amended plan under that section 40054
or division (D) of section 3734.56 of the Revised Code, or the 40055
amendment of the district's plan under division (E) of section 40056
3734.56 of the Revised Code, moneys credited to the special fund 40057
arising from the fee levied pursuant to a resolution adopted and 40058
ratified under division (B) of this section shall be expended for 40059
those purposes in the manner prescribed by the solid waste 40060

management policy committee by resolution. 40061

(H) The fee levied under division (A) of this section does 40062
not apply to the management of solid wastes that: 40063

(1) Are disposed of at a facility owned by the generator of 40064
the wastes when the solid waste facility exclusively disposes of 40065
solid wastes generated at one or more premises owned by the 40066
generator regardless of whether the facility is located on a 40067
premises where the wastes were generated; 40068

(2) Are disposed of at facilities that exclusively dispose of 40069
wastes that are generated from the combustion of coal, or from the 40070
combustion of primarily coal in combination with scrap tires, that 40071
is not combined in any way with garbage at one or more premises 40072
owned by the generator. 40073

(I) When solid wastes that are burned in a disposal facility 40074
that is an incinerator or energy recovery facility are delivered 40075
to a solid waste transfer facility prior to being transported to 40076
the incinerator or energy recovery facility where they are burned, 40077
the fee levied under division (A) of this section shall be levied 40078
on the wastes delivered to the transfer facility. 40079

(J) When solid wastes that are burned in a disposal facility 40080
that is an incinerator or energy recovery facility are not 40081
delivered to a solid waste transfer facility prior to being 40082
transported to the incinerator or energy recovery facility where 40083
they are burned, the fee levied under division (A) of this section 40084
shall be levied on the wastes delivered to the incinerator or 40085
energy recovery facility. 40086

(K) The fee levied under division (A) of this section does 40087
not apply to sewage sludge that is generated by a waste water 40088
treatment facility holding a national pollutant discharge 40089
elimination system permit and that is disposed of through 40090
incineration, land application, or composting or at another 40091

resource recovery or disposal facility that is not a landfill. 40092

(L) The fee levied under division (A) of this section does 40093
not apply to yard waste delivered to a solid waste composting 40094
facility for processing or to a solid waste transfer facility. 40095

(M) The fee levied under division (A) of this section does 40096
not apply to materials separated from a mixed waste stream for 40097
recycling by the generator. 40098

(N) The fees levied under this section do not apply to solid 40099
wastes, including, but not limited to, scrap tires, that are 40100
generated, transferred, or disposed of as a result of a contract 40101
providing for the expenditure of public funds entered into by the 40102
administrator or regional administrator of the United States 40103
environmental protection agency, the director of environmental 40104
protection, or the director of administrative services on behalf 40105
of the director of environmental protection for the purpose of 40106
remediating conditions at a hazardous waste facility, solid waste 40107
facility, or other location at which the administrator or regional 40108
administrator or the director of environmental protection has 40109
reason to believe that there is a substantial threat to public 40110
health or safety or the environment or that the conditions are 40111
causing or contributing to air or water pollution or soil 40112
contamination. 40113

Sec. 3734.85. (A) On and after the effective date of the 40114
rules adopted under sections 3734.70, 3734.71, 3734.72, and 40115
3734.73 of the Revised Code, the director of environmental 40116
protection may take action under this section to abate 40117
accumulations of scrap tires. If the director determines that an 40118
accumulation of scrap tires constitutes a danger to the public 40119
health or safety or to the environment, ~~he~~ the director shall 40120
issue an order under section 3734.13 of the Revised Code to the 40121
person responsible for the accumulation of scrap tires directing 40122

that person, within one hundred twenty days after the issuance of 40123
the order, to remove the accumulation of scrap tires from the 40124
premises on which it is located and transport the tires to a scrap 40125
tire storage, monocell, monofill, or recovery facility licensed 40126
under section 3734.81 of the Revised Code, to such a facility in 40127
another state operating in compliance with the laws of the state 40128
in which it is located, or to any other solid waste disposal 40129
facility in another state that is operating in compliance with the 40130
laws of that state. If the person responsible for causing the 40131
accumulation of scrap tires is a person different from the owner 40132
of the land on which the accumulation is located, the director may 40133
issue such an order to the landowner. 40134

If the director is unable to ascertain immediately the 40135
identity of the person responsible for causing the accumulation of 40136
scrap tires, ~~he~~ the director shall examine the records of the 40137
applicable board of health and law enforcement agencies to 40138
ascertain that person's identity. Before initiating any 40139
enforcement or removal actions under this division against the 40140
owner of the land on which the accumulation is located, the 40141
director shall initiate any such actions against the person that 40142
~~he~~ the director has identified as responsible for causing the 40143
accumulation of scrap tires. Failure of the director to make 40144
diligent efforts to ascertain the identity of the person 40145
responsible for causing the accumulation of scrap tires or to 40146
initiate an action against the person responsible for causing the 40147
accumulation shall not constitute an affirmative defense by a 40148
landowner to an enforcement action initiated by the director under 40149
this division requiring immediate removal of any accumulation of 40150
scrap tires. 40151

Upon the written request of the recipient of an order issued 40152
under this division, the director may extend the time for 40153
compliance with the order if the request demonstrates that the 40154

recipient has acted in good faith to comply with the order. If the 40155
recipient of an order issued under this division fails to comply 40156
with the order within one hundred twenty days after the issuance 40157
of the order or, if the time for compliance with the order was so 40158
extended, within that time, the director shall take such actions 40159
as ~~he~~ the director considers reasonable and necessary to remove 40160
and properly manage the scrap tires located on the land named in 40161
the order. The director, through employees of the environmental 40162
protection agency or a contractor, may enter upon the land on 40163
which the accumulation of scrap tires is located and remove and 40164
transport them to a scrap tire recovery facility for processing, 40165
to a scrap tire storage facility for storage, or to a scrap tire 40166
monocell or monofill facility for storage or disposal. 40167

The director shall enter into contracts with the owners or 40168
operators of scrap tire storage, monocell, monofill, or recovery 40169
facilities for the storage, disposal, or processing of scrap tires 40170
removed through removal operations conducted under this section. 40171
In doing so, the director shall give preference to scrap tire 40172
recovery facilities. 40173

If a person to whom a removal order is issued under this 40174
division fails to comply with the order and if the director 40175
performs a removal action under this section, the person to whom 40176
the removal order is issued is liable to the director for the 40177
costs incurred by the director for conducting the removal 40178
operation, storage at a scrap tire storage facility, storage or 40179
disposal at a scrap tire monocell or monofill facility, or 40180
processing of the scrap tires so removed, the transportation of 40181
the scrap tires from the site of the accumulation to the scrap 40182
tire storage, monocell, monofill, or recovery facility where the 40183
scrap tires were stored, disposed of, or processed, and the 40184
administrative and legal expenses incurred by the director in 40185
connection with the removal operation. The director shall keep an 40186

itemized record of those costs. Upon completion of the actions for 40187
which the costs were incurred, the director shall record the costs 40188
at the office of the county recorder of the county in which the 40189
accumulation of scrap tires was located. The costs so recorded 40190
constitute a lien on the property on which the accumulation of 40191
scrap tires was located until discharged. Upon the written request 40192
of the director, the attorney general shall bring a civil action 40193
against the person responsible for the accumulation of the scrap 40194
tires that were the subject of the removal operation to recover 40195
the costs ~~of the removal operation. If the director is unable to~~ 40196
~~recover those costs through such a civil action, he shall certify~~ 40197
~~them to the county recorder of the county in which the~~ 40198
~~accumulation of scrap tires was located. The recorder shall record~~ 40199
~~the costs so certified as a lien on the property on which the~~ 40200
~~accumulation of scrap tires was located, which costs shall be a~~ 40201
~~lien on the property until discharged~~ for which the person is 40202
liable under this division. Any money so received or recovered 40203
shall be credited to the scrap tire management fund created in 40204
section 3734.82 of the Revised Code. 40205

If, in a civil action brought under this division, an owner 40206
of real property is ordered to pay to the director the costs of a 40207
removal action that removed an accumulation of scrap tires from 40208
the person's land or if a lien is placed on the person's land for 40209
the costs of such a removal action, and, in either case, if the 40210
landowner was not the person responsible for causing the 40211
accumulation of scrap tires so removed, the landowner may bring a 40212
civil action against the person who was responsible for causing 40213
the accumulation to recover the amount of the removal costs that 40214
the court ordered the landowner to pay to the director or the 40215
amount of the removal costs certified to the county recorder as a 40216
lien on the landowner's property, whichever is applicable. If the 40217
landowner prevails in the civil action against the person who was 40218
responsible for causing the accumulation of scrap tires, the 40219

court, as it considers appropriate, may award to the landowner the
reasonable attorney's fees incurred by the landowner for bringing
the action, court costs, and other reasonable expenses incurred by
the landowner in connection with the civil action. A landowner
shall bring such a civil action within two years after making the
final payment of the removal costs to the director pursuant to the
judgment rendered against the landowner in the civil action
brought under this division upon the director's request or within
two years after the director certified the costs of the removal
action to the county recorder, as appropriate. A person who, at
the time that a removal action was conducted under this division,
owned the land on which the removal action was performed may bring
an action under this division to recover the costs of the removal
action from the person responsible for causing the accumulation of
scrap tires so removed regardless of whether the person owns the
land at the time of bringing the action.

Subject to the limitations set forth in division (G) of
section 3734.82 of the Revised Code, the director may use moneys
in the scrap tire management fund ~~created in that division~~ for
conducting removal actions under this division. Any moneys
recovered under this division shall be credited to the scrap tire
management fund.

(B) The director shall initiate enforcement and removal
actions under division (A) of this section in accordance with the
following descending listing of priorities:

(1) Accumulations of scrap tires that the director finds
constitute a fire hazard or threat to public health;

(2) Accumulations of scrap tires determined by the director
to contain more than one million scrap tires;

(3) Accumulations of scrap tires in densely populated areas;

(4) Other accumulations of scrap tires that the director or

board of health of the health district in which the accumulation	40251
is located determines constitute a public nuisance;	40252
(5) Any other accumulations of scrap tires present on	40253
premises operating without a valid license issued under section	40254
3734.05 or 3734.81 of the Revised Code.	40255
(C) The director shall not take enforcement and removal	40256
actions under division (A) of this section against the owner or	40257
operator of, or the owner of the land on which is located, any of	40258
the following:	40259
(1) A premises where not more than one hundred scrap tires	40260
are present at any time;	40261
(2) The premises of a business engaging in the sale of tires	40262
at retail that meets either of the following criteria:	40263
(a) Not more than one thousand scrap tires are present on the	40264
premises at any time in an unsecured, uncovered outdoor location;	40265
(b) Any number of scrap tires are secured in a building or a	40266
covered, enclosed container, trailer, or installation.	40267
(3) The premises of a tire retreading business, a tire	40268
manufacturing finishing center, or a tire adjustment center on	40269
which is located a single, covered scrap tire storage area where	40270
not more than four thousand scrap tires are stored;	40271
(4) The premises of a business that removes tires from motor	40272
vehicles in the ordinary course of business and on which is	40273
located a single scrap tire storage area that occupies not more	40274
than twenty-five hundred square feet;	40275
(5) A solid waste facility licensed under section 3734.05 of	40276
the Revised Code that stores scrap tires on the surface of the	40277
ground if the total land area on which scrap tires are actually	40278
stored does not exceed ten thousand square feet;	40279
(6) A premises where not more than two hundred fifty scrap	40280

tires are stored or kept for agricultural use;	40281
(7) A construction site where scrap tires are stored for use	40282
or used in road resurfacing or the construction of embankments;	40283
(8) A scrap tire collection, storage, monocell, monofill, or	40284
recovery facility licensed under section 3734.81 of the Revised	40285
Code;	40286
(9) A solid waste incineration or energy recovery facility	40287
that is subject to regulation under this chapter and that burns	40288
scrap tires;	40289
(10) A premises where scrap tires are beneficially used and	40290
for which the notice required by rules adopted under section	40291
3734.84 of the Revised Code has been given;	40292
(11) A transporter registered under section 3734.83 of the	40293
Revised Code that collects and holds scrap tires in a covered	40294
trailer or vehicle for not longer than thirty days prior to	40295
transporting them to their final destination.	40296
(D) Nothing in this section restricts any right any person	40297
may have under statute or common law to enforce or seek	40298
enforcement of any law applicable to the management of scrap	40299
tires, abate a nuisance, or seek any other appropriate relief.	40300
(E) An owner of real property upon which there is located an	40301
accumulation of not more than two thousand scrap tires is not	40302
liable under division (A) of this section for the cost of the	40303
removal of the scrap tires, and no lien shall attach to the	40304
property under this section, if all of the following conditions	40305
are met:	40306
(1) The tires were placed on the property after the owner	40307
acquired title to the property, or the tires were placed on the	40308
property before the owner acquired title to the property and the	40309
owner acquired title to the property by bequest or devise.	40310

(2) The owner of the property did not have knowledge that the
tires were being placed on the property, or the owner posted on
the property signs prohibiting dumping or took other action to
prevent the placing of tires on the property+.

(3) The owner of the property did not participate in or
consent to the placing of the tires on the property+.

(4) The owner of the property received no financial benefit
from the placing of the tires on the property or otherwise having
the tires on the property+.

(5) Title to the property was not transferred to the owner
for the purpose of evading liability under division (A) of this
section+.

(6) The person responsible for placing the tires on the
property, in doing so, was not acting as an agent for the owner of
the property.

Sec. 3734.901. (A)(1) For the purpose of providing revenue to
defray the cost of administering and enforcing the scrap tire
provisions of this chapter, rules adopted under those provisions,
and terms and conditions of orders, variances, and licenses issued
under those provisions; to abate accumulations of scrap tires; to
make grants to promote research regarding alternative methods of
recycling scrap tires and loans to promote the recycling or
recovery of energy from scrap tires; and to defray the costs of
administering and enforcing sections 3734.90 to 3734.9014 of the
Revised Code, a fee of fifty cents per tire is hereby levied on
the sale of tires. The fee is levied from the first day of the
calendar month that begins next after thirty days from October 29,
1993, through June 30, ~~2006~~ 2011.

(2) Beginning on ~~the effective date of this section~~ September
5, 2001, and ending on June 30, 2011, there is hereby levied an

additional fee of fifty cents per tire on the sale of tires the 40341
proceeds of which shall be deposited in the state treasury to the 40342
credit of the scrap tire management fund created in section 40343
3734.82 of the Revised Code and be used exclusively for the 40344
purposes specified in division (G)(3) of that section. 40345

(B) Only one sale of the same article shall be used in 40346
computing the amount of the fee due. 40347

Sec. 3734.9010. ~~Four~~ Two per cent of all amounts paid to the 40348
treasurer of state pursuant to sections 3734.90 to 3734.9014 of 40349
the Revised Code shall be certified directly to the credit of the 40350
tire fee administrative fund, which is hereby created in the state 40351
treasury, for appropriation to the department of taxation for use 40352
in administering those sections. The remainder of the amounts paid 40353
to the treasurer of state shall be deposited to the credit of the 40354
scrap tire management fund created in section 3734.82 of the 40355
Revised Code. 40356

Sec. 3735.27. (A) Whenever the director of development has 40357
determined that there is need for a housing authority in any 40358
portion of any county that comprises two or more political 40359
subdivisions or portions of two or more political subdivisions but 40360
is less than all the territory within the county, a metropolitan 40361
housing authority shall be declared to exist, and the territorial 40362
limits of the authority shall be defined, by a letter from the 40363
director. The director shall issue a determination from the 40364
department of development declaring that there is need for a 40365
housing authority within those territorial limits after finding 40366
either of the following: 40367

(1) Unsanitary or unsafe inhabited housing accommodations 40368
exist in that area; 40369

(2) There is a shortage of safe and sanitary housing 40370

accommodations in that area available to persons who lack the 40371
amount of income that is necessary, as determined by the director, 40372
to enable them, without financial assistance, to live in decent, 40373
safe, and sanitary dwellings without congestion. 40374

In determining whether dwelling accommodations are unsafe or 40375
unsanitary, the director may take into consideration the degree of 40376
congestion, the percentage of land coverage, the light, air, 40377
space, and access available to the inhabitants of the dwelling 40378
accommodations, the size and arrangement of rooms, the sanitary 40379
facilities, and the extent to which conditions exist in the 40380
dwelling accommodations that endanger life or property by fire or 40381
other causes. 40382

The territorial limits of a metropolitan housing authority as 40383
defined by the director under this division shall be fixed for the 40384
authority upon proof of a letter from the director declaring the 40385
need for the authority to function in those territorial limits. 40386
Any such letter from the director, any certificate of 40387
determination issued by the director, and any certificate of 40388
appointment of members of the authority shall be admissible in 40389
evidence in any suit, action, or proceeding. 40390

A certified copy of the letter from the director declaring 40391
the existence of a metropolitan housing authority and the 40392
territorial limits of its district shall be immediately forwarded 40393
to each appointing authority. A metropolitan housing authority 40394
shall consist of members who are residents of the territory in 40395
which they serve. 40396

(B)(1) Except as otherwise provided in division (C), (D), or 40397
(E) of this section, the members of a metropolitan housing 40398
authority shall be appointed as follows: 40399

(a)(i) In a district in a county in which a charter has been 40400
adopted under Article X, Section 3 of the Ohio Constitution, and 40401

in which the most populous city is not the city with the largest
ratio of housing units owned or managed by the authority to
population, one member shall be appointed by the probate court,
one member shall be appointed by the court of common pleas, one
member shall be appointed by the board of county commissioners,
one member shall be appointed by the chief executive officer of
the city that has the largest ratio of housing units owned or
managed by the authority to population, and two members shall be
appointed by the chief executive officer of the most populous city
in the district.

(ii) If, in a district that appoints members pursuant to
division (B)(1)(a) of this section, the most populous city becomes
the city with the largest ratio of housing units owned or managed
by the authority to population, when the term of office of the
member who was appointed by the chief executive officer of the
city with the largest ratio expires, that member shall not be
reappointed, and the membership of the authority shall be as
described in division (B)(1)(b) of this section.

(b) In any district other than one described in division
(B)(1)(a) of this section, one member shall be appointed by the
probate court, one member shall be appointed by the court of
common pleas, one member shall be appointed by the board of county
commissioners, and two members shall be appointed by the chief
executive officer of the most populous city in the district.

(2) At the time of the initial appointment of the authority,
the member appointed by the probate court shall be appointed for a
period of four years, the member appointed by the court of common
pleas shall be appointed for three years, the member appointed by
the board of county commissioners shall be appointed for two
years, one member appointed by the chief executive officer of the
most populous city in the district shall be appointed for one
year, and the other member appointed by the chief executive

officer of the most populous city in the district shall be 40434
appointed for five years. 40435

If appointments are made under division (B)(1)(a) of this 40436
section, the member appointed by the chief executive officer of 40437
the city in the district that is not the most populous city, but 40438
that has the largest ratio of housing units owned or managed by 40439
the authority to population, shall be appointed for five years. 40440

After the initial appointments, all members of the authority 40441
shall be appointed for five-year terms, and any vacancy occurring 40442
upon the expiration of a term shall be filled by the appointing 40443
authority that made the initial appointment. 40444

(3) For purposes of this division, population shall be 40445
determined according to the last preceding federal census. 40446

(C) For any metropolitan housing authority district that 40447
contained, as of the 1990 federal census, a population of at least 40448
one million, two members of the authority shall be appointed by 40449
the legislative authority of the most populous city in the 40450
district, two members shall be appointed by the chief executive 40451
officer of the most populous city in the district, and one member 40452
shall be appointed by the chief executive officer, with the 40453
approval of the legislative authority, of the city in the district 40454
that has the second highest number of housing units owned or 40455
managed by the authority. 40456

At the time of the initial appointment of the authority, one 40457
member appointed by the legislative authority of the most populous 40458
city in the district shall be appointed for three years, and one 40459
such member shall be appointed for one year; the member appointed 40460
by the chief executive officer of the city with the second highest 40461
number of housing units owned or managed by the authority shall be 40462
appointed, with the approval of the legislative authority, for 40463
three years; and one member appointed by the chief executive 40464

officer of the most populous city in the district shall be 40465
appointed for three years, and one such member shall be appointed 40466
for one year. Thereafter, all members of the authority shall be 40467
appointed for three-year terms, and any vacancy shall be filled by 40468
the same appointing power that made the initial appointment. At 40469
the expiration of the term of any member appointed by the chief 40470
executive officer of the most populous city in the district before 40471
March 15, 1983, the chief executive officer of the most populous 40472
city in the district shall fill the vacancy by appointment for a 40473
three-year term. At the expiration of the term of any member 40474
appointed by the board of county commissioners before March 15, 40475
1983, the chief executive officer of the city in the district with 40476
the second highest number of housing units owned or managed by the 40477
authority shall, with the approval of the municipal legislative 40478
authority, fill the vacancy by appointment for a three-year term. 40479
At the expiration of the term of any member appointed before March 40480
15, 1983, by the court of common pleas or the probate court, the 40481
legislative authority of the most populous city in the district 40482
shall fill the vacancy by appointment for a three-year term. 40483

After March 15, 1983, at least one of the members appointed 40484
by the chief executive officer of the most populous city shall be 40485
a resident of a dwelling unit owned or managed by the authority. 40486
At least one of the initial appointments by the chief executive 40487
officer of the most populous city, after March 15, 1983, shall be 40488
a resident of a dwelling unit owned or managed by the authority. 40489
Thereafter, any member appointed by the chief executive officer of 40490
the most populous city for the term established by this initial 40491
appointment, or for any succeeding term, shall be a person who 40492
resides in a dwelling unit owned or managed by the authority. If 40493
there is an elected, representative body of all residents of the 40494
authority, the chief executive officer of the most populous city 40495
shall, whenever there is a vacancy in this resident term, provide 40496

written notice of the vacancy to the representative body. If the
representative body submits to the chief executive officer of the
most populous city, in writing and within sixty days after the
date on which it was notified of the vacancy, the names of at
least five residents of the authority who are willing and
qualified to serve as a member, the chief executive officer of the
most populous city shall appoint to the resident term one of the
residents recommended by the representative body. At no time shall
residents constitute a majority of the members of the authority.

(D)(1) For any metropolitan housing authority district
located in a county that had, as of the 2000 federal census, a
population of at least four hundred thousand and no city with a
population greater than thirty per cent of the total population of
the county, one member of the authority shall be appointed by the
probate court, one member shall be appointed by the court of
common pleas, one member shall be appointed by the chief executive
officer of the most populous city in the district, and two members
shall be appointed by the board of county commissioners.

(2) At the time of the initial appointment of a metropolitan
housing authority pursuant to this division, the member appointed
by the probate court shall be appointed for a period of four
years, the member appointed by the court of common pleas shall be
appointed for three years, the member appointed by the chief
executive officer of the most populous city shall be appointed for
two years, one member appointed by the board of county
commissioners shall be appointed for one year, and the other
member appointed by the board of county commissioners shall be
appointed for five years. Thereafter, all members of the authority
shall be appointed for five-year terms, with each term ending on
the same day of the same month as the term that it succeeds.
Vacancies shall be filled in the manner provided in the original
appointments. Any member appointed to fill a vacancy occurring

prior to the expiration of the term shall hold office as a member 40529
for the remainder of that term. 40530

(E)(1) ~~An additional two members~~ One resident member shall be 40531
appointed to ~~the~~ a metropolitan housing authority ~~in any district~~ 40532
~~that has three hundred or more assisted housing units and that~~ 40533
~~does not have at least one resident as a member of its authority.~~ 40534
~~For the purposes of this section, an "assisted unit" is a housing~~ 40535
~~unit owned or operated by the housing authority or a unit in which~~ 40536
~~the occupants receive tenant-based housing assistance through the~~ 40537
~~federal section 8 housing program, 24 C.F.R. Ch VIII, and, a~~ 40538
~~"resident" is a person who lives in an assisted housing unit~~ when 40539
required by federal law. The 40540

~~(2) The chief executive officer of the most populous city in~~ 40541
~~the district shall appoint an additional member who is a~~ that 40542
~~resident member for an initial~~ a term of five years. ~~The board of~~ 40543
~~county commissioners shall appoint the other additional member,~~ 40544
~~who need not be a resident, for an initial term of three years.~~ 40545
~~After the initial term, the terms of both members~~ Subsequent terms 40546
of that resident member also shall be for five years, and 40547
~~vacancies~~ any vacancy in the position of the resident member shall 40548
be filled ~~in the manner provided for original appointments by the~~ 40549
chief executive officer of the most populous city in the district. 40550
Any member appointed to fill such a vacancy ~~occurring prior to the~~ 40551
~~expiration of the term for which the member's predecessor was~~ 40552
~~appointed~~ shall hold office as a resident member for the remainder 40553
of that term. If, at any time, 40554

~~(3) A member appointed as a resident member who no longer~~ 40555
~~qualifies as a resident shall be deemed unable to serve, and~~ 40556
another resident member shall be appointed by the appointing 40557
authority who originally appointed the resident member to serve 40558
for the unexpired portion of that term. 40559

(2) On and after the effective date of this amendment, any metropolitan housing authority to which two additional members were appointed pursuant to former division (E)(1) of this section as enacted by Amended Substitute House Bill No. 95 of the 125th general assembly shall continue to have those additional members. Their terms shall be for five years, and vacancies in their positions shall be filled in the manner provided for their original appointment under former division (E)(1) of this section as so enacted.

(F) Public officials, other than the officers having the appointing power under this section, shall be eligible to serve as members, officers, or employees of a metropolitan housing authority notwithstanding any statute, charter, or law to the contrary. Not more than two such public officials shall be members of the authority at any one time.

All members of an authority shall serve without compensation but shall be entitled to be reimbursed for all necessary expenses incurred.

After a metropolitan housing authority district is formed, the director may enlarge the territory within the district to include other political subdivisions, or portions of other political subdivisions, but the territorial limits of the district shall be less than that of the county.

(G)(1) Any vote taken by a metropolitan housing authority shall require a majority affirmative vote to pass. A tie vote shall constitute a defeat of any measure receiving equal numbers of votes for and against it.

(2) The members of a metropolitan housing authority shall act in the best interest of the district and shall not act solely as representatives of their respective appointing authorities.

Sec. 3743.01. As used in this chapter:	40590
(A) "Beer" and "intoxicating liquor" have the same meanings as in section 4301.01 of the Revised Code.	40591 40592
(B) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.	40593 40594 40595 40596
(C) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.	40597 40598 40599
(D)(1) "1.3G fireworks" means display fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.3" in Title 49, Code of Federal Regulations.	40600 40601 40602 40603
(2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States department of transportation as expressed using the designation "division 1.4" in Title 49, Code of Federal Regulations.	40604 40605 40606 40607
(E) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.	40608 40609
(F) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in section 3743.80 of the Revised Code.	40610 40611 40612 40613
(G) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.	40614 40615 40616
(H) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.	40617 40618

(I) "Licensed exhibitor of fireworks" or "licensed exhibitor" 40619
means a person licensed pursuant to sections 3743.50 to 3743.55 of 40620
the Revised Code. 40621

(J) "Licensed manufacturer of fireworks" or "licensed 40622
manufacturer" means a person licensed pursuant to sections 3743.02 40623
to 3743.08 of the Revised Code. 40624

(K) "Licensed wholesaler of fireworks" or "licensed 40625
wholesaler" means a person licensed pursuant to sections 3743.15 40626
to 3743.21 of the Revised Code. 40627

(L) "List of licensed exhibitors" means the list required by 40628
division (C) of section 3743.51 of the Revised Code. 40629

(M) "List of licensed manufacturers" means the list required 40630
by division (C) of section 3743.03 of the Revised Code. 40631

(N) "List of licensed wholesalers" means the list required by 40632
division (C) of section 3743.16 of the Revised Code. 40633

(O) "Manufacturing of fireworks" means the making of 40634
fireworks from raw materials, none of which in and of themselves 40635
constitute a fireworks, or the processing of fireworks. 40636

(P) "Navigable waters" means any body of water susceptible of 40637
being used in its ordinary condition as a highway of commerce over 40638
which trade and travel is or may be conducted in the customary 40639
modes, but does not include a body of water that is not capable of 40640
navigation by barges, tugboats, and other large vessels. 40641

(Q) "Novelties and trick noisemakers" include the following 40642
items: 40643

(1) Devices that produce a small report intended to surprise 40644
the user, including, but not limited to, booby traps, cigarette 40645
loads, party poppers, and snappers; 40646

(2) Snakes or glow worms; 40647

(3) Smoke devices;	40648
(4) Trick matches.	40649
(R) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.	40650 40651 40652 40653 40654
(S) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.	40655 40656 40657 40658
(T) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.	40659 40660 40661 40662
(U) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.	40663 40664 40665
(V) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.	40666 40667 40668
(W) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.	40669 40670 40671 40672
(X) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.	40673 40674 40675
(Y) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that,	40676 40677

upon ignition, produces a small report or a shower of sparks. 40678

(Z) "Wire sparkler" means a sparkler consisting of a wire or 40679
stick coated with a nonexplosive pyrotechnic mixture that produces 40680
a shower of sparks upon ignition and that contains no more than 40681
one hundred grams of this mixture. 40682

(AA) "Wholesale sale" or "sell at wholesale" means a sale of 40683
fireworks to a purchaser who intends to resell the fireworks so 40684
purchased. 40685

(BB) "Licensed premises" means the real estate upon which a 40686
licensed manufacturer or wholesaler of fireworks conducts 40687
business. 40688

(CC) "Licensed building" means a building on the licensed 40689
premises of a licensed manufacturer or wholesaler of fireworks 40690
that is approved for occupancy by the building official having 40691
jurisdiction. 40692

(DD) "Fireworks incident" means any action or omission that 40693
occurs at a fireworks exhibition, that results in injury or death, 40694
or a substantial risk of injury or death, to any person, and that 40695
involves either of the following: 40696

(1) The handling or other use, or the results of the handling 40697
or other use, of fireworks or associated equipment or other 40698
materials; 40699

(2) The failure of any person to comply with any applicable 40700
requirement imposed by this chapter or any applicable rule adopted 40701
under this chapter. 40702

(EE) "Discharge site" means an area immediately surrounding 40703
the mortars used to fire aerial shells. 40704

(FF) "Fireworks incident site" means a discharge site or 40705
other location at a fireworks exhibition where a fireworks 40706
incident occurs, a location where an injury or death associated 40707

with a fireworks incident occurs, or a location where evidence of
a fireworks incident or an injury or death associated with a
fireworks incident is found.

(GG) "Storage location" means a single parcel or contiguous
parcels of real estate approved by the fire marshal pursuant to
division (I) of section 3743.04 of the Revised Code or division
(G) of section 3743.17 of the Revised Code that are separate from
a licensed premises containing a retail showroom, and which parcel
or parcels a licensed manufacturer or wholesaler of fireworks may
use only for the distribution, possession, and storage of
fireworks in accordance with this chapter.

Sec. 3743.02. (A) Any person who wishes to manufacture
fireworks in this state shall submit to the fire marshal an
application for licensure as a manufacturer of fireworks before
the first day of October of each year. The application shall be
submitted prior to the operation of a fireworks plant, shall be on
a form prescribed by the fire marshal, shall contain all
information required by this section or requested by the fire
marshal, and shall be accompanied by the license fee,
fingerprints, and proof of insurance coverage described in
division (B) of this section.

The fire marshal shall prescribe a form for applications for
licensure as a manufacturer of fireworks and make a copy of the
form available, upon request, to persons who seek that licensure.

(B) An applicant for licensure as a manufacturer of fireworks
shall submit with the application all of the following:

(1) A license fee of two thousand seven hundred fifty
dollars, which the fire marshal shall use to pay for fireworks
safety education, training programs, and inspections⁺. If the
applicant has any storage locations approved in accordance with

division (I) of section 3743.04 of the Revised Code, the applicant 40738
also shall submit a fee of one hundred dollars per storage 40739
location for the inspection of each storage location. 40740

(2) Proof of comprehensive general liability insurance 40741
coverage, specifically including fire and smoke casualty on 40742
premises and products, in an amount not less than one million 40743
dollars for each occurrence for bodily injury liability and 40744
wrongful death liability at the fireworks plant. All applicants 40745
shall submit evidence of comprehensive general liability insurance 40746
coverage verified by the insurer and certified as to its provision 40747
of the minimum coverage required under this division. 40748

(3) One complete set of the applicant's fingerprints and a 40749
complete set of fingerprints of any individual holding, owning, or 40750
controlling a five per cent or greater beneficial or equity 40751
interest in the applicant for the license. 40752

(C) A separate application for licensure as a manufacturer of 40753
fireworks shall be submitted for each fireworks plant that a 40754
person wishes to operate in this state. 40755

(D) If an applicant intends to include the processing of 40756
fireworks as any part of its proposed manufacturing of fireworks, 40757
a statement indicating that intent shall be included in its 40758
application for licensure. 40759

Sec. 3743.04. (A) The license of a manufacturer of fireworks 40760
is effective for one year beginning on the first day of December. 40761
The fire marshal shall issue or renew a license only on that date 40762
and at no other time. If a manufacturer of fireworks wishes to 40763
continue manufacturing fireworks at the designated fireworks plant 40764
after its then effective license expires, it shall apply no later 40765
than the first day of October for a new license pursuant to 40766
section 3743.02 of the Revised Code. The fire marshal shall send a 40767
written notice of the expiration of its license to a licensed 40768

manufacturer at least three months before the expiration date. 40769

(B) If, during the effective period of its licensure, a 40770
licensed manufacturer of fireworks wishes to construct, locate, or 40771
relocate any buildings or other structures on the premises of its 40772
fireworks plant, to make any structural change or renovation in 40773
any building or other structure on the premises of its fireworks 40774
plant, or to change the nature of its manufacturing of fireworks 40775
so as to include the processing of fireworks, the manufacturer 40776
shall notify the fire marshal in writing. The fire marshal may 40777
require a licensed manufacturer also to submit documentation, 40778
including, but not limited to, plans covering the proposed 40779
construction, location, relocation, structural change or 40780
renovation, or change in manufacturing of fireworks, if the fire 40781
marshal determines the documentation is necessary for evaluation 40782
purposes in light of the proposed construction, location, 40783
relocation, structural change or renovation, or change in 40784
manufacturing of fireworks. 40785

Upon receipt of the notification and additional documentation 40786
required by the fire marshal, the fire marshal shall inspect the 40787
premises of the fireworks plant to determine if the proposed 40788
construction, location, relocation, structural change or 40789
renovation, or change in manufacturing of fireworks conforms to 40790
sections 3743.02 to 3743.08 of the Revised Code and the rules 40791
adopted by the fire marshal pursuant to section 3743.05 of the 40792
Revised Code. The fire marshal shall issue a written authorization 40793
to the manufacturer for the construction, location, relocation, 40794
structural change or renovation, or change in manufacturing of 40795
fireworks if the fire marshal determines, upon the inspection and 40796
a review of submitted documentation, that the construction, 40797
location, relocation, structural change or renovation, or change 40798
in manufacturing of fireworks conforms to those sections and 40799
rules. Upon authorizing a change in manufacturing of fireworks to 40800

include the processing of fireworks, the fire marshal shall make
notations on the manufacturer's license and in the list of
licensed manufacturers in accordance with section 3743.03 of the
Revised Code.

On or before June 1, 1998, a licensed manufacturer shall
install, in every licensed building in which fireworks are
manufactured, stored, or displayed and to which the public has
access, interlinked fire detection, smoke exhaust, and smoke
evacuation systems that are approved by the superintendent of the
division of industrial compliance, and shall comply with floor
plans showing occupancy load limits and internal circulation and
egress patterns that are approved by the fire marshal and
superintendent, and that are submitted under seal as required by
section 3791.04 of the Revised Code. Notwithstanding section
3743.59 of the Revised Code, the construction and safety
requirements established in this division are not subject to any
variance, waiver, or exclusion.

(C) The license of a manufacturer of fireworks authorizes the
manufacturer to engage only in the following activities:

(1) The manufacturing of fireworks on the premises of the
fireworks plant as described in the application for licensure or
in the notification submitted under division (B) of this section,
except that a licensed manufacturer shall not engage in the
processing of fireworks unless authorized to do so by its license.

(2) To possess for sale at wholesale and sell at wholesale
the fireworks manufactured by the manufacturer, to persons who are
licensed wholesalers of fireworks, to out-of-state residents in
accordance with section 3743.44 of the Revised Code, to residents
of this state in accordance with section 3743.45 of the Revised
Code, or to persons located in another state provided the
fireworks are shipped directly out of this state to them by the

manufacturer. A person who is licensed as a manufacturer of
fireworks on June 14, 1988, also may possess for sale and sell
pursuant to division (C)(2) of this section fireworks other than
those the person manufactures. The possession for sale shall be on
the premises of the fireworks plant described in the application
for licensure or in the notification submitted under division (B)
of this section, and the sale shall be from the inside of a
licensed building and from no other structure or device outside a
licensed building. At no time shall a licensed manufacturer sell
any class of fireworks outside a licensed building.

(3) Possess for sale at retail and sell at retail the
fireworks manufactured by the manufacturer, other than 1.4G
fireworks as designated by the fire marshal in rules adopted
pursuant to division (A) of section 3743.05 of the Revised Code,
to licensed exhibitors in accordance with sections 3743.50 to
3743.55 of the Revised Code, and possess for sale at retail and
sell at retail the fireworks manufactured by the manufacturer,
including 1.4G fireworks, to out-of-state residents in accordance
with section 3743.44 of the Revised Code, to residents of this
state in accordance with section 3743.45 of the Revised Code, or
to persons located in another state provided the fireworks are
shipped directly out of this state to them by the manufacturer. A
person who is licensed as a manufacturer of fireworks on June 14,
1988, may also possess for sale and sell pursuant to division
(C)(3) of this section fireworks other than those the person
manufactures. The possession for sale shall be on the premises of
the fireworks plant described in the application for licensure or
in the notification submitted under division (B) of this section,
and the sale shall be from the inside of a licensed building and
from no other structure or device outside a licensed building. At
no time shall a licensed manufacturer sell any class of fireworks
outside a licensed building.

A licensed manufacturer of fireworks shall sell under 40864
division (C) of this section only fireworks that meet the 40865
standards set by the consumer product safety commission or by the 40866
American fireworks standard laboratories or that have received an 40867
EX number from the United States department of transportation. 40868

(D) The license of a manufacturer of fireworks shall be 40869
protected under glass and posted in a conspicuous place on the 40870
premises of the fireworks plant. Except as otherwise provided in 40871
this division, the license is not transferable or assignable. A 40872
license may be transferred to another person for the same 40873
fireworks plant for which the license was issued if the assets of 40874
the plant are transferred to that person by inheritance or by a 40875
sale approved by the fire marshal. The license is subject to 40876
revocation in accordance with section 3743.08 of the Revised Code. 40877

(E) The fire marshal shall not place the license of a 40878
manufacturer of fireworks in a temporarily inactive status while 40879
the holder of the license is attempting to qualify to retain the 40880
license. 40881

(F) Each licensed manufacturer of fireworks that possesses 40882
fireworks for sale and sells fireworks under division (C) of 40883
section 3743.04 of the Revised Code, or a designee of the 40884
manufacturer, whose identity is provided to the fire marshal by 40885
the manufacturer, annually shall attend a continuing education 40886
program consisting of not less than eight hours of instruction. 40887
The fire marshal shall develop the program and the fire marshal or 40888
a person or public agency approved by the fire marshal shall 40889
conduct it. A licensed manufacturer or the manufacturer's designee 40890
who attends a program as required under this division, within one 40891
year after attending the program, shall conduct in-service 40892
training for other employees of the licensed manufacturer 40893
regarding the information obtained in the program. A licensed 40894
manufacturer shall provide the fire marshal with notice of the 40895

date, time, and place of all in-service training not less than 40896
thirty days prior to an in-service training event. 40897

(G) A licensed manufacturer shall maintain comprehensive 40898
general liability insurance coverage in the amount and type 40899
specified under division (B)(2) of section 3743.02 of the Revised 40900
Code at all times. Each policy of insurance required under this 40901
division shall contain a provision requiring the insurer to give 40902
not less than fifteen days' prior written notice to the fire 40903
marshal before termination, lapse, or cancellation of the policy, 40904
or any change in the policy that reduces the coverage below the 40905
minimum required under this division. Prior to canceling or 40906
reducing the amount of coverage of any comprehensive general 40907
liability insurance coverage required under this division, a 40908
licensed manufacturer shall secure supplemental insurance in an 40909
amount and type that satisfies the requirements of this division 40910
so that no lapse in coverage occurs at any time. A licensed 40911
manufacturer who secures supplemental insurance shall file 40912
evidence of the supplemental insurance with the fire marshal prior 40913
to canceling or reducing the amount of coverage of any 40914
comprehensive general liability insurance coverage required under 40915
this division. 40916

(H) The fire marshal shall adopt rules for the expansion or 40917
contraction of a licensed premises and for approval of such 40918
expansions or contractions. The boundaries of a licensed premises, 40919
including any geographic expansion or contraction of those 40920
boundaries, shall be approved by the fire marshal in accordance 40921
with rules the fire marshal adopts. If the licensed premises 40922
consists of more than one parcel of real estate, those parcels 40923
shall be contiguous unless an exception is allowed pursuant to 40924
division (I) of this section. 40925

(I)(1) A licensed manufacturer may expand its licensed 40926
premises within this state to include not more than two storage 40927

locations that are located upon one or more real estate parcels 40928
that are noncontiguous to the licensed premises as that licensed 40929
premises exists on the date a licensee submits an application as 40930
described below, if all of the following apply: 40931

(a) The licensee submits an application to the fire marshal 40932
and an application fee of one hundred dollars per storage location 40933
for which the licensee is requesting approval. 40934

(b) The identity of the holder of the license remains the 40935
same at the storage location. 40936

(c) The storage location has received a valid certificate of 40937
zoning compliance as applicable and a valid certificate of 40938
occupancy for each building or structure at the storage location 40939
issued by the authority having jurisdiction to issue the 40940
certificate for the storage location, and those certificates 40941
permit the distribution and storage of fireworks regulated under 40942
this chapter at the storage location and in the buildings or 40943
structures. The storage location shall be in compliance with all 40944
other applicable federal, state, and local laws and regulations. 40945

(d) Every building or structure located upon the storage 40946
location is separated from occupied residential and nonresidential 40947
buildings or structures, railroads, highways, or any other 40948
buildings or structures on the licensed premises in accordance 40949
with the distances specified in the rules adopted by the fire 40950
marshal pursuant to section 3743.05 of the Revised Code. 40951

(e) Neither the licensee nor any person holding, owning, or 40952
controlling a five per cent or greater beneficial or equity 40953
interest in the licensee has been convicted of or pleaded guilty 40954
to a felony under the laws of this state, any other state, or the 40955
United States, after the effective date of this amendment. 40956

(f) The fire marshal approves the application for expansion. 40957

(2) The fire marshal shall approve an application for expansion requested under division (I)(1) of this section if the fire marshal receives the application fee and proof that the requirements of divisions (I)(1)(b) to (e) of this section are satisfied. The storage location shall be considered part of the original licensed premises and shall use the same distinct number assigned to the original licensed premises with any additional designations as the fire marshal deems necessary in accordance with section 3743.03 of the Revised Code. 40958
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(J)(1) A licensee who obtains approval for the use of a storage location in accordance with division (I) of this section shall use the storage location exclusively for the following activities, in accordance with division (C) of this section: 40967
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(a) The packaging, assembling, or storing of fireworks, which shall only occur in buildings, structures, or trailers approved for such hazardous uses by the building code official having jurisdiction for the storage location and shall be in accordance with the rules adopted by the fire marshal under division (G) of section 3743.05 of the Revised Code for the packaging, assembling, and storage of fireworks. 40971
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(b) Distributing fireworks to other parcels of real estate located on the manufacturer's licensed premises, to licensed wholesalers or other licensed manufacturers in this state or to similarly licensed persons located in another state or country; 40978
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(c) Distributing fireworks to a licensed exhibitor of fireworks pursuant to a properly issued permit in accordance with section 3743.54 of the Revised Code. 40982
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(2) A licensed manufacturer shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) or (C)(3) of this section, or pursuant to section 3743.44 or 3743.45 of the Revised Code, at the 40985
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storage location approved under this section. 40989

(K) The licensee shall prohibit public access to the storage 40990
location. The fire marshal shall adopt rules to describe the 40991
acceptable measures a manufacturer shall use to prohibit access to 40992
the storage site. 40993

Sec. 3743.05. The fire marshal shall adopt rules in 40994
accordance with Chapter 119. of the Revised Code governing the 40995
classification of fireworks that are consistent with the 40996
classification of fireworks by the United States department of 40997
transportation as set forth in Title 49, Code of Federal 40998
Regulations, and the manufacture of fireworks and the storage of 40999
manufactured fireworks by licensed manufacturers of fireworks. The 41000
rules shall be designed to promote the safety and security of 41001
employees of manufacturers, members of the public, and the 41002
fireworks plant. 41003

The rules shall be consistent with sections 3743.02 to 41004
3743.08 of the Revised Code, shall be substantially equivalent to 41005
the most recent versions of chapters 1123, 1124, and 1126 of the 41006
most recent national fire protection association standards, and 41007
shall apply to, but not be limited to, the following subject 41008
matters: 41009

(A) A classification of fireworks by number and letter 41010
designation, including, specifically, a 1.4G designation of 41011
fireworks. The classes of fireworks established by the fire 41012
marshal shall be substantially equivalent to those defined by the 41013
United States department of transportation by regulation, except 41014
that, if the fire marshal determines that a type of fireworks 41015
designated as common fireworks by the United States department of 41016
transportation meets the criteria of any class of fireworks, other 41017
than 1.4G fireworks, as adopted by the fire marshal pursuant to 41018
this section, the fire marshal may include the type of fireworks 41019

in the other class instead of 1.4G. 41020

(B) Appropriate standards for the manufacturing of types of 41021
fireworks that are consistent with standards adopted by the United 41022
States department of transportation and the consumer product 41023
safety commission, including, but not limited to, the following: 41024

(1) Permissible amounts of pyrotechnic or explosive 41025
composition; 41026

(2) Interior and exterior dimensions; 41027

(3) Structural specifications. 41028

(C) Cleanliness and orderliness in, the heating, lighting, 41029
and use of stoves and flame-producing items in, smoking in, the 41030
prevention of fire and explosion in, the availability of fire 41031
extinguishers or other fire-fighting equipment and their use in, 41032
and emergency procedures relative to the buildings and other 41033
structures located on the premises of a fireworks plant. 41034

(D) Appropriate uniforms to be worn by employees of 41035
manufacturers in the course of the manufacturing, handling, and 41036
storing of fireworks, and the use of protective clothing and 41037
equipment by the employees. 41038

(E) The manner in which fireworks are to be packed, packaged, 41039
and stored. 41040

(F) Required distances between buildings or structures used 41041
in the manufacturing, storage, or sale of fireworks and occupied 41042
residential and nonresidential buildings or structures, railroads, 41043
highways, or any additional buildings or structures located on the 41044
licensed premises. The rules adopted pursuant to this division do 41045
not apply to factory buildings in fireworks plants that were 41046
erected on or before May 30, 1986, and that were legally being 41047
used for fireworks activities under authority of a valid license 41048
issued by the fire marshal as of December 1, 1990, pursuant to 41049

<u>sections 3743.03 and 3743.04 of the Revised Code.</u>	41050
<u>(G) Requirements for the operation of storage locations,</u>	41051
<u>including packaging, assembling, and storage of fireworks.</u>	41052
Sec. 3743.06. In addition to conforming to the rules of the	41053
fire marshal adopted pursuant to section 3743.05 of the Revised	41054
Code, licensed manufacturers of fireworks shall operate their	41055
fireworks plants in accordance with the following:	41056
(A) Signs indicating that smoking is generally forbidden and	41057
trespassing is prohibited on the premises of a fireworks plant	41058
shall be posted on the premises in a manner determined by the fire	41059
marshal.	41060
(B) Reasonable precautions shall be taken to protect the	41061
premises of a fireworks plant from trespass, loss, theft, or	41062
destruction. Only persons employed by the manufacturer, authorized	41063
governmental personnel, and persons who have obtained permission	41064
from a member of the manufacturer's office to be on the premises,	41065
are to be allowed to enter and remain on the premises.	41066
(C) Smoking or the carrying of pipes, cigarettes, or cigars,	41067
matches, lighters, other flame-producing items, or open flame on,	41068
or the carrying of a concealed source of ignition into, the	41069
premises of a fireworks plant is prohibited, except that a	41070
manufacturer may permit smoking in specified lunchrooms or	41071
restrooms in buildings or other structures in which no	41072
manufacturing, handling, sales, or storage of fireworks takes	41073
place. "NO SMOKING" signs shall be posted on the premises as	41074
required by the fire marshal.	41075
(D) Fire and explosion prevention and other reasonable safety	41076
measures and precautions shall be implemented by a manufacturer.	41077
(E) Persons shall not be permitted to have in their	41078
possession or under their control, while they are on the premises	41079

of the fireworks plant, any intoxicating liquor, beer, or 41080
controlled substance, and they shall not be permitted to enter or 41081
remain on the premises if they are found to be under the influence 41082
of any intoxicating liquor, beer, or controlled substance. 41083

(F) A manufacturer shall conform to all building, safety, and 41084
zoning statutes, ordinances, rules, or other enactments that apply 41085
to the premises of its fireworks plant. 41086

~~(G) No building used in the manufacture, storage, or sale of 41087
fireworks shall be situated nearer than one thousand feet to any 41088
structure that is not located on the property of and that does not 41089
belong to the licensed fireworks manufacturer, or nearer than 41090
three hundred feet to any highway or railroad, or nearer than one 41091
hundred feet to any building used for the storage of explosives or 41092
fireworks, or nearer than fifty feet to any factory building. This 41093
division does not apply to factory buildings in fireworks plants 41094
that were erected on or before May 30, 1986, and that were legally 41095
being used for fireworks activities under authority of a valid 41096
license issued by the fire marshal as of December 1, 1990, 41097
pursuant to sections 3743.03 and 3743.04 of the Revised Code. 41098~~

~~(H)~~ Each fireworks plant shall have at least one class 1 41099
magazine that is approved by the bureau of alcohol, tobacco, and 41100
firearms of the United States department of the treasury and that 41101
is otherwise in conformity with federal law. This division does 41102
not apply to fireworks plants existing on or before August 3, 41103
1931. 41104

~~(I)~~(H) Awnings, tents, and canopies shall not be used as 41105
facilities for the sale or storage of fireworks. This division 41106
does not prohibit the use of an awning or canopy attached to a 41107
public access showroom for storing nonflammable shopping 41108
convenience items such as shopping carts or baskets or providing a 41109
shaded area for patrons waiting to enter the public sales area. 41110

~~(J)~~(I) Fireworks may be stored in trailers if the trailers 41111
are properly enclosed, secured, and grounded and are separated 41112
from any structure to which the public is admitted by a distance 41113
that will, in the fire marshal's judgment, allow fire-fighting 41114
equipment to have full access to the structures on the licensed 41115
premises. Such trailers may be moved into closer proximity to any 41116
structure only to accept or discharge cargo for a period not to 41117
exceed forty-eight hours. Only two such trailers may be placed in 41118
such closer proximity at any one time. At no time may trailers be 41119
used for conducting sales of any class of fireworks, nor may 41120
members of the public have access to the trailers. 41121

Storage areas for fireworks that are in the same building 41122
where fireworks are displayed and sold to the public shall be 41123
separated from the areas to which the public has access by an 41124
appropriately rated fire wall. 41125

~~(K)~~(J) A fire suppression system as defined in section 41126
3781.108 of the Revised Code may be turned off only for repair, 41127
drainage of the system to prevent damage by freezing during the 41128
period of time, approved by the fire marshal, that the facility is 41129
closed to all public access during winter months, or maintenance 41130
of the system. If any repair or maintenance is necessary during 41131
times when the facility is open for public access and business as 41132
approved by the fire marshal, the licensed manufacturer shall 41133
notify in advance the appropriate insurance company and fire chief 41134
or fire prevention officer regarding the nature of the maintenance 41135
or repair and the time when it will be performed. 41136

~~(L)~~(K) If any fireworks item is removed from its original 41137
package or is manufactured with any fuse other than a safety fuse 41138
approved by the consumer product safety commission, then the item 41139
shall be covered completely by repackaging or bagging or it shall 41140
otherwise be covered so as to prevent ignition prior to sale. 41141

~~(M)~~(L) A safety officer shall be present during regular 41142
business hours at a building open to the public during the period 41143
commencing fourteen days before, and ending two days after, each 41144
fourth day of July. The officer shall be highly visible, enforce 41145
this chapter and any applicable building codes to the extent the 41146
officer is authorized by law, and be one of the following: 41147

(1) A deputy sheriff; 41148

(2) A law enforcement officer of a municipal corporation, 41149
township, or township or joint township police district; 41150

(3) A private uniformed security guard registered under 41151
section 4749.06 of the Revised Code. 41152

~~(N)~~(M) All doors of all buildings on the licensed premises 41153
shall swing outward. 41154

~~(O)~~(N) All wholesale and commercial sales of fireworks shall 41155
be packaged, shipped, placarded, and transported in accordance 41156
with United States department of transportation regulations 41157
applicable to the transportation, and the offering for 41158
transportation, of hazardous materials. For purposes of this 41159
division, "wholesale and commercial sales" includes all sales for 41160
resale and any nonretail sale made in furtherance of a commercial 41161
enterprise. For purposes of enforcement of these regulations under 41162
section 4905.83 of the Revised Code, any sales transaction 41163
exceeding one thousand pounds shall be rebuttably presumed to be a 41164
wholesale or commercial sale. 41165

Sec. 3743.15. (A) Except as provided in division (C) of this 41166
section, any person who wishes to be a wholesaler of fireworks in 41167
this state shall submit to the fire marshal an application for 41168
licensure as a wholesaler of fireworks before the first day of 41169
October of each year. The application shall be submitted prior to 41170
commencement of business operations, shall be on a form prescribed 41171

by the fire marshal, shall contain all information requested by 41172
the fire marshal, and shall be accompanied by the license fee, 41173
fingerprints, and proof of insurance coverage described in 41174
division (B) of this section. 41175

The fire marshal shall prescribe a form for applications for 41176
licensure as a wholesaler of fireworks and make a copy of the form 41177
available, upon request, to persons who seek that licensure. 41178

(B) An applicant for licensure as a wholesaler of fireworks 41179
shall submit with the application all of the following: 41180

(1) A license fee of two thousand seven hundred fifty 41181
dollars, which the fire marshal shall use to pay for fireworks 41182
safety education, training programs, and inspections~~+~~. If the 41183
applicant has any storage locations approved in accordance with 41184
division (G) of section 3743.17 of the Revised Code, the applicant 41185
also shall submit a fee of one hundred dollars per storage 41186
location for the inspection of each storage location. 41187

(2) Proof of comprehensive general liability insurance 41188
coverage, specifically including fire and smoke casualty on 41189
premises, in an amount not less than one million dollars for each 41190
occurrence for bodily injury liability and wrongful death 41191
liability at its business location. Proof of such insurance 41192
coverage shall be submitted together with proof of coverage for 41193
products liability on all inventory located at the business 41194
location. All applicants shall submit evidence of comprehensive 41195
general liability insurance coverage verified by the insurer and 41196
certified as to its provision of the minimum coverage required 41197
under this division. 41198

(3) One complete set of the applicant's fingerprints and a 41199
complete set of fingerprints of any individual holding, owning, or 41200
controlling a five per cent or greater beneficial or equity 41201
interest in the applicant for the license. 41202

(C) A licensed manufacturer of fireworks is not required to 41203
apply for and obtain a wholesaler of fireworks license in order to 41204
engage in the wholesale sale of fireworks as authorized by 41205
division (C)(2) of section 3743.04 of the Revised Code. A business 41206
which is not a licensed manufacturer of fireworks may engage in 41207
the wholesale and retail sale of fireworks in the same manner as a 41208
licensed manufacturer of fireworks is authorized to do under this 41209
chapter without the necessity of applying for and obtaining a 41210
license pursuant to this section, but only if the business sells 41211
the fireworks on the premises of a fireworks plant covered by a 41212
license issued under section 3743.03 of the Revised Code and the 41213
holder of that license owns at least a majority interest in that 41214
business. However, if a licensed manufacturer of fireworks wishes 41215
to engage in the wholesale sale of fireworks in this state at a 41216
location other than the premises of the fireworks plant described 41217
in its application for licensure as a manufacturer or in a 41218
notification submitted under division (B) of section 3743.04 of 41219
the Revised Code, the manufacturer shall first apply for and 41220
obtain a wholesaler of fireworks license before engaging in 41221
wholesale sales of fireworks at the other location. 41222

(D) A separate application for licensure as a wholesaler of 41223
fireworks shall be submitted for each location at which a person 41224
wishes to engage in wholesale sales of fireworks. 41225

Sec. 3743.17. (A) The license of a wholesaler of fireworks is 41226
effective for one year beginning on the first day of December. The 41227
fire marshal shall issue or renew a license only on that date and 41228
at no other time. If a wholesaler of fireworks wishes to continue 41229
engaging in the wholesale sale of fireworks at the particular 41230
location after its then effective license expires, it shall apply 41231
not later than the first day of October for a new license pursuant 41232
to section 3743.15 of the Revised Code. The fire marshal shall 41233

send a written notice of the expiration of its license to a 41234
licensed wholesaler at least three months before the expiration 41235
date. 41236

(B) If, during the effective period of its licensure, a 41237
licensed wholesaler of fireworks wishes to perform any 41238
construction, or make any structural change or renovation, on the 41239
premises on which the fireworks are sold, the wholesaler shall 41240
notify the fire marshal in writing. The fire marshal may require a 41241
licensed wholesaler also to submit documentation, including, but 41242
not limited to, plans covering the proposed construction or 41243
structural change or renovation, if the fire marshal determines 41244
the documentation is necessary for evaluation purposes in light of 41245
the proposed construction or structural change or renovation. 41246

Upon receipt of the notification and additional documentation 41247
required by the fire marshal, the fire marshal shall inspect the 41248
premises on which the fireworks are sold to determine if the 41249
proposed construction or structural change or renovation conforms 41250
to sections 3743.15 to 3743.21 of the Revised Code and the rules 41251
adopted by the fire marshal pursuant to section 3743.18 of the 41252
Revised Code. The fire marshal shall issue a written authorization 41253
to the wholesaler for the construction or structural change or 41254
renovation if the fire marshal determines, upon the inspection and 41255
a review of submitted documentation, that the construction or 41256
structural change or renovation conforms to those sections and 41257
rules. 41258

(C) The license of a wholesaler of fireworks authorizes the 41259
wholesaler to engage only in the following activities: 41260

(1) Possess for sale at wholesale and sell at wholesale 41261
fireworks to persons who are licensed wholesalers of fireworks, to 41262
out-of-state residents in accordance with section 3743.44 of the 41263
Revised Code, to residents of this state in accordance with 41264
section 3743.45 of the Revised Code, or to persons located in 41265

another state provided the fireworks are shipped directly out of 41266
this state to them by the wholesaler. The possession for sale 41267
shall be at the location described in the application for 41268
licensure or in the notification submitted under division (B) of 41269
this section, and the sale shall be from the inside of a licensed 41270
building and from no structure or device outside a licensed 41271
building. At no time shall a licensed wholesaler sell any class of 41272
fireworks outside a licensed building. 41273

(2) Possess for sale at retail and sell at retail fireworks, 41274
other than 1.4G fireworks as designated by the fire marshal in 41275
rules adopted pursuant to division (A) of section 3743.05 of the 41276
Revised Code, to licensed exhibitors in accordance with sections 41277
3743.50 to 3743.55 of the Revised Code, and possess for sale at 41278
retail and sell at retail fireworks, including 1.4G fireworks, to 41279
out-of-state residents in accordance with section 3743.44 of the 41280
Revised Code, to residents of this state in accordance with 41281
section 3743.45 of the Revised Code, or to persons located in 41282
another state provided the fireworks are shipped directly out of 41283
this state to them by the wholesaler. The possession for sale 41284
shall be at the location described in the application for 41285
licensure or in the notification submitted under division (B) of 41286
this section, and the sale shall be from the inside of the 41287
licensed building and from no other structure or device outside 41288
this licensed building. At no time shall a licensed wholesaler 41289
sell any class of fireworks outside a licensed building. 41290

A licensed wholesaler of fireworks shall sell under division 41291
(C) of this section only fireworks that meet the standards set by 41292
the consumer product safety commission or by the American 41293
fireworks standard laboratories or that have received an EX number 41294
from the United States department of transportation. 41295

(D)~~(1)~~ The license of a wholesaler of fireworks shall be 41296
protected under glass and posted in a conspicuous place at the 41297

location described in the application for licensure or in the 41298
notification submitted under division (B) of this section. Except 41299
as otherwise provided in this ~~division~~ section, the license is not 41300
transferable or assignable. A license may be transferred to 41301
another person for the same location for which the license was 41302
issued if the assets of the wholesaler are transferred to that 41303
person by inheritance or by a sale approved by the fire marshal. 41304
The license is subject to revocation in accordance with section 41305
3743.21 of the Revised Code. 41306

~~(2)~~(E) The fire marshal shall adopt rules for the expansion 41307
or contraction of a licensed premises and for the approval of an 41308
expansion or contraction. The boundaries of a licensed premises, 41309
including any geographic expansion or contraction of those 41310
boundaries, shall be approved by the fire marshal in accordance 41311
with rules the fire marshal adopts. If the licensed premises of a 41312
licensed wholesaler from which the wholesaler operates consists of 41313
more than one parcel of real estate, those parcels must be 41314
contiguous, unless an exception is allowed pursuant to division 41315
(G) of this section. 41316

(F)(1) Upon application by a licensed wholesaler of 41317
fireworks, a wholesaler license may be transferred from one 41318
geographic location to another within the same municipal 41319
corporation or within the unincorporated area of the same 41320
township, but only if all of the following apply: 41321

(a) The identity of the holder of the license remains the 41322
same in the new location. 41323

(b) The former location is closed prior to the opening of the 41324
new location and no fireworks business of any kind is conducted at 41325
the former location after the transfer of the license. 41326

(c) The new location has received a local certificate of 41327
zoning compliance and a local certificate of occupancy, and 41328

otherwise is in compliance with all local building regulations. 41329

(d) The transfer of the license is requested by the licensee 41330
because the existing facility poses an immediate hazard to the 41331
public. 41332

(e) ~~Any~~ Every building ~~or structure~~ at the new location is 41333
~~situated no closer than one thousand feet to any property line or~~ 41334
~~structure that does not belong to the licensee requesting the~~ 41335
~~transfer, no closer than three hundred feet to any highway or~~ 41336
~~railroad, no closer than one hundred feet to any building used for~~ 41337
~~the storage of explosives or fireworks by the licensee, no closer~~ 41338
~~than fifty feet to any factory building owned or used by the~~ 41339
~~licensee, and no closer than two thousand feet to any building~~ 41340
~~used for the sale, storage, or manufacturing of fireworks that~~ 41341
~~does not belong to the licensee~~ separated from occupied 41342
residential and nonresidential buildings or structures, railroads, 41343
highways, or any other buildings or structures located on the 41344
licensed premises in accordance with the distances specified in 41345
the rules adopted by the fire marshal pursuant to section 3743.18 41346
of the Revised Code. If the licensee fails to comply with the 41347
requirements of division ~~(D)(2)(e)~~ (F)(1)(e) of this section by the 41348
licensee's own act, the license at the new location is forfeited. 41349

(f) Neither the licensee nor any person holding, owning, or 41350
controlling a five per cent or greater beneficial or equity 41351
interest in the licensee has been convicted of or has pleaded 41352
guilty to a felony under the laws of this state, any other state, 41353
or the United States after ~~the effective date of this amendment~~ 41354
June 30, 1997. 41355

(g) The fire marshal approves the request for the transfer. 41356

(2) The new location shall comply with the requirements 41357
specified in divisions (A)(1) and (2) of section 3743.25 of the 41358
Revised Code whether or not the fireworks showroom at the new 41359

location is constructed, expanded, or first begins operating on 41360
and after ~~the effective date of this amendment~~ June 30, 1997. 41361

~~(E)~~(G)(1) A licensed wholesaler may expand its licensed 41362
premises within this state to include not more than two storage 41363
locations that are located upon one or more real estate parcels 41364
that are noncontiguous to the licensed premises as that licensed 41365
premises exists on the date a licensee submits an application as 41366
described below, if all of the following apply: 41367

(a) The licensee submits an application to the fire marshal 41368
requesting the expansion and an application fee of one hundred 41369
dollars per storage location for which the licensee is requesting 41370
approval. 41371

(b) The identity of the holder of the license remains the 41372
same at the storage location. 41373

(c) The storage location has received a valid certificate of 41374
zoning compliance, as applicable, and a valid certificate of 41375
occupancy for each building or structure at the storage location 41376
issued by the authority having jurisdiction to issue the 41377
certificate for the storage location, and those certificates 41378
permit the distribution and storage of fireworks regulated under 41379
this chapter at the storage location and in the buildings or 41380
structures. The storage location shall be in compliance with all 41381
other applicable federal, state, and local laws and regulations. 41382

(d) Every building or structure located upon the storage 41383
location is separated from occupied residential and nonresidential 41384
buildings or structures, railroads, highways, and any other 41385
buildings or structures on the licensed premises in accordance 41386
with the distances specified in the rules adopted by the fire 41387
marshal pursuant to section 3743.18 of the Revised Code. 41388

(e) Neither the licensee nor any person holding, owning, or 41389
controlling a five per cent or greater beneficial or equity 41390

interest in the licensee has been convicted of or pleaded guilty 41391
to a felony under the laws of this state, any other state, or the 41392
United States, after the effective date of this amendment. 41393

(f) The fire marshal approves the application for expansion. 41394

(2) The fire marshal shall approve an application for 41395
expansion requested under division (G)(1) of this section if the 41396
fire marshal receives the application fee and proof that the 41397
requirements of divisions (G)(1)(b) to (e) of this section are 41398
satisfied. The storage location shall be considered part of the 41399
original licensed premises and shall use the same distinct number 41400
assigned to the original licensed premises with any additional 41401
designations as the fire marshal deems necessary in accordance 41402
with section 3743.16 of the Revised Code. 41403

(H)(1) A licensee who obtains approval for use of a storage 41404
location in accordance with division (G) of this section shall use 41405
the site exclusively for the following activities, in accordance 41406
with division (C)(1) of this section: 41407

(a) Packaging, assembling, or storing fireworks, which shall 41408
occur only in buildings approved for such hazardous uses by the 41409
building code official having jurisdiction for the storage 41410
location and shall be in accordance with the rules adopted by the 41411
fire marshal under division (B)(4) of section 3743.18 of the 41412
Revised Code for the packaging, assembling, and storage of 41413
fireworks. 41414

(b) Distributing fireworks to other parcels of real estate 41415
located on the wholesaler's licensed premises, to licensed 41416
manufacturers or other licensed wholesalers in this state or to 41417
similarly licensed persons located in another state or country; 41418

(c) Distributing fireworks to a licensed exhibitor of 41419
fireworks pursuant to a properly issued permit in accordance with 41420
section 3743.54 of the Revised Code. 41421

(2) A licensed wholesaler shall not engage in any sales activity, including the retail sale of fireworks otherwise permitted under division (C)(2) of this section or pursuant to section 3743.44 or 3743.45 of the Revised Code, at a storage location approved under this section.

(I) A licensee shall prohibit public access to all storage locations it uses. The fire marshal shall adopt rules establishing acceptable measures a wholesaler shall use to prohibit access to storage sites.

(J) The fire marshal shall not place the license of a wholesaler of fireworks in temporarily inactive status while the holder of the license is attempting to qualify to retain the license.

~~(F)~~(K) Each licensed wholesaler of fireworks or a designee of the wholesaler, whose identity is provided to the fire marshal by the wholesaler, annually shall attend a continuing education program consisting of not less than eight hours of instruction. The fire marshal shall develop the program and the fire marshal or a person or public agency approved by the fire marshal shall conduct it. A licensed wholesaler or the wholesaler's designee who attends a program as required under this division, within one year after attending the program, shall conduct in-service training for other employees of the licensed wholesaler regarding the information obtained in the program. A licensed wholesaler shall provide the fire marshal with notice of the date, time, and place of all in-service training not less than thirty days prior to an in-service training event.

~~(G)~~(L) A licensed wholesaler shall maintain comprehensive general liability insurance coverage in the amount and type specified under division (B)(2) of section 3743.15 of the Revised Code at all times. Each policy of insurance required under this

division shall contain a provision requiring the insurer to give 41453
not less than fifteen days' prior written notice to the fire 41454
marshal before termination, lapse, or cancellation of the policy, 41455
or any change in the policy that reduces the coverage below the 41456
minimum required under this division. Prior to canceling or 41457
reducing the amount of coverage of any comprehensive general 41458
liability insurance coverage required under this division, a 41459
licensed wholesaler shall secure supplemental insurance in an 41460
amount and type that satisfies the requirements of this division 41461
so that no lapse in coverage occurs at any time. A licensed 41462
wholesaler who secures supplemental insurance shall file evidence 41463
of the supplemental insurance with the fire marshal prior to 41464
canceling or reducing the amount of coverage of any comprehensive 41465
general liability insurance coverage required under this division. 41466

Sec. 3743.18. (A) The fire marshal shall adopt rules pursuant 41467
to Chapter 119. of the Revised Code governing the storage of 41468
fireworks by and the business operations of licensed wholesalers 41469
of fireworks. These rules shall be designed to promote the safety 41470
and security of employees of wholesalers, members of the public, 41471
and the premises upon which fireworks are sold. 41472

(B) The rules shall be consistent with sections 3743.15 to 41473
3743.21 of the Revised Code, shall be substantially equivalent to 41474
the most recent versions of chapters 1123, 1124, and 1126 of the 41475
most recent national fire protection association standards, and 41476
shall apply to, but not be limited to, the following subject 41477
matters: 41478

~~(A)~~(1) Cleanliness and orderliness in, the heating, lighting, 41479
and use of stoves and flame-producing items in, smoking in, the 41480
prevention of fire and explosion in, the availability of fire 41481
extinguishers or other fire-fighting equipment and their use in, 41482
and emergency procedures relative to the buildings and other 41483

structures on a wholesaler's premises-; 41484

~~(B)~~(2) Appropriate uniforms to be worn by employees of 41485
wholesalers in the course of handling and storing of fireworks, 41486
and the use of protective clothing and equipment by the 41487
employees-; 41488

~~(C)~~(3) The manner in which fireworks are to be stored; 41489

(4) Required distances between buildings or structures used 41490
in the manufacturing, storage, or sale of fireworks and occupied 41491
residential and nonresidential buildings or structures, railroads, 41492
highways, or any additional buildings or structures on a licensed 41493
premises. 41494

(5) Requirements for the operation of storage locations, 41495
including packaging, assembling, and storage of fireworks. 41496

(C) Rules adopted pursuant to division (B)(4) of this section 41497
do not apply to buildings that were erected on or before May 30, 41498
1986, and that were legally being used for fireworks activities 41499
under authority of a valid license issued by the fire marshal as 41500
of December 1, 1990, pursuant to sections 3743.16 and 3743.17 of 41501
the Revised Code. 41502

Sec. 3743.19. In addition to conforming to the rules of the 41503
fire marshal adopted pursuant to section 3743.18 of the Revised 41504
Code, licensed wholesalers of fireworks shall conduct their 41505
business operations in accordance with the following: 41506

(A) A wholesaler shall conduct its business operations from 41507
the location described in its application for licensure or in a 41508
notification submitted under division (B) of section 3743.17 of 41509
the Revised Code. 41510

(B) Signs indicating that smoking is generally forbidden and 41511
trespassing is prohibited on the premises of a wholesaler shall be 41512
posted on the premises as determined by the fire marshal. 41513

(C) Reasonable precautions shall be taken to protect the 41514
premises of a wholesaler from trespass, loss, theft, or 41515
destruction. 41516

(D) Smoking or the carrying of pipes, cigarettes, or cigars, 41517
matches, lighters, other flame-producing items, or open flame on, 41518
or the carrying of a concealed source of ignition into, the 41519
premises of a wholesaler is prohibited, except that a wholesaler 41520
may permit smoking in specified lunchrooms or restrooms in 41521
buildings or other structures in which no sales, handling, or 41522
storage of fireworks takes place. "NO SMOKING" signs shall be 41523
posted on the premises as required by the fire marshal. 41524

(E) Fire and explosion prevention and other reasonable safety 41525
measures and precautions shall be implemented by a wholesaler. 41526

(F) Persons shall not be permitted to have in their 41527
possession or under their control, while they are on the premises 41528
of a wholesaler, any intoxicating liquor, beer, or controlled 41529
substance, and they shall not be permitted to enter or remain on 41530
the premises if they are found to be under the influence of any 41531
intoxicating liquor, beer, or controlled substance. 41532

(G) A wholesaler shall conform to all building, safety, and 41533
zoning statutes, ordinances, rules, or other enactments that apply 41534
to its premises. 41535

(H) ~~No building used in the storage or sale of fireworks 41536
shall be situated nearer than one thousand feet to any structure 41537
that is not located on the property of and that does not belong to 41538
the licensed fireworks wholesaler, nearer than three hundred feet 41539
to any highway or railroad, or nearer than one hundred feet to any 41540
building used for the storage of explosives or fireworks. This 41541
division does not apply to buildings that were erected on or 41542
before May 30, 1986, and that were legally being used for 41543
fireworks activities under authority of a valid license issued by 41544~~

~~the fire marshal as of December 1, 1990, pursuant to sections 41545
3743.16 and 3743.17 of the Revised Code. 41546~~

~~(I)~~ Each building used in the sale of fireworks shall be kept 41547
open to the public for at least four hours each day between the 41548
hours of eight a.m. and five p.m., five days of each week, every 41549
week of the year. Upon application from a licensed wholesaler, the 41550
fire marshal may waive any of the requirements of this division. 41551

~~(J)~~(I) Awnings, tents, or canopies shall not be used as 41552
facilities for the storage or sale of fireworks. This division 41553
does not prohibit the use of an awning or canopy attached to a 41554
public access showroom for storing nonflammable shopping 41555
convenience items such as shopping carts or baskets or providing a 41556
shaded area for patrons waiting to enter the public sales area. 41557

~~(K)~~(J) Fireworks may be stored in trailers if the trailers 41558
are properly enclosed, secured, and grounded and are separated 41559
from any structure to which the public is admitted by a distance 41560
that will, in the fire marshal's judgment, allow fire-fighting 41561
equipment to have full access to the structures on the licensed 41562
premises. Such trailers may be moved into closer proximity to any 41563
structure only to accept or discharge cargo for a period not to 41564
exceed forty-eight hours. Only two such trailers may be placed in 41565
such closer proximity at any one time. At no time may trailers be 41566
used for conducting sales of any class of fireworks nor may 41567
members of the public have access to the trailers. 41568

Storage areas for fireworks that are in the same building 41569
where fireworks are displayed and sold to the public shall be 41570
separated from the areas to which the public has access by an 41571
appropriately rated fire wall. 41572

~~(L)~~(K) A fire suppression system as defined in section 41573
3781.108 of the Revised Code may be turned off only for repair, 41574
drainage of the system to prevent damage by freezing during the 41575

period of time, approved by the fire marshal under division (I) of 41576
this section, that the facility is closed to public access during 41577
winter months, or maintenance of the system. If any repair or 41578
maintenance is necessary during times when the facility is open 41579
for public access and business, the licensed wholesaler shall 41580
notify in advance the appropriate insurance company and fire chief 41581
or fire prevention officer regarding the nature of the maintenance 41582
or repair and the time when it will be performed. 41583

~~(M)~~(L) If any fireworks item is removed from its original 41584
package or is manufactured with any fuse other than a fuse 41585
approved by the consumer product safety commission, then the item 41586
shall be covered completely by repackaging or bagging or it shall 41587
otherwise be covered so as to prevent ignition prior to sale. 41588

~~(N)~~(M) A safety officer shall be present during regular 41589
business hours at a building open to the public during the period 41590
commencing fourteen days before, and ending two days after, each 41591
fourth day of July. The officer shall be highly visible, enforce 41592
this chapter and any applicable building codes to the extent the 41593
officer is authorized by law, and be one of the following: 41594

(1) A deputy sheriff; 41595

(2) A law enforcement officer of a municipal corporation, 41596
township, or township or joint township police district; 41597

(3) A private uniformed security guard registered under 41598
section 4749.06 of the Revised Code. 41599

~~(O)~~(N) All doors of all buildings on the licensed premises 41600
shall swing outward. 41601

~~(P)~~(O) All wholesale and commercial sales of fireworks shall 41602
be packaged, shipped, placarded, and transported in accordance 41603
with United States department of transportation regulations 41604
applicable to the transportation, and the offering for 41605
transportation, of hazardous materials. For purposes of this 41606

division, "wholesale and commercial sales" includes all sales for 41607
resale and any nonretail sale made in furtherance of a commercial 41608
enterprise. For purposes of enforcement of these regulations under 41609
section 4905.83 of the Revised Code, any sales transaction 41610
exceeding one thousand pounds shall be rebuttably presumed to be a 41611
wholesale or commercial sale. 41612

Sec. 3743.57. (A) All fees collected by the fire marshal for 41613
licenses or permits issued pursuant to this chapter shall be 41614
deposited into the state fire marshal's fund, and interest earned 41615
on the amounts in the fund shall be credited by the treasurer of 41616
state to the fund. 41617

~~(B) There is hereby established in the state treasury the 41618
fire marshal's fireworks training and education fund. The fire 41619
marshal shall deposit all assessments paid under this division 41620
into the state treasury to the credit of the fund. Each fireworks 41621
manufacturer and fireworks wholesaler licensed under this chapter 41622
shall pay assessments to the fire marshal for deposit into the 41623
fund as required by this division. 41624~~

~~The fire marshal shall impose an initial assessment upon each 41625
licensed fireworks manufacturer and wholesaler in order to 41626
establish a fund balance of fifteen thousand dollars. The fund 41627
balance shall at no time exceed fifteen thousand dollars, and the 41628
fire marshal shall impose no further assessments unless the fund 41629
balance is reduced to five thousand dollars or less. If the fund 41630
balance is reduced to five thousand dollars or less, the fire 41631
marshal shall impose an additional assessment upon each licensed 41632
fireworks manufacturer and wholesaler in order to increase the 41633
fund balance to fifteen thousand dollars. The fire marshal shall 41634
determine the amount of the initial assessment on each 41635
manufacturer or wholesaler and each additional assessment by 41636
dividing the total amount needed to be paid into the fund by the 41637~~

~~total number of fireworks manufacturers and wholesalers licensed 41638
under this chapter. If a licensed fireworks manufacturer or 41639
wholesaler fails to pay an assessment required by this division 41640
within thirty days after receiving notice of the assessment, the 41641
fire marshal, in accordance with Chapter 119. of the Revised Code, 41642
may refuse to issue, or may revoke, the appropriate license. 41643~~

The fire marshal shall in the fire marshal's discretion use 41644
amounts in the state fire marshal's fund for fireworks training 41645
and education purposes, including, but not limited to, the 41646
creation of educational and training programs, attendance by the 41647
fire marshal and the fire marshal's employees at conferences and 41648
seminars, the payment of travel and meal expenses associated with 41649
such attendance, participation by the fire marshal and the fire 41650
marshal's employees in committee meetings and other meetings 41651
related to pyrotechnic codes, and the payment of travel and meal 41652
expenses associated with such participation. The use of the fund 41653
shall comply with rules of the department of commerce, policies 41654
and procedures established by the director of budget and 41655
management, and all other applicable laws. 41656

Sec. 3743.59. (A) Upon application by an affected party, the 41657
fire marshal may grant variances from the requirements of this 41658
chapter or from the requirements of rules adopted pursuant to this 41659
chapter if the fire marshal determines that a literal enforcement 41660
of the requirement will result in ~~unnecessary hardship~~ practical 41661
difficulty in complying with the requirements of this chapter or 41662
the rules adopted pursuant to this chapter and that the variance 41663
will not be contrary to the public health, safety, or welfare. A 41664
variance shall not be granted to a person who is initially 41665
licensed as a manufacturer or wholesaler of fireworks after June 41666
14, 1988. 41667

(B) The fire marshal may authorize a variance from the 41668

prohibitions in this chapter against the possession and use of
pyrotechnic compounds to a person who submits proof that the
person is certified and in good standing with the Ohio state board
of education, provided that the pyrotechnic compounds are used for
educational purposes only, or are used only at an authorized
educational function approved by the governing board that
exercises authority over the educational function.

(C) The fire marshal may authorize a variance from the
prohibitions in this chapter against the possession and use of
pyrotechnic compounds to a person who possesses and uses the
pyrotechnic compounds for personal and noncommercial purposes as a
hobby. The fire marshal may rescind a variance authorized under
this division at any time, exclusively at the fire marshal's
discretion.

Sec. 3743.65. (A) No person shall possess fireworks in this
state or shall possess for sale or sell fireworks in this state,
except a licensed manufacturer of fireworks as authorized by
sections 3743.02 to 3743.08 of the Revised Code, a licensed
wholesaler of fireworks as authorized by sections 3743.15 to
3743.21 of the Revised Code, a shipping permit holder as
authorized by section 3743.40 of the Revised Code, an out-of-state
resident as authorized by section 3743.44 of the Revised Code, a
resident of this state as authorized by section 3743.45 of the
Revised Code, or a licensed exhibitor of fireworks as authorized
by sections 3743.50 to 3743.55 of the Revised Code, and except as
provided in section 3743.80 of the Revised Code.

(B) Except as provided in section 3743.80 of the Revised Code
and except for licensed exhibitors of fireworks authorized to
conduct a fireworks exhibition pursuant to sections 3743.50 to
3743.55 of the Revised Code, no person shall discharge, ignite, or
explode any fireworks in this state.

(C) No person shall use in a theater or public hall, what is 41700
technically known as fireworks showers, or a mixture containing 41701
potassium chlorate and sulphur. 41702

(D) No person shall sell fireworks of any kind to a person 41703
under eighteen years of age. 41704

(E) No person shall advertise 1.4G fireworks for sale. A sign 41705
located on a seller's premises identifying the seller as a seller 41706
of fireworks is not the advertising of fireworks for sale. 41707

(F) No person, other than a licensed manufacturer, licensed 41708
wholesaler, licensed exhibitor, or shipping permit holder, shall 41709
possess 1.3G fireworks in this state. 41710

(G) Except as otherwise provided in division ~~(K)~~(J) of 41711
section 3743.06 and division ~~(L)~~(K) of section 3743.19 of the 41712
Revised Code, no person shall knowingly disable a fire suppression 41713
system as defined in section 3781.108 of the Revised Code on the 41714
premises of a fireworks plant of a licensed manufacturer of 41715
fireworks or on the premises of the business operations of a 41716
licensed wholesaler of fireworks. 41717

Sec. 3743.75. (A) During the period beginning on June 29, 41718
2001, and ending on December 15, 2008, the state fire marshal 41719
shall not do any of the following: 41720

(1) Issue a license as a manufacturer of fireworks under 41721
sections 3743.02 and 3743.03 of the Revised Code to a person for a 41722
particular fireworks plant unless that person possessed such a 41723
license for that fireworks plant immediately prior to June 29, 41724
2001; 41725

(2) Issue a license as a wholesaler of fireworks under 41726
sections 3743.15 and 3743.16 of the Revised Code to a person for a 41727
particular location unless that person possessed such a license 41728
for that location immediately prior to June 29, 2001; 41729

(3) Except as provided in division (B) of this section, 41730
approve the geographic transfer of a license as a manufacturer or 41731
wholesaler of fireworks issued under this chapter to any location 41732
other than a location for which a license was issued under this 41733
chapter immediately prior to June 29, 2001. 41734

(B) Division (A)(3) of this section does not apply to a 41735
transfer that the state fire marshal approves under division 41736
~~(D)(2)(F)~~ of section 3743.17 of the Revised Code. ~~Section~~ 41737

(C) Notwithstanding section 3743.59 of the Revised Code does 41738
not apply to this section, the prohibited activities established 41739
in divisions (A)(1) and (2) of this section, geographic transfers 41740
approved pursuant to division (F) of section 3743.17 of the 41741
Revised Code, and storage locations allowed pursuant to division 41742
(I) of section 3743.04 of the Revised Code or division (G) of 41743
section 3743.17 of the Revised Code are not subject to any 41744
variance, waiver, or exclusion. 41745

(D) As used in division (A) of this section: 41746

(1) "Person" includes any person or entity, in whatever form 41747
or name, that acquires possession of a manufacturer or wholesaler 41748
of fireworks license issued pursuant to this chapter by transfer 41749
of possession of a license, whether that transfer occurs by 41750
purchase, assignment, inheritance, bequest, stock transfer, or any 41751
other type of transfer, on the condition that the transfer is in 41752
accordance with division (D) of section 3743.04 of the Revised 41753
Code or division (D) of section 3743.17 of the Revised Code and is 41754
approved by the fire marshal. 41755

(2) "Particular location" includes a licensed premises and, 41756
regardless of when approved, any storage location approved in 41757
accordance with section 3743.04 or 3743.17 of the Revised Code. 41758

Sec. 3745.015. There is hereby created in the state treasury 41759

the environmental protection fund consisting of money credited to 41760
the fund under division (A)(3) of section 3734.57 of the Revised 41761
Code. The environmental protection agency shall use money in the 41762
fund to pay the agency's costs associated with administering and 41763
enforcing, or otherwise conducting activities under, this chapter 41764
and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 41765
3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 41766
6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of 41767
the Revised Code. 41768

Sec. 3745.11. (A) Applicants for and holders of permits, 41769
licenses, variances, plan approvals, and certifications issued by 41770
the director of environmental protection pursuant to Chapters 41771
3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee 41772
to the environmental protection agency for each such issuance and 41773
each application for an issuance as provided by this section. No 41774
fee shall be charged for any issuance for which no application has 41775
been submitted to the director. 41776

(B) Each person who is issued a permit to install prior to 41777
July 1, 2003, pursuant to rules adopted under division (F) of 41778
section 3704.03 of the Revised Code shall pay the fees specified 41779
in the following schedules: 41780

(1) ~~Fuel-Burning Equipment~~ Fuel-burning equipment (boilers) 41781
Input capacity (maximum) 41782
(million British thermal units per hour) Permit to install 41783
Greater than 0, but less than 10 \$ 200 41784
10 or more, but less than 100 400 41785
100 or more, but less than 300 800 41786
300 or more, but less than 500 1500 41787
500 or more, but less than 1000 2500 41788
1000 or more, but less than 5000 4000 41789

5000 or more	6000	41790
Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.		41791 41792 41793
(2) Incinerators		41794
Input capacity (pounds per hour)	Permit to install	41795
0 to 100	\$ 100	41796
101 to 500	400	41797
501 to 2000	750	41798
2001 to 20,000	1000	41799
more than 20,000	2500	41800
(3)(a) Process		41801
Process weight rate (pounds per hour)	Permit to install	41802
0 to 1000	\$ 200	41803
1001 to 5000	400	41804
5001 to 10,000	600	41805
10,001 to 50,000	800	41806
more than 50,000	1000	41807
In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.		41808 41809
(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:		41810 41811 41812 41813 41814 41815 41816 41817 41818
1211 Bituminous coal and lignite mining;		41819
1213 Bituminous coal and lignite mining services;		41820

1411 Dimension stone;		41821
1422 Crushed and broken limestone;		41822
1427 Crushed and broken stone, not elsewhere classified;		41823
1442 Construction sand and gravel;		41824
1446 Industrial sand;		41825
3281 Cut stone and stone products;		41826
3295 Minerals and earth, ground or otherwise treated.		41827
(c) The fees established in the following schedule apply to		41828
the issuance of a permit to install pursuant to rules adopted		41829
under division (F) of section 3704.03 of the Revised Code for a		41830
process listed in division (B)(3)(b) of this section:		41831
Process weight rate (pounds per hour)	Permit to install	41832
0 to 1000	\$ 200	41833
10,001 to 50,000	300	41834
50,001 to 100,000	400	41835
100,001 to 200,000	500	41836
200,001 to 400,000	600	41837
400,001 or more	700	41838
(4) Storage tanks		41839
Gallons (maximum useful capacity)	Permit to install	41840
0 to 20,000	\$ 100	41841
20,001 to 40,000	150	41842
40,001 to 100,000	200	41843
100,001 to 250,000	250	41844
250,001 to 500,000	350	41845
500,001 to 1,000,000	500	41846
1,000,001 or greater	750	41847
(5) Gasoline/fuel dispensing facilities		41848
For each gasoline/fuel dispensing	Permit to install	41849
facility	\$ 100	41850

(6) Dry cleaning facilities		41851
For each dry cleaning facility	Permit to install	41852
(includes all units at the facility)	\$ 100	41853
(7) Registration status		41854
For each source covered	Permit to install	41855
by registration status	\$ 75	41856
(C)(1) Except as otherwise provided in division (C)(2) of		41857
this section, beginning July 1, 1994, each person who owns or		41858
operates an air contaminant source and who is required to apply		41859
for and obtain a Title V permit under section 3704.036 of the		41860
Revised Code shall pay the fees set forth in division (C)(1) of		41861
this section. For the purposes of that division, total emissions		41862
of air contaminants may be calculated using engineering		41863
calculations, emissions factors, material balance calculations, or		41864
performance testing procedures, as authorized by the director.		41865
The following fees shall be assessed on the total actual		41866
emissions from a source in tons per year of the regulated		41867
pollutants particulate matter, sulfur dioxide, nitrogen oxides,		41868
organic compounds, and lead:		41869
(a) Fifteen dollars per ton on the total actual emissions of		41870
each such regulated pollutant during the period July through		41871
December 1993, to be collected no sooner than July 1, 1994;		41872
(b) Twenty dollars per ton on the total actual emissions of		41873
each such regulated pollutant during calendar year 1994, to be		41874
collected no sooner than April 15, 1995;		41875
(c) Twenty-five dollars per ton on the total actual emissions		41876
of each such regulated pollutant in calendar year 1995, and each		41877
subsequent calendar year, to be collected no sooner than the		41878
fifteenth day of April of the year next succeeding the calendar		41879
year in which the emissions occurred.		41880

The fees levied under division (C)(1) of this section do not 41881
apply to that portion of the emissions of a regulated pollutant at 41882
a facility that exceed four thousand tons during a calendar year. 41883

(2) The fees assessed under division (C)(1) of this section 41884
are for the purpose of providing funding for the Title V permit 41885
program. 41886

(3) The fees assessed under division (C)(1) of this section 41887
do not apply to emissions from any electric generating unit 41888
designated as a Phase I unit under Title IV of the federal Clean 41889
Air Act prior to calendar year 2000. Those fees shall be assessed 41890
on the emissions from such a generating unit commencing in 41891
calendar year 2001 based upon the total actual emissions from the 41892
generating unit during calendar year 2000 and shall continue to be 41893
assessed each subsequent calendar year based on the total actual 41894
emissions from the generating unit during the preceding calendar 41895
year. 41896

(4) The director shall issue invoices to owners or operators 41897
of air contaminant sources who are required to pay a fee assessed 41898
under division (C) or (D) of this section. Any such invoice shall 41899
be issued no sooner than the applicable date when the fee first 41900
may be collected in a year under the applicable division, shall 41901
identify the nature and amount of the fee assessed, and shall 41902
indicate that the fee is required to be paid within thirty days 41903
after the issuance of the invoice. 41904

(D)(1) Except as provided in division (D)(3) of this section, 41905
from January 1, 1994, through December 31, 2003, each person who 41906
owns or operates an air contaminant source; who is required to 41907
apply for a permit to operate pursuant to rules adopted under 41908
division (G), or a variance pursuant to division (H), of section 41909
3704.03 of the Revised Code; and who is not required to apply for 41910
and obtain a Title V permit under section 3704.036 of the Revised 41911

Code shall pay a single fee based upon the sum of the actual
annual emissions from the facility of the regulated pollutants
particulate matter, sulfur dioxide, nitrogen oxides, organic
compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 50	\$ 75	41919
50 or more, but less than 100	300	41920
100 or more	700	41921

(2) Except as provided in division (D)(3) of this section,
beginning January 1, 2004, each person who owns or operates an air
contaminant source; who is required to apply for a permit to
operate pursuant to rules adopted under division (G), or a
variance pursuant to division (H), of section 3704.03 of the
Revised Code; and who is not required to apply for and obtain a
Title V permit under section 3704.03 of the Revised Code shall pay
a single fee based upon the sum of the actual annual emissions
from the facility of the regulated pollutants particulate matter,
sulfur dioxide, nitrogen oxides, organic compounds, and lead in
accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility	
More than 0, but less than 10	\$ 100	41936
10 or more, but less than 50	200	41937
50 or more, but less than 100	300	41938
100 or more	700	41939

(3)(a) As used in division (D) of this section, "synthetic
minor facility" means a facility for which one or more permits to
install or permits to operate have been issued for the air
contaminant sources at the facility that include terms and

conditions that lower the facility's potential to emit air 41944
contaminants below the major source thresholds established in 41945
rules adopted under section 3704.036 of the Revised Code. 41946

(b) Beginning January 1, 2000, through June 30, ~~2006~~ 2008, 41947
each person who owns or operates a synthetic minor facility shall 41948
pay an annual fee based on the sum of the actual annual emissions 41949
from the facility of particulate matter, sulfur dioxide, nitrogen 41950
dioxide, organic compounds, and lead in accordance with the 41951
following schedule: 41952

Combined total tons 41953		
per year of all regulated 41954	Annual fee	
pollutants emitted 41955	per facility	
Less than 10 41956	\$ 170	
10 or more, but less than 20 41957	340	
20 or more, but less than 30 41958	670	
30 or more, but less than 40 41959	1,010	
40 or more, but less than 50 41960	1,340	
50 or more, but less than 60 41961	1,680	
60 or more, but less than 70 41962	2,010	
70 or more, but less than 80 41963	2,350	
80 or more, but less than 90 41964	2,680	
90 or more, but less than 100 41965	3,020	
100 or more 41966	3,350	

(4) The fees assessed under division (D)(1) of this section 41967
shall be collected annually no sooner than the fifteenth day of 41968
April, commencing in 1995. The fees assessed under division (D)(2) 41969
of this section shall be collected annually no sooner than the 41970
fifteenth day of April, commencing in 2005. The fees assessed 41971
under division (D)(3) of this section shall be collected no sooner 41972
than the fifteenth day of April, commencing in 2000. The fees 41973
assessed under division (D) of this section in a calendar year 41974
shall be based upon the sum of the actual emissions of those 41975

regulated pollutants during the preceding calendar year. For the
purpose of division (D) of this section, emissions of air
contaminants may be calculated using engineering calculations,
emission factors, material balance calculations, or performance
testing procedures, as authorized by the director. The director,
by rule, may require persons who are required to pay the fees
assessed under division (D) of this section to pay those fees
biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs
of the Title V permit program, the director annually shall
increase the fees prescribed in division (C)(1) of this section by
the percentage, if any, by which the consumer price index for the
most recent calendar year ending before the beginning of a year
exceeds the consumer price index for calendar year 1989. Upon
calculating an increase in fees authorized by division (E)(1) of
this section, the director shall compile revised fee schedules for
the purposes of division (C)(1) of this section and shall make the
revised schedules available to persons required to pay the fees
assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of
the consumer price index for all urban consumers published by the
United States department of labor as of the close of the
twelve-month period ending on the thirty-first day of August of
that year.

(b) If the 1989 consumer price index is revised, the director
shall use the revision of the consumer price index that is most
consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to
rules adopted under division (F) of section 3704.03 of the Revised
Code on or after July 1, 2003, shall pay the fees specified in the

following schedules:		42007
(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)		42008
Input capacity (maximum)		42009
(million British thermal units per hour)	Permit to install	42010
Greater than 0, but less than 10	\$ 200	42011
10 or more, but less than 100	400	42012
100 or more, but less than 300	1000	42013
300 or more, but less than 500	2250	42014
500 or more, but less than 1000	3750	42015
1000 or more, but less than 5000	6000	42016
5000 or more	9000	42017
Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.		42018
		42019
		42020
		42021
		42022
(2) Combustion turbines and stationary internal combustion engines designed to generate electricity		42023
Generating capacity (mega watts)	Permit to install	42024
0 or more, but less than 10	\$ 25	42025
10 or more, but less than 25	150	42026
25 or more, but less than 50	300	42027
50 or more, but less than 100	500	42028
100 or more, but less than 250	1000	42029
250 or more	2000	42030
(3) Incinerators		42031
Input capacity (pounds per hour)	Permit to install	42032
0 to 100	\$ 100	42033
101 to 500	500	42034
501 to 2000	1000	42035
2001 to 20,000	1500	42036

more than 20,000	3750	42038
(4)(a) Process		42039
Process weight rate (pounds per hour)	Permit to install	42040
0 to 1000	\$ 200	42041
1001 to 5000	500	42042
5001 to 10,000	750	42043
10,001 to 50,000	1000	42044
more than 50,000	1250	42045

In any process where process weight rate cannot be 42046
ascertained, the minimum fee shall be assessed. A boiler, furnace, 42047
combustion turbine, stationary internal combustion engine, or 42048
process heater designed to provide direct heat or power to a 42049
process not designed to generate electricity shall be assessed a 42050
fee established in division (F)(4)(a) of this section. A 42051
combustion turbine or stationary internal combustion engine 42052
designed to generate electricity shall be assessed a fee 42053
established in division (F)(2) of this section. 42054

(b) Notwithstanding division (F)~~(3)~~(4)(a) of this section, 42055
any person issued a permit to install pursuant to rules adopted 42056
under division (F) of section 3704.03 of the Revised Code shall 42057
pay the fees set forth in division (F)~~(3)~~(4)(c) of this section 42058
for a process used in any of the following industries, as 42059
identified by the applicable two-digit, three-digit, or four-digit 42060
standard industrial classification code according to the Standard 42061
Industrial Classification Manual published by the United States 42062
office of management and budget in the executive office of the 42063
president, ~~1972~~ 1987, as revised: 42064

- ~~1211 Bituminous coal and lignite mining;~~ 42065
- ~~1213 Bituminous coal and lignite mining services;~~ 42066
- ~~1411 Dimension stone;~~ 42067
- ~~1422 Crushed and broken limestone;~~ 42068

1427 Crushed and broken stone, not elsewhere classified;	42069
1442 Construction sand and gravel;	42070
1446 Industrial sand; <u>Major group 10, metal mining;</u>	42071
<u>Major group 12, coal mining;</u>	42072
<u>Major group 14, mining and quarrying of nonmetallic minerals;</u>	42073
<u>Industry group 204, grain mill products;</u>	42074
<u>2873 Nitrogen fertilizers;</u>	42075
<u>2874 Phosphatic fertilizers;</u>	42076
3281 Cut stone and stone products;	42077
3295 Minerals and earth, ground or otherwise treated;	42078
<u>4221 Grain elevators (storage only);</u>	42079
<u>5159 Farm related raw materials;</u>	42080
<u>5261 Retail nurseries and lawn and garden supply stores.</u>	42081

(c) The fees set forth in the following schedule apply to the 42082
 issuance of a permit to install pursuant to rules adopted under 42083
 division (F) of section 3704.03 of the Revised Code for a process 42084
 identified in division (F)~~(3)~~(4)(b) of this section: 42085

Process weight rate (pounds per 42086 hour)	Permit to install	
0 to 10,000	\$ 200	42087
10,001 to 50,000	400	42088
50,001 to 100,000	500	42089
100,001 to 200,000	600	42090
200,001 to 400,000	750	42091
400,001 or more	900	42092

(5) Storage tanks 42093

Gallons (maximum useful capacity)	Permit to install	
0 to 20,000	\$ 100	42095

20,001 to 40,000	150	42096
40,001 to 100,000	250	42097
100,001 to 500,000	400	42098
500,001 or greater	750	42099
(6) Gasoline/fuel dispensing facilities		42100
For each gasoline/fuel		42101
dispensing facility (includes all	Permit to install	42102
units at the facility)	\$ 100	42103
(7) Dry cleaning facilities		42104
For each dry cleaning		42105
facility (includes all units	Permit to install	42106
at the facility)	\$ 100	42107
(8) Registration status		42108
For each source covered	Permit to install	42109
by registration status	\$ 75	42110
(G) An owner or operator who is responsible for an asbestos		42111
demolition or renovation project pursuant to rules adopted under		42112
section 3704.03 of the Revised Code shall pay the fees set forth		42113
in the following schedule:		42114
Action	Fee	42115
Each notification	\$75	42116
Asbestos removal	\$3/unit	42117
Asbestos cleanup	\$4/cubic yard	42118
For purposes of this division, "unit" means any combination of		42119
linear feet or square feet equal to fifty.		42120
(H) A person who is issued an extension of time for a permit		42121
to install an air contaminant source pursuant to rules adopted		42122
under division (F) of section 3704.03 of the Revised Code shall		42123
pay a fee equal to one-half the fee originally assessed for the		42124
permit to install under this section, except that the fee for such		42125
an extension shall not exceed two hundred dollars.		42126

(I) A person who is issued a modification to a permit to
install an air contaminant source pursuant to rules adopted under
section 3704.03 of the Revised Code shall pay a fee equal to
one-half of the fee that would be assessed under this section to
obtain a permit to install the source. The fee assessed by this
division only applies to modifications that are initiated by the
owner or operator of the source and shall not exceed two thousand
dollars.

(J) Notwithstanding division (B) or (F) of this section, a
person who applies for or obtains a permit to install pursuant to
rules adopted under division (F) of section 3704.03 of the Revised
Code after the date actual construction of the source began shall
pay a fee for the permit to install that is equal to twice the fee
that otherwise would be assessed under the applicable division
unless the applicant received authorization to begin construction
under division (W) of section 3704.03 of the Revised Code. This
division only applies to sources for which actual construction of
the source begins on or after July 1, 1993. The imposition or
payment of the fee established in this division does not preclude
the director from taking any administrative or judicial
enforcement action under this chapter, Chapter 3704., 3714.,
3734., or 6111. of the Revised Code, or a rule adopted under any
of them, in connection with a violation of rules adopted under
division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source"
means the initiation of physical on-site construction activities
in connection with improvements to the source that are permanent
in nature, including, without limitation, the installation of
building supports and foundations and the laying of underground
pipework.

(K) Fifty cents per ton of each fee assessed under division
(C) of this section on actual emissions from a source and received

by the environmental protection agency pursuant to that division 42159
shall be deposited into the state treasury to the credit of the 42160
small business assistance fund created in section 3706.19 of the 42161
Revised Code. The remainder of the moneys received by the division 42162
pursuant to that division and moneys received by the agency 42163
pursuant to divisions (D), (F), (G), (H), (I), and (J) of this 42164
section shall be deposited in the state treasury to the credit of 42165
the clean air fund created in section 3704.035 of the Revised 42166
Code. 42167

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) 42168
or (c) of this section, a person issued a water discharge permit 42169
or renewal of a water discharge permit pursuant to Chapter 6111. 42170
of the Revised Code shall pay a fee based on each point source to 42171
which the issuance is applicable in accordance with the following 42172
schedule: 42173

Design flow discharge (gallons per day)	Fee	
0 to 1000	\$ 0	42175
1,001 to 5000	100	42176
5,001 to 50,000	200	42177
50,001 to 100,000	300	42178
100,001 to 300,000	525	42179
over 300,000	750	42180

(b) Notwithstanding the fee schedule specified in division 42181
(L)(1)(a) of this section, the fee for a water discharge permit 42182
that is applicable to coal mining operations regulated under 42183
Chapter 1513. of the Revised Code shall be two hundred fifty 42184
dollars per mine. 42185

(c) Notwithstanding the fee schedule specified in division 42186
(L)(1)(a) of this section, the fee for a water discharge permit 42187
for a public discharger identified by I in the third character of 42188
the permittee's NPDES permit number shall not exceed seven hundred 42189
fifty dollars. 42190

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2006~~ 2008, and one hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2006~~ 2008, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2006~~ 2008, and five thousand dollars on and after July 1, ~~2006~~ 2008. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2004~~ 2006, and January 30, ~~2005~~ 2007, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee

established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily	Fee due by	
discharge flow	January 30,	
	2004 <u>2006</u> , and	
	January 30, 2005	

	<u>2007</u>	
5,000 to 49,999	\$ 200	42254
50,000 to 100,000	500	42255
100,001 to 250,000	1,050	42256
250,001 to 1,000,000	2,600	42257
1,000,001 to 5,000,000	5,200	42258
5,000,001 to 10,000,000	10,350	42259
10,000,001 to 20,000,000	15,550	42260
20,000,001 to 50,000,000	25,900	42261
50,000,001 to 100,000,000	41,400	42262
100,000,001 or more	62,100	42263

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by	
	January 30,	42276
	2004 <u>2006</u> , and	42278
	January 30, 2005	42279

	<u>2007</u>	
5,000 to 49,999	\$ 250	42280
50,000 to 250,000	1,200	42281
250,001 to 1,000,000	2,950	42282
1,000,001 to 5,000,000	5,850	42283

5,000,001 to 10,000,000	8,800	42284
10,000,001 to 20,000,000	11,700	42285
20,000,001 to 100,000,000	14,050	42286
100,000,001 to 250,000,000	16,400	42287
250,000,001 or more	18,700	42288

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2004~~ 2006, and not later than January 30, ~~2005~~ 2007. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall

pay an additional amount per year equal to ten per cent of the 42316
annual fee that is unpaid. 42317

(7) The director shall transmit all moneys collected under 42318
division (L) of this section to the treasurer of state for deposit 42319
into the state treasury to the credit of the surface water 42320
protection fund created in section 6111.038 of the Revised Code. 42321

(8) As used in division (L) of this section: 42322

(a) "NPDES" means the federally approved national pollutant 42323
discharge elimination system program for issuing, modifying, 42324
revoking, reissuing, terminating, monitoring, and enforcing 42325
permits and imposing and enforcing pretreatment requirements under 42326
Chapter 6111. of the Revised Code and rules adopted under it. 42327

(b) "Public discharger" means any holder of an NPDES permit 42328
identified by P in the second character of the NPDES permit number 42329
assigned by the director. 42330

(c) "Industrial discharger" means any holder of an NPDES 42331
permit identified by I in the second character of the NPDES permit 42332
number assigned by the director. 42333

(d) "Major discharger" means any holder of an NPDES permit 42334
classified as major by the regional administrator of the United 42335
States environmental protection agency in conjunction with the 42336
director. 42337

(M) Through June 30, ~~2006~~ 2008, a person applying for a 42338
license or license renewal to operate a public water system under 42339
section 6109.21 of the Revised Code shall pay the appropriate fee 42340
established under this division at the time of application to the 42341
director. Any person who fails to pay the fee at that time shall 42342
pay an additional amount that equals ten per cent of the required 42343
fee. The director shall transmit all moneys collected under this 42344
division to the treasurer of state for deposit into the drinking 42345

water protection fund created in section 6109.30 of the Revised Code. 42346
42347

Except as provided in division (M)(4) of this section, fees 42348
required under this division shall be calculated and paid in 42349
accordance with the following schedule: 42350

(1) For the initial license required under division (A)(1) of 42351
section 6109.21 of the Revised Code for any public water system 42352
that is a community water system as defined in section 6109.01 of 42353
the Revised Code, and for each license renewal required for such a 42354
system prior to January 31, ~~2006~~ 2008, the fee is: 42355

Number of service connections	Fee amount	42356
Not more than 49	\$ 112	42357
50 to 99	176	42358
Number of service connections	Average cost per connection	42359
100 to 2,499	\$ 1.92	42360
2,500 to 4,999	1.48	42361
5,000 to 7,499	1.42	42362
7,500 to 9,999	1.34	42363
10,000 to 14,999	1.16	42364
15,000 to 24,999	1.10	42365
25,000 to 49,999	1.04	42366
50,000 to 99,999	.92	42367
100,000 to 149,999	.86	42368
150,000 to 199,999	.80	42369
200,000 or more	.76	42370

A public water system may determine how it will pay the total 42371
amount of the fee calculated under division (M)(1) of this 42372
section, including the assessment of additional user fees that may 42373
be assessed on a volumetric basis. 42374

As used in division (M)(1) of this section, "service 42375
connection" means the number of active or inactive pipes, 42376
goosenecks, pigtails, and any other fittings connecting a water 42377

main to any building outlet. 42378

(2) For the initial license required under division (A)(2) of 42379
section 6109.21 of the Revised Code for any public water system 42380
that is not a community water system and serves a nontransient 42381
population, and for each license renewal required for such a 42382
system prior to January 31, ~~2006~~ 2008, the fee is: 42383

Population served	Fee amount	
Fewer than 150	\$ 112	42385
150 to 299	176	42386
300 to 749	384	42387
750 to 1,499	628	42388
1,500 to 2,999	1,268	42389
3,000 to 7,499	2,816	42390
7,500 to 14,999	5,510	42391
15,000 to 22,499	9,048	42392
22,500 to 29,999	12,430	42393
30,000 or more	16,820	42394

As used in division (M)(2) of this section, "population 42395
served" means the total number of individuals receiving water from 42396
the water supply during a twenty-four-hour period for at least 42397
sixty days during any calendar year. In the absence of a specific 42398
population count, that number shall be calculated at the rate of 42399
three individuals per service connection. 42400

(3) For the initial license required under division (A)(3) of 42401
section 6109.21 of the Revised Code for any public water system 42402
that is not a community water system and serves a transient 42403
population, and for each license renewal required for such a 42404
system prior to January 31, ~~2006~~ 2008, the fee is: 42405

Number of wells supplying system	Fee amount	
1	\$112	42407
2	112	42408
3	176	42409

4	278	42410
5	568	42411
System designated as using a		42412
surface water source	792	42413
As used in division (M)(3) of this section, "number of wells		42414
supplying system" means those wells that are physically connected		42415
to the plumbing system serving the public water system.		42416
(4) A public water system designated as using a surface water		42417
source shall pay a fee of seven hundred ninety-two dollars or the		42418
amount calculated under division (M)(1) or (2) of this section,		42419
whichever is greater.		42420
(N)(1) A person applying for a plan approval for a public		42421
water supply system under section 6109.07 of the Revised Code		42422
shall pay a fee of one hundred fifty dollars plus thirty-five		42423
hundredths of one per cent of the estimated project cost, except		42424
that the total fee shall not exceed twenty thousand dollars		42425
through June 30, 2006 <u>2008</u> , and fifteen thousand dollars on and		42426
after July 1, 2006 <u>2008</u> . The fee shall be paid at the time the		42427
application is submitted.		42428
(2) A person who has entered into an agreement with the		42429
director under division (A)(2) of section 6109.07 of the Revised		42430
Code shall pay an administrative service fee for each plan		42431
submitted under that section for approval that shall not exceed		42432
the minimum amount necessary to pay administrative costs directly		42433
attributable to processing plan approvals. The director annually		42434
shall calculate the fee and shall notify all persons that have		42435
entered into agreements under that division, or who have applied		42436
for agreements, of the amount of the fee.		42437
(3) Through June 30, 2006 <u>2008</u> , the following fee, on a per		42438
survey basis, shall be charged any person for services rendered by		42439
the state in the evaluation of laboratories and laboratory		42440

personnel for compliance with accepted analytical techniques and		42441
procedures established pursuant to Chapter 6109. of the Revised		42442
Code for determining the qualitative characteristics of water:		42443
microbiological		42444
MMO-MUG	\$2,000	42445
MF	2,100	42446
MMO-MUG and MF	2,550	42447
organic chemical	5,400	42448
trace metals	5,400	42449
standard chemistry	2,800	42450
limited chemistry	1,550	42451

On and after July 1, ~~2006~~ 2008, the following fee, on a per
survey basis, shall be charged any such person:

microbiological	\$ 1,650	42454
organic chemicals	3,500	42455
trace metals	3,500	42456
standard chemistry	1,800	42457
limited chemistry	1,000	42458

The fee for those services shall be paid at the time the request
for the survey is made. Through June 30, ~~2006~~ 2008, an individual
laboratory shall not be assessed a fee under this division more
than once in any three-year period unless the person requests the
addition of analytical methods or analysts, in which case the
person shall pay eighteen hundred dollars for each additional
survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration. 42467
- (b) "MMO" means minimal medium ONPG. 42468
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide. 42469
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside. 42470

The director shall transmit all moneys collected under this 42471
division to the treasurer of state for deposit into the drinking 42472
water protection fund created in section 6109.30 of the Revised 42473
Code. 42474

~~(O) Any person applying to the director for examination for 42475
certification as an operator of a water supply system or 42476
wastewater system under Chapter 6109. or 6111. of the Revised 42477
Code, at the time the application is submitted, shall pay an 42478
application fee of twenty five dollars through November 30, 2003. 42479
Upon approval from the director that the applicant is eligible to 42480
take the examination therefor, the applicant shall pay a fee in 42481
accordance with the following schedule through November 30, 2003:~~ 42482

Class I operator	\$45	42483
Class II operator	55	42484
Class III operator	65	42485
Class IV operator	75	42486

~~On and after December 1, 2003, any person applying to the 42487
director for examination for certification as an operator of a 42488
water supply system or wastewater system under Chapter 6109. or 42489
6111. of the Revised Code, at the time the application is 42490
submitted, shall pay an application fee of forty-five dollars 42491
through November 30, ~~2006~~ 2008, and twenty-five dollars on and 42492
after December 1, ~~2006~~ 2008. Upon approval from the director that 42493
the applicant is eligible to take the examination therefor, the 42494
applicant shall pay a fee in accordance with the following 42495
schedule through November 30, ~~2006~~ 2008:~~ 42496

Class A operator	\$35	42497
Class I operator	60	42498
Class II operator	75	42499
Class III operator	85	42500
Class IV operator	100	42501

On and after December 1, ~~2006~~ 2008, the applicant shall pay a 42502

fee in accordance with the following schedule:		42503
Class A operator	\$25	42504
Class I operator	\$45	42505
Class II operator	55	42506
Class III operator	65	42507
Class IV operator	75	42508

A person shall pay a biennial certification renewal fee for 42509
each applicable class of certification in accordance with the 42510
following schedule: 42511

Class A operator	\$25	42512
Class I operator	35	42513
Class II operator	45	42514
Class III operator	55	42515
Class IV operator	65	42516

If a certification renewal fee is received by the director 42517
more than thirty days, but not more than one year after the 42518
expiration date of the certification, the person shall pay a 42519
certification renewal fee in accordance with the following 42520
schedule: 42521

Class A operator	\$45	42522
Class I operator	55	42523
Class II operator	65	42524
Class III operator	75	42525
Class IV operator	85	42526

A person who requests a replacement certificate shall pay a 42527
fee of twenty-five dollars at the time the request is made. 42528

The director shall transmit all moneys collected under this 42529
division to the treasurer of state for deposit into the drinking 42530
water protection fund created in section 6109.30 of the Revised 42531
Code. 42532

(P) Any person submitting an application for an industrial 42533

water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after ~~the effective date of this amendment~~ June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install

a new or to modify an existing solid waste incineration or 42566
composting facility, or an existing infectious waste treatment 42567
facility using incineration as its principal method of treatment, 42568
under that chapter shall pay a fee of one thousand dollars. The 42569
increases in the permit fees under this division resulting from 42570
the amendments made by Amended Substitute House Bill 592 of the 42571
117th general assembly do not apply to any person who submitted an 42572
application for a permit to install a new, or modify an existing, 42573
solid waste disposal facility under that chapter prior to 42574
September 1, 1987; any such person shall pay the permit fee 42575
established in this division as it existed prior to June 24, 1988. 42576
In addition to the applicable permit fee under this division, a 42577
person issued a permit to install or modify a solid waste facility 42578
or an infectious waste treatment facility under that chapter who 42579
fails to pay the permit fee to the director in compliance with 42580
division (V) of this section shall pay an additional ten per cent 42581
of the amount of the fee for each week that the permit fee is 42582
late. 42583

Permit and late payment fees paid to the director under this 42584
division shall be credited to the general revenue fund. 42585

(R)(1) A person issued a registration certificate for a scrap 42586
tire collection facility under section 3734.75 of the Revised Code 42587
shall pay a fee of two hundred dollars, except that if the 42588
facility is owned or operated by a motor vehicle salvage dealer 42589
licensed under Chapter 4738. of the Revised Code, the person shall 42590
pay a fee of twenty-five dollars. 42591

(2) A person issued a registration certificate for a new 42592
scrap tire storage facility under section 3734.76 of the Revised 42593
Code shall pay a fee of three hundred dollars, except that if the 42594
facility is owned or operated by a motor vehicle salvage dealer 42595
licensed under Chapter 4738. of the Revised Code, the person shall 42596
pay a fee of twenty-five dollars. 42597

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section

3734.05 of the Revised Code, section 3734.79 of the Revised Code, 42629
and rules adopted under division (T)(1) of this section, any 42630
person applying for a registration certificate under section 42631
3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, 42632
variance, or plan approval under Chapter 3734. of the Revised Code 42633
shall pay a nonrefundable fee of fifteen dollars at the time the 42634
application is submitted. 42635

Except as otherwise provided, any person applying for a 42636
permit, variance, or plan approval under Chapter 6109. or 6111. of 42637
the Revised Code shall pay a nonrefundable fee of one hundred 42638
dollars at the time the application is submitted through June 30, 42639
~~2006~~ 2008, and a nonrefundable fee of fifteen dollars at the time 42640
the application is submitted on and after July 1, ~~2006~~ 2008. 42641
Through June 30, ~~2006~~ 2008, any person applying for a national 42642
pollutant discharge elimination system permit under Chapter 6111. 42643
of the Revised Code shall pay a nonrefundable fee of two hundred 42644
dollars at the time of application for the permit. On and after 42645
July 1, ~~2006~~ 2008, such a person shall pay a nonrefundable fee of 42646
fifteen dollars at the time of application. 42647

In addition to the application fee established under division 42648
(S)(1) of this section, any person applying for a national 42649
pollutant discharge elimination system general storm water 42650
construction permit shall pay a nonrefundable fee of twenty 42651
dollars per acre for each acre that is permitted above five acres 42652
at the time the application is submitted. However, the per acreage 42653
fee shall not exceed three hundred dollars. In addition, any 42654
person applying for a national pollutant discharge elimination 42655
system general storm water industrial permit shall pay a 42656
nonrefundable fee of one hundred fifty dollars at the time the 42657
application is submitted. 42658

The director shall transmit all moneys collected under 42659
division (S)(1) of this section pursuant to Chapter 6109. of the 42660

Revised Code to the treasurer of state for deposit into the 42661
drinking water protection fund created in section 6109.30 of the 42662
Revised Code. 42663

The director shall transmit all moneys collected under 42664
division (S)(1) of this section pursuant to Chapter 6111. of the 42665
Revised Code to the treasurer of state for deposit into the 42666
surface water protection fund created in section 6111.038 of the 42667
Revised Code. 42668

If a registration certificate is issued under section 42669
3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of 42670
the application fee paid shall be deducted from the amount of the 42671
registration certificate fee due under division (R)(1), (2), or 42672
(5) of this section, as applicable. 42673

If a person submits an electronic application for a 42674
registration certificate, permit, variance, or plan approval for 42675
which an application fee is established under division (S)(1) of 42676
this section, the person shall pay the applicable application fee 42677
as expeditiously as possible after the submission of the 42678
electronic application. An application for a registration 42679
certificate, permit, variance, or plan approval for which an 42680
application fee is established under division (S)(1) of this 42681
section shall not be reviewed or processed until the applicable 42682
application fee, and any other fees established under this 42683
division, are paid. 42684

(2) Division (S)(1) of this section does not apply to an 42685
application for a registration certificate for a scrap tire 42686
collection or storage facility submitted under section 3734.75 or 42687
3734.76 of the Revised Code, as applicable, if the owner or 42688
operator of the facility or proposed facility is a motor vehicle 42689
salvage dealer licensed under Chapter 4738. of the Revised Code. 42690

(T) The director may adopt, amend, and rescind rules in 42691

accordance with Chapter 119. of the Revised Code that do all of 42692
the following: 42693

(1) Prescribe fees to be paid by applicants for and holders 42694
of any license, permit, variance, plan approval, or certification 42695
required or authorized by Chapter 3704., 3734., 6109., or 6111. of 42696
the Revised Code that are not specifically established in this 42697
section. The fees shall be designed to defray the cost of 42698
processing, issuing, revoking, modifying, denying, and enforcing 42699
the licenses, permits, variances, plan approvals, and 42700
certifications. 42701

The director shall transmit all moneys collected under rules 42702
adopted under division (T)(1) of this section pursuant to Chapter 42703
6109. of the Revised Code to the treasurer of state for deposit 42704
into the drinking water protection fund created in section 6109.30 42705
of the Revised Code. 42706

The director shall transmit all moneys collected under rules 42707
adopted under division (T)(1) of this section pursuant to Chapter 42708
6111. of the Revised Code to the treasurer of state for deposit 42709
into the surface water protection fund created in section 6111.038 42710
of the Revised Code. 42711

(2) Exempt the state and political subdivisions thereof, 42712
including education facilities or medical facilities owned by the 42713
state or a political subdivision, or any person exempted from 42714
taxation by section 5709.07 or 5709.12 of the Revised Code, from 42715
any fee required by this section; 42716

(3) Provide for the waiver of any fee, or any part thereof, 42717
otherwise required by this section whenever the director 42718
determines that the imposition of the fee would constitute an 42719
unreasonable cost of doing business for any applicant, class of 42720
applicants, or other person subject to the fee; 42721

(4) Prescribe measures that the director considers necessary 42722

to carry out this section. 42723

(U) When the director reasonably demonstrates that the direct 42724
cost to the state associated with the issuance of a permit to 42725
install, license, variance, plan approval, or certification 42726
exceeds the fee for the issuance or review specified by this 42727
section, the director may condition the issuance or review on the 42728
payment by the person receiving the issuance or review of, in 42729
addition to the fee specified by this section, the amount, or any 42730
portion thereof, in excess of the fee specified under this 42731
section. The director shall not so condition issuances for which 42732
fees are prescribed in divisions (B)(7) and (L)(1)(b) of this 42733
section. 42734

(V) Except as provided in divisions (L), (M), and (P) of this 42735
section or unless otherwise prescribed by a rule of the director 42736
adopted pursuant to Chapter 119. of the Revised Code, all fees 42737
required by this section are payable within thirty days after the 42738
issuance of an invoice for the fee by the director or the 42739
effective date of the issuance of the license, permit, variance, 42740
plan approval, or certification. If payment is late, the person 42741
responsible for payment of the fee shall pay an additional ten per 42742
cent of the amount due for each month that it is late. 42743

(W) As used in this section, "fuel-burning equipment," 42744
"fuel-burning equipment input capacity," "incinerator," 42745
"incinerator input capacity," "process," "process weight rate," 42746
"storage tank," "gasoline dispensing facility," "dry cleaning 42747
facility," "design flow discharge," and "new source treatment 42748
works" have the meanings ascribed to those terms by applicable 42749
rules or standards adopted by the director under Chapter 3704. or 42750
6111. of the Revised Code. 42751

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), 42752
and (J) of this section, and in any other provision of this 42753

section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code: 42754
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(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code. 42756
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(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least: 42759
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(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement; 42762
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(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal; 42765
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(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry; 42769
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(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions; 42772
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(e) Emission and ambient monitoring; 42775

(f) Modeling, analyses, or demonstrations; 42776

(g) Preparing inventories and tracking emissions; 42777

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the 42778
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Revised Code. 42784

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) 42785
of this section, each sewage sludge facility shall pay a 42786
nonrefundable annual sludge fee equal to three dollars and fifty 42787
cents per dry ton of sewage sludge, including the dry tons of 42788
sewage sludge in materials derived from sewage sludge, that the 42789
sewage sludge facility treats or disposes of in this state. The 42790
annual volume of sewage sludge treated or disposed of by a sewage 42791
sludge facility shall be calculated using the first day of January 42792
through the thirty-first day of December of the calendar year 42793
preceding the date on which payment of the fee is due. 42794

(2)(a) Except as provided in division (Y)(2)(d) of this 42795
section, each sewage sludge facility shall pay a minimum annual 42796
sewage sludge fee of one hundred dollars. 42797

(b) The annual sludge fee required to be paid by a sewage 42798
sludge facility that treats or disposes of exceptional quality 42799
sludge in this state shall be thirty-five per cent less per dry 42800
ton of exceptional quality sludge than the fee assessed under 42801
division (Y)(1) of this section, subject to the following 42802
exceptions: 42803

(i) Except as provided in division (Y)(2)(d) of this section, 42804
a sewage sludge facility that treats or disposes of exceptional 42805
quality sludge shall pay a minimum annual sewage sludge fee of one 42806
hundred dollars. 42807

(ii) A sewage sludge facility that treats or disposes of 42808
exceptional quality sludge shall not be required to pay the annual 42809
sludge fee for treatment or disposal in this state of exceptional 42810
quality sludge generated outside of this state and contained in 42811
bags or other containers not greater than one hundred pounds in 42812
capacity. 42813

A thirty-five per cent reduction for exceptional quality 42814

sludge applies to the maximum annual fees established under 42815
division (Y)(3) of this section. 42816

(c) A sewage sludge facility that transfers sewage sludge to 42817
another sewage sludge facility in this state for further treatment 42818
prior to disposal in this state shall not be required to pay the 42819
annual sludge fee for the tons of sewage sludge that have been 42820
transferred. In such a case, the sewage sludge facility that 42821
disposes of the sewage sludge shall pay the annual sludge fee. 42822
However, the facility transferring the sewage sludge shall pay the 42823
one-hundred-dollar minimum fee required under division (Y)(2)(a) 42824
of this section. 42825

In the case of a sewage sludge facility that treats sewage 42826
sludge in this state and transfers it out of this state to another 42827
entity for disposal, the sewage sludge facility in this state 42828
shall be required to pay the annual sludge fee for the tons of 42829
sewage sludge that have been transferred. 42830

(d) A sewage sludge facility that generates sewage sludge 42831
resulting from an average daily discharge flow of less than five 42832
thousand gallons per day is not subject to the fees assessed under 42833
division (Y) of this section. 42834

(3) No sewage sludge facility required to pay the annual 42835
sludge fee shall be required to pay more than the maximum annual 42836
fee for each disposal method that the sewage sludge facility uses. 42837
The maximum annual fee does not include the additional amount that 42838
may be charged under division (Y)(5) of this section for late 42839
payment of the annual sludge fee. The maximum annual fee for the 42840
following methods of disposal of sewage sludge is as follows: 42841

(a) Incineration: five thousand dollars; 42842

(b) Preexisting land reclamation project or disposal in a 42843
landfill: five thousand dollars; 42844

(c) Land application, land reclamation, surface disposal, or 42845
any other disposal method not specified in division (Y)(3)(a) or 42846
(b) of this section: twenty thousand dollars. 42847

(4)(a) In the case of an entity that generates sewage sludge 42848
or a sewage sludge facility that treats sewage sludge and 42849
transfers the sewage sludge to an incineration facility for 42850
disposal, the incineration facility, and not the entity generating 42851
the sewage sludge or the sewage sludge facility treating the 42852
sewage sludge, shall pay the annual sludge fee for the tons of 42853
sewage sludge that are transferred. However, the entity or 42854
facility generating or treating the sewage sludge shall pay the 42855
one-hundred-dollar minimum fee required under division (Y)(2)(a) 42856
of this section. 42857

(b) In the case of an entity that generates sewage sludge and 42858
transfers the sewage sludge to a landfill for disposal or to a 42859
sewage sludge facility for land reclamation or surface disposal, 42860
the entity generating the sewage sludge, and not the landfill or 42861
sewage sludge facility, shall pay the annual sludge fee for the 42862
tons of sewage sludge that are transferred. 42863

(5) Not later than the first day of April of the calendar 42864
year following March 17, 2000, and each first day of April 42865
thereafter, the director shall issue invoices to persons who are 42866
required to pay the annual sludge fee. The invoice shall identify 42867
the nature and amount of the annual sludge fee assessed and state 42868
the first day of May as the deadline for receipt by the director 42869
of objections regarding the amount of the fee and the first day of 42870
July as the deadline for payment of the fee. 42871

Not later than the first day of May following receipt of an 42872
invoice, a person required to pay the annual sludge fee may submit 42873
objections to the director concerning the accuracy of information 42874
regarding the number of dry tons of sewage sludge used to 42875

calculate the amount of the annual sludge fee or regarding whether 42876
the sewage sludge qualifies for the exceptional quality sludge 42877
discount established in division (Y)(2)(b) of this section. The 42878
director may consider the objections and adjust the amount of the 42879
fee to ensure that it is accurate. 42880

If the director does not adjust the amount of the annual 42881
sludge fee in response to a person's objections, the person may 42882
appeal the director's determination in accordance with Chapter 42883
119. of the Revised Code. 42884

Not later than the first day of June, the director shall 42885
notify the objecting person regarding whether the director has 42886
found the objections to be valid and the reasons for the finding. 42887
If the director finds the objections to be valid and adjusts the 42888
amount of the annual sludge fee accordingly, the director shall 42889
issue with the notification a new invoice to the person 42890
identifying the amount of the annual sludge fee assessed and 42891
stating the first day of July as the deadline for payment. 42892

Not later than the first day of July, any person who is 42893
required to do so shall pay the annual sludge fee. Any person who 42894
is required to pay the fee, but who fails to do so on or before 42895
that date shall pay an additional amount that equals ten per cent 42896
of the required annual sludge fee. 42897

(6) The director shall transmit all moneys collected under 42898
division (Y) of this section to the treasurer of state for deposit 42899
into the surface water protection fund created in section 6111.038 42900
of the Revised Code. The moneys shall be used to defray the costs 42901
of administering and enforcing provisions in Chapter 6111. of the 42902
Revised Code and rules adopted under it that govern the use, 42903
storage, treatment, or disposal of sewage sludge. 42904

(7) Beginning in fiscal year 2001, and every two years 42905
thereafter, the director shall review the total amount of moneys 42906

generated by the annual sludge fees to determine if that amount
exceeded six hundred thousand dollars in either of the two
preceding fiscal years. If the total amount of moneys in the fund
exceeded six hundred thousand dollars in either fiscal year, the
director, after review of the fee structure and consultation with
affected persons, shall issue an order reducing the amount of the
fees levied under division (Y) of this section so that the
estimated amount of moneys resulting from the fees will not exceed
six hundred thousand dollars in any fiscal year.

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If, upon review of the fees under division (Y)(7) of this
section and after the fees have been reduced, the director
determines that the total amount of moneys collected and
accumulated is less than six hundred thousand dollars, the
director, after review of the fee structure and consultation with
affected persons, may issue an order increasing the amount of the
fees levied under division (Y) of this section so that the
estimated amount of moneys resulting from the fees will be
approximately six hundred thousand dollars. Fees shall never be
increased to an amount exceeding the amount specified in division
(Y)(7) of this section.

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Notwithstanding section 119.06 of the Revised Code, the
director may issue an order under division (Y)(7) of this section
without the necessity to hold an adjudicatory hearing in
connection with the order. The issuance of an order under this
division is not an act or action for purposes of section 3745.04
of the Revised Code.

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(8) As used in division (Y) of this section:

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(a) "Sewage sludge facility" means an entity that performs
treatment on or is responsible for the disposal of sewage sludge.

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(b) "Sewage sludge" means a solid, semi-solid, or liquid
residue generated during the treatment of domestic sewage in a

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treatment works as defined in section 6111.01 of the Revised Code. 42938
"Sewage sludge" includes, but is not limited to, scum or solids 42939
removed in primary, secondary, or advanced wastewater treatment 42940
processes. "Sewage sludge" does not include ash generated during 42941
the firing of sewage sludge in a sewage sludge incinerator, grit 42942
and screenings generated during preliminary treatment of domestic 42943
sewage in a treatment works, animal manure, residue generated 42944
during treatment of animal manure, or domestic septage. 42945

(c) "Exceptional quality sludge" means sewage sludge that 42946
meets all of the following qualifications: 42947

(i) Satisfies the class A pathogen standards in 40 C.F.R. 42948
503.32(a); 42949

(ii) Satisfies one of the vector attraction reduction 42950
requirements in 40 C.F.R. 503.33(b)(1) to (b)(8); 42951

(iii) Does not exceed the ceiling concentration limitations 42952
for metals listed in table one of 40 C.F.R. 503.13; 42953

(iv) Does not exceed the concentration limitations for metals 42954
listed in table three of 40 C.F.R. 503.13. 42955

(d) "Treatment" means the preparation of sewage sludge for 42956
final use or disposal and includes, but is not limited to, 42957
thickening, stabilization, and dewatering of sewage sludge. 42958

(e) "Disposal" means the final use of sewage sludge, 42959
including, but not limited to, land application, land reclamation, 42960
surface disposal, or disposal in a landfill or an incinerator. 42961

(f) "Land application" means the spraying or spreading of 42962
sewage sludge onto the land surface, the injection of sewage 42963
sludge below the land surface, or the incorporation of sewage 42964
sludge into the soil for the purposes of conditioning the soil or 42965
fertilizing crops or vegetation grown in the soil. 42966

(g) "Land reclamation" means the returning of disturbed land 42967

to productive use.	42968
(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.	42969 42970 42971 42972
(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.	42973 42974 42975 42976
(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.	42977 42978 42979 42980
(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.	42981 42982
(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.	42983 42984 42985
(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.	42986 42987 42988 42989 42990 42991
<u>Sec. 3745.114. (A) A person that applies for a section 401 water quality certification under Chapter 6111. of the Revised Code and rules adopted under it shall pay an application fee of two hundred dollars at the time of application plus any of the following fees, as applicable:</u>	42992 42993 42994 42995 42996
<u>(1) If the water resource to be impacted is a wetland, a</u>	42997

<u>review fee of five hundred dollars per acre of wetland to be</u>	42998
<u>impacted;</u>	42999
<u>(2) If the water resource to be impacted is a stream one of</u>	43000
<u>the following fees, as applicable:</u>	43001
<u>(a) For an ephemeral stream, a review fee of three dollars</u>	43002
<u>per linear foot of stream to be impacted, or two hundred dollars,</u>	43003
<u>whichever is greater;</u>	43004
<u>(b) For an intermittent stream, a review fee of six dollars</u>	43005
<u>per linear foot of stream to be impacted, or two hundred dollars,</u>	43006
<u>whichever is greater;</u>	43007
<u>(c) For a perennial stream, a review fee of ten dollars per</u>	43008
<u>linear foot of stream to be impacted, or two hundred dollars,</u>	43009
<u>whichever is greater.</u>	43010
<u>(3) If the water resource to be impacted is a lake, a review</u>	43011
<u>fee of three dollars per cubic yard of dredged or fill material to</u>	43012
<u>be moved.</u>	43013
<u>(B) One-half of all applicable review fees levied under this</u>	43014
<u>section shall be due at the time of application for a section 401</u>	43015
<u>water quality certification. The remainder of the fees shall be</u>	43016
<u>paid upon the issuance of the section 401 water quality</u>	43017
<u>certification. The total fee to be paid under this section shall</u>	43018
<u>not exceed twenty-five thousand dollars per application. However,</u>	43019
<u>if the applicant is a county, township, or municipal corporation</u>	43020
<u>in this state, the total fee to be paid shall not exceed five</u>	43021
<u>thousand dollars per application.</u>	43022
<u>(C) All money collected under this section shall be</u>	43023
<u>transmitted to the treasurer of state for deposit into the state</u>	43024
<u>treasury to the credit of the surface water protection fund</u>	43025
<u>created in section 6111.038 of the Revised Code.</u>	43026
<u>(D) The fees established under this section do not apply to</u>	43027

any state agency as defined in section 119.01 of the Revised Code. 43028

(E) The fees established under this section do not apply to 43029
projects that are authorized by the environmental protection 43030
agency's general certifications of nationwide permits or general 43031
permits issued by the United States army corps of engineers. As 43032
used in this division, "general permit" and "nationwide permit" 43033
have the same meanings as in rules adopted under Chapter 6111. of 43034
the Revised Code. 43035

(F) As used in this section: 43036

(1) "Ephemeral stream" means a stream that flows only in 43037
direct response to precipitation in the immediate watershed or in 43038
response to the melting of a cover of snow and ice and that has 43039
channel bottom that is always above the local water table. 43040

(2) "Intermittent stream" means a stream that is below the 43041
local water table and flows for at least a part of each year and 43042
that obtains its flow from both surface runoff and ground water 43043
discharge. 43044

(3) "Perennial stream" means a stream or a part of a stream 43045
that flows continuously during all of the calendar year as a 43046
result of ground water discharge or surface water runoff. 43047
"Perennial stream" does not include an intermittent stream or an 43048
ephemeral stream. 43049

Sec. 3745.12. (A) There is hereby created in the state 43050
treasury the immediate removal fund, which shall be administered 43051
by the director of environmental protection. The fund may be used 43052
for both of the following purposes: 43053

(1) To pay costs incurred by the environmental protection 43054
agency in investigating, mitigating, minimizing, removing, or 43055
abating any unauthorized spill, release, or discharge of material 43056
into or upon the environment that requires emergency action to 43057

protect the public health or safety or the environment; 43058

(2) Conducting remedial actions under section 3752.13 of the 43059
Revised Code. 43060

(B) Any person responsible for causing or allowing the 43061
unauthorized spill, release, or discharge is liable to the 43062
director for the costs incurred by the agency regardless of 43063
whether those costs were paid out of the fund created under 43064
division (A) of this section or any other fund of the agency. Upon 43065
the request of the director, the attorney general shall bring a 43066
civil action against the responsible person to recover those 43067
costs. Moneys recovered under this division shall be paid into the 43068
state treasury to the credit of the immediate removal fund, except 43069
that moneys recovered for costs paid from the hazardous waste 43070
clean-up fund created in section 3734.28 of the Revised Code shall 43071
be credited to the hazardous waste clean-up fund. 43072

Sec. 3746.04. Within one year after September 28, 1994, the 43073
director of environmental protection, in accordance with Chapter 43074
119. of the Revised Code and with the advice of the 43075
multidisciplinary council appointed under section 3746.03 of the 43076
Revised Code, shall adopt, and subsequently may amend, suspend, or 43077
rescind, rules that do both of the following: 43078

(A) Revise the rules adopted under Chapters 3704., 3714., 43079
3734., 6109., and 6111. of the Revised Code to incorporate the 43080
provisions necessary to conform those rules to the requirements of 43081
this chapter. The amended rules adopted under this division also 43082
shall establish response times for all submittals to the 43083
environmental protection agency required under this chapter or 43084
rules adopted under it. 43085

(B) Establish requirements and procedures that are reasonably 43086
necessary for the implementation and administration of this 43087

chapter, including, without limitation, all of the following: 43088

(1) Appropriate generic numerical clean-up standards for the 43089
treatment or removal of soils, sediments, and water media for 43090
hazardous substances and petroleum. The rules shall establish 43091
separate generic numerical clean-up standards based upon the 43092
intended use of properties after the completion of voluntary 43093
actions, including industrial, commercial, and residential uses 43094
and such other categories of land use as the director considers to 43095
be appropriate. The generic numerical clean-up standards 43096
established for each category of land use shall be the 43097
concentration of each contaminant that may be present on a 43098
property that shall ensure protection of public health and safety 43099
and the environment for the reasonable exposure for that category 43100
of land use. When developing the standards, the director shall 43101
consider such factors as all of the following: 43102

(a) Scientific information, including, without limitation, 43103
toxicological information and realistic assumptions regarding 43104
human and environmental exposure to hazardous substances or 43105
petroleum; 43106

(b) Climatic factors; 43107

(c) Human activity patterns; 43108

(d) Current statistical techniques; 43109

(e) For petroleum at industrial property, alternatives to the 43110
use of total petroleum hydrocarbons. 43111

The generic numerical clean-up standards established in the 43112
rules adopted under division (B)(1) of this section shall be 43113
consistent with and equivalent in scope, content, and coverage to 43114
any applicable standard established by federal environmental laws 43115
and regulations adopted under them, including, without limitation, 43116
the "Federal Water Pollution Control Act Amendments of 1972," 86 43117

Stat. 886, 33 U.S.C.A. 1251, as amended; the "Resource 43118
Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 43119
6921, as amended; the "Toxic Substances Control Act," 90 Stat. 43120
2003 (1976), 15 U.S.C.A. 2601, as amended; the "Comprehensive 43121
Environmental Response, Compensation, and Liability Act of 1980," 43122
94 Stat. 2779, 42 U.S.C.A. 9601, as amended; and the "Safe 43123
Drinking Water Act," 88 Stat. 1660 (1974), 42 U.S.C.A. 300f, as 43124
amended. 43125

In order for the rules adopted under division (B)(1) of this 43126
section to require that any such federal environmental standard 43127
apply to a property, the property shall meet the requirements of 43128
the particular federal statute or regulation involved in the 43129
manner specified by the statute or regulation. 43130

The generic numerical clean-up standards for petroleum at 43131
commercial or residential property shall be the standards 43132
established in rules adopted under division (B) of section 43133
3737.882 of the Revised Code. 43134

(2)(a) Procedures for performing property-specific risk 43135
assessments that would be performed at a property to demonstrate 43136
that the remedy evaluated in a risk assessment results in 43137
protection of public health and safety and the environment instead 43138
of complying with the generic numerical clean-up standards 43139
established in the rules adopted under division (B)(1) of this 43140
section. The risk assessment procedures shall describe a 43141
methodology to establish, on a property-specific basis, allowable 43142
levels of contamination to remain at a property to ensure 43143
protection of public health and safety and the environment on the 43144
property and off the property when the contamination is emanating 43145
off the property, taking into account all of the following: 43146

(i) The implementation of treatment, storage, or disposal, or 43147
a combination thereof, of hazardous substances or petroleum; 43148

(ii) The existence of institutional controls or activity and use limitations that eliminate or mitigate exposure to hazardous substances or petroleum through the restriction of access to hazardous substances or petroleum;

(iii) The existence of engineering controls that eliminate or mitigate exposure to hazardous substances or petroleum through containment of, control of, or restrictions of access to hazardous substances or petroleum, including, without limitation, fences, cap systems, cover systems, and landscaping.

(b) The risk assessment procedures and levels of acceptable risk set forth in the rules adopted under division (B)(2) of this section shall be based upon all of the following:

(i) Scientific information, including, without limitation, toxicological information and actual or proposed human and environmental exposure;

(ii) Locational and climatic factors;

(iii) Surrounding land use and human activities;

(iv) Differing levels of remediation that may be required when an existing land use is continued compared to when a different land use follows the remediation.

(c) Any standards established pursuant to rules adopted under division (B)(2) of this section shall be no more stringent than standards established under the environmental statutes of this state and rules adopted under them for the same contaminant in the same environmental medium that are in effect at the time the risk assessment is conducted.

(3) Minimum standards for phase I property assessments. The standards shall specify the information needed to demonstrate that there is no reason to believe that contamination exists on a property. The rules adopted under division (B)(3) of this section,

at a minimum, shall require that a phase I property assessment 43179
include all of the following: 43180

(a) A review and analysis of deeds, mortgages, easements of 43181
record, and similar documents relating to the chain of title to 43182
the property that are publicly available or that are known to and 43183
reasonably available to the owner or operator; 43184

(b) A review and analysis of any previous environmental 43185
assessments, property assessments, environmental studies, or 43186
geologic studies of the property and any land within two thousand 43187
feet of the boundaries of the property that are publicly available 43188
or that are known to and reasonably available to the owner or 43189
operator; 43190

(c) A review of current and past environmental compliance 43191
histories of persons who owned or operated the property; 43192

(d) A review of aerial photographs of the property that 43193
indicate prior uses of the property; 43194

(e) Interviews with managers of activities conducted at the 43195
property who have knowledge of environmental conditions at the 43196
property; 43197

(f) Conducting an inspection of the property consisting of a 43198
walkover; 43199

(g) Identifying the current and past uses of the property, 43200
adjoining tracts of land, and the area surrounding the property, 43201
including, without limitation, interviews with persons who reside 43202
or have resided, or who are or were employed, within the area 43203
surrounding the property regarding the current and past uses of 43204
the property and adjacent tracts of land. 43205

The rules adopted under division (B)(3) of this section shall 43206
establish criteria to determine when a phase II property 43207
assessment shall be conducted when a phase I property assessment 43208

reveals facts that establish a reason to believe that hazardous 43209
substances or petroleum have been treated, stored, managed, or 43210
disposed of on the property if the person undertaking the phase I 43211
property assessment wishes to obtain a covenant not to sue under 43212
section 3746.12 of the Revised Code. 43213

(4) Minimum standards for phase II property assessments. The 43214
standards shall specify the information needed to demonstrate that 43215
any contamination present at the property does not exceed 43216
applicable standards or that the remedial activities conducted at 43217
the property have achieved compliance with applicable standards. 43218
The rules adopted under division (B)(4) of this section, at a 43219
minimum, shall require that a phase II property assessment include 43220
all of the following: 43221

(a) A review and analysis of all documentation prepared in 43222
connection with a phase I property assessment conducted within the 43223
one hundred eighty days before the phase II property assessment 43224
begins. The rules adopted under division (B)(4)(a) of this section 43225
shall require that if a period of more than one hundred eighty 43226
days has passed between the time that the phase I assessment of 43227
the property was completed and the phase II assessment begins, the 43228
phase II assessment shall include a reasonable inquiry into the 43229
change in the environmental condition of the property during the 43230
intervening period. 43231

(b) Quality assurance objectives for measurements taken in 43232
connection with a phase II assessment; 43233

(c) Sampling procedures to ensure the representative sampling 43234
of potentially contaminated environmental media; 43235

(d) Quality assurance and quality control requirements for 43236
samples collected in connection with phase II assessments; 43237

(e) Analytical and data assessment procedures; 43238

(f) Data objectives to ensure that samples collected in 43239
connection with phase II assessments are biased toward areas where 43240
information indicates that contamination by hazardous substances 43241
or petroleum is likely to exist. 43242

(5) Standards governing the conduct of certified 43243
professionals, criteria and procedures for the certification of 43244
professionals to issue no further action letters under section 43245
3746.11 of the Revised Code, and criteria for the suspension and 43246
revocation of those certifications. The director shall take an 43247
action regarding a certification as a final action. The issuance, 43248
denial, renewal, suspension, and revocation of those 43249
certifications are subject to Chapter 3745. of the Revised Code, 43250
~~and the director shall take any such action regarding a~~ 43251
~~certification as a final action~~ except that, in lieu of publishing 43252
an action regarding a certification in a newspaper of general 43253
circulation as required in section 3745.07 of the Revised Code, 43254
such an action shall be published on the environmental protection 43255
agency's web site and in the agency's weekly review not later than 43256
fifteen days after the date of the issuance, denial, renewal, 43257
suspension, or revocation of the certification and not later than 43258
thirty days before a hearing or public meeting concerning the 43259
action. 43260

The rules adopted under division (B)(5) of this section shall 43261
do all of the following: 43262

(a) Provide for the certification of environmental 43263
professionals to issue no further action letters pertaining to 43264
investigations and remedies in accordance with the criteria and 43265
procedures set forth in the rules. The rules adopted under 43266
division (B)(5)(a) of this section shall do at least all of the 43267
following: 43268

(i) Authorize the director to consider such factors as an 43269

environmental professional's previous performance record regarding	43270
such investigations and remedies and the environmental	43271
professional's environmental compliance history when determining	43272
whether to certify the environmental professional;	43273
(ii) Ensure that an application for certification is reviewed	43274
in a timely manner;	43275
(iii) Require the director to certify any environmental	43276
professional who the director determines complies with those	43277
criteria;	43278
(iv) Require the director to deny certification for any	43279
environmental professional who does not comply with those	43280
criteria.	43281
(b) Establish an annual fee to be paid by environmental	43282
professionals certified pursuant to the rules adopted under	43283
division (B)(5)(a) of this section. The fee shall be established	43284
at an amount calculated to defray the costs to the environmental	43285
protection agency for the required reviews of the qualifications	43286
of environmental professionals for certification and for the	43287
issuance of the certifications.	43288
(c) Develop a schedule for and establish requirements	43289
governing the review by the director of the credentials of	43290
environmental professionals who were deemed to be certified	43291
professionals under division (D) of section 3746.07 of the Revised	43292
Code in order to determine if they comply with the criteria	43293
established in rules adopted under division (B)(5) of this	43294
section. The rules adopted under division (B)(5)(c) of this	43295
section shall do at least all of the following:	43296
(i) Ensure that the review is conducted in a timely fashion;	43297
(ii) Require the director to certify any such environmental	43298
professional who the director determines complies with those	43299

criteria;	43300
(iii) Require any such environmental professional initially	43301
to pay the fee established in the rules adopted under division	43302
(B)(5)(b) of this section at the time that the environmental	43303
professional is so certified by the director;	43304
(iv) Establish a time period within which any such	43305
environmental professional who does not comply with those criteria	43306
may obtain the credentials that are necessary for certification;	43307
(v) Require the director to deny certification for any such	43308
environmental professional who does not comply with those criteria	43309
and who fails to obtain the necessary credentials within the	43310
established time period.	43311
(d) Require that any information submitted to the director	43312
for the purposes of <u>the rules adopted under</u> division (B)(5)(a) or	43313
(c) of this section comply with division (A) of section 3746.20 of	43314
the Revised Code;	43315
(e) Authorize the director to suspend or revoke the	43316
certification of an environmental professional if the director	43317
finds that the environmental professional's performance has	43318
resulted in the issuance of no further action letters under	43319
section 3746.11 of the Revised Code that are not consistent with	43320
applicable standards or finds that the certified environmental	43321
professional has not substantially complied with section 3746.31	43322
of the Revised Code;	43323
(f) Authorize the director to suspend for a period of not	43324
more than five years or to permanently revoke a certified	43325
environmental professional's certification for any violation of or	43326
failure to comply with an ethical standard established in rules	43327
adopted under division (B)(5) of this section- <u>i</u>	43328
(g) Require the director to revoke the certification of an	43329

environmental professional if the director finds that the 43330
environmental professional falsified any information on the 43331
environmental professional's application for certification 43332
regarding the environmental professional's credentials or 43333
qualifications or any other information generated for the purposes 43334
of or use under this chapter or rules adopted under it; 43335

(h) Require the director permanently to revoke the 43336
certification of an environmental professional who has violated or 43337
is violating division (A) of section 3746.18 of the Revised Code; 43338

(i) Preclude the director from revoking the certification of 43339
an environmental professional who only conducts investigations and 43340
remedies at property contaminated solely with petroleum unless the 43341
director first consults with the director of commerce. 43342

(6) Criteria and procedures for the certification of 43343
laboratories to perform analyses under this chapter and rules 43344
adopted under it. The issuance, denial, suspension, and revocation 43345
of those certifications are subject to Chapter 3745. of the 43346
Revised Code, and the director of environmental protection shall 43347
take any such action regarding a certification as a final action. 43348

The rules adopted under division (B)(6) of this section shall 43349
do all of the following: 43350

(a) Provide for the certification to perform analyses of 43351
laboratories in accordance with the criteria and procedures 43352
established in the rules adopted under division (B)(6)(a) of this 43353
section and establish an annual fee to be paid by those 43354
laboratories. The fee shall be established at an amount calculated 43355
to defray the costs to the agency for the review of the 43356
qualifications of those laboratories for certification and for the 43357
issuance of the certifications. The rules adopted under division 43358
(B)(6)(a) of this section may provide for the certification of 43359
those laboratories to perform only particular types or categories 43360

of analyses, specific test parameters or group of test parameters, 43361
or a specific matrix or matrices under this chapter. 43362

(b) Develop a schedule for and establish requirements 43363
governing the review by the director of the operations of 43364
laboratories that were deemed to be certified laboratories under 43365
division (E) of section 3746.07 of the Revised Code in order to 43366
determine if they comply with the criteria established in rules 43367
adopted under division (B)(6) of this section. The rules adopted 43368
under division (B)(6)(b) of this section shall do at least all of 43369
the following: 43370

(i) Ensure that the review is conducted in a timely fashion; 43371

(ii) Require the director to certify any such laboratory that 43372
the director determines complies with those criteria; 43373

(iii) Require any such laboratory initially to pay the fee 43374
established in the rules adopted under division (B)(6)(a) of this 43375
section at the time that the laboratory is so certified by the 43376
director; 43377

(iv) Establish a time period within which any such laboratory 43378
that does not comply with those criteria may make changes in its 43379
operations necessary for the performance of analyses under this 43380
chapter and rules adopted under it in order to be certified by the 43381
director; 43382

(v) Require the director to deny certification for any such 43383
laboratory that does not comply with those criteria and that fails 43384
to make the necessary changes in its operations within the 43385
established time period. 43386

(c) Require that any information submitted to the director 43387
for the purposes of the rules adopted under division (B)(6)(a) or 43388
(b) of this section comply with division (A) of section 3746.20 of 43389
the Revised Code; 43390

(d) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory's performance has resulted in the issuance of no further action letters under section 3746.11 of the Revised Code that are not consistent with applicable standards;

(e) Authorize the director to suspend or revoke the certification of a laboratory if the director finds that the laboratory falsified any information on its application for certification regarding its credentials or qualifications;

(f) Require the director permanently to revoke the certification of a laboratory that has violated or is violating division (A) of section 3746.18 of the Revised Code.

(7) Information to be included in a no further action letter prepared under section 3746.11 of the Revised Code, including, without limitation, all of the following:

(a) A summary of the information required to be submitted to the certified environmental professional preparing the no further action letter under division (C) of section 3746.10 of the Revised Code;

(b) Notification that a risk assessment was performed in accordance with rules adopted under division (B)(2) of this section if such an assessment was used in lieu of generic numerical clean-up standards established in rules adopted under division (B)(1) of this section;

(c) The contaminants addressed at the property, if any, their source, if known, and their levels prior to remediation;

(d) The identity of any other person who performed work to support the request for the no further action letter as provided in division (B)(2) of section 3746.10 of the Revised Code and the nature and scope of the work performed by that person;

(e) A list of the data, information, records, and documents 43421
relied upon by the certified environmental professional in 43422
preparing the no further action letter. 43423

(8) Methods for determining fees to be paid for the following 43424
services provided by the agency under this chapter and rules 43425
adopted under it: 43426

(a) Site- or property-specific technical assistance in 43427
developing or implementing plans in connection with a voluntary 43428
action; 43429

(b) Reviewing applications for and issuing consolidated 43430
standards permits under section 3746.15 of the Revised Code and 43431
monitoring compliance with those permits; 43432

(c) Negotiating, preparing, and entering into agreements 43433
necessary for the implementation and administration of this 43434
chapter and rules adopted under it; 43435

(d) Reviewing no further action letters, issuing covenants 43436
not to sue, and monitoring compliance with any terms and 43437
conditions of those covenants and with operation and maintenance 43438
agreements entered into pursuant to those covenants, including, 43439
without limitation, conducting audits of properties where 43440
voluntary actions are being or were conducted under this chapter 43441
and rules adopted under it. 43442

The fees established pursuant to the rules adopted under 43443
division (B)(8) of this section shall be at a level sufficient to 43444
defray the direct and indirect costs incurred by the agency for 43445
the administration and enforcement of this chapter and rules 43446
adopted under it other than the provisions regarding the 43447
certification of professionals and laboratories. 43448

(9) Criteria for selecting the no further action letters 43449
issued under section 3746.11 of the Revised Code that will be 43450

audited under section 3746.17 of the Revised Code, and the scope
and procedures for conducting those audits. The rules adopted
under division (B)(9) of this section, at a minimum, shall require
the director to establish priorities for auditing no further
action letters to which any of the following applies:

(a) The letter was prepared by an environmental professional
who was deemed to be a certified professional under division (D)
of section 3746.07 of the Revised Code, but who does not comply
with the criteria established in rules adopted under division
(B)(5) of this section as determined pursuant to rules adopted
under division (B)(5)(d) of this section—*i*

(b) The letter was submitted fraudulently—*i*

(c) The letter was prepared by a certified environmental
professional whose certification subsequently was revoked in
accordance with rules adopted under division (B)(5) of this
section, or analyses were performed for the purposes of the no
further action letter by a certified laboratory whose
certification subsequently was revoked in accordance with rules
adopted under division (B)(6) of this section—*i*

(d) A covenant not to sue that was issued pursuant to the
letter was revoked under this chapter—*i*

(e) The letter was for a voluntary action that was conducted
pursuant to a risk assessment in accordance with rules adopted
under division (B)(2) of this section—*i*

(f) The letter was for a voluntary action that included as
remedial activities engineering controls or institutional controls
or activity and use limitations authorized under section 3746.05
of the Revised Code.

The rules adopted under division (B)(9) of this section shall
provide for random audits of no further action letters to which

the rules adopted under divisions (B)(9)(a) to (f) of this section 43481
do not apply. 43482

(10) A classification system to characterize ground water 43483
according to its capability to be used for human use and its 43484
impact on the environment and a methodology that shall be used to 43485
determine when ground water that has become contaminated from 43486
sources on a property for which a covenant not to sue is requested 43487
under section 3746.11 of the Revised Code shall be remediated to 43488
the standards established in the rules adopted under division 43489
(B)(1) or (2) of this section. 43490

(a) In adopting rules under division (B)(10) of this section 43491
to characterize ground water according to its capability for human 43492
use, the director shall consider all of the following: 43493

(i) The presence of legally enforceable, reliable 43494
restrictions on the use of ground water, including, without 43495
limitation, local rules or ordinances; 43496

(ii) The presence of regional commingled contamination from 43497
multiple sources that diminishes the quality of ground water; 43498

(iii) The natural quality of ground water; 43499

(iv) Regional availability of ground water and reasonable 43500
alternative sources of drinking water; 43501

(v) The productivity of the aquifer; 43502

(vi) The presence of restrictions on the use of ground water 43503
implemented under this chapter and rules adopted under it; 43504

(vii) The existing use of ground water. 43505

(b) In adopting rules under division (B)(10) of this section 43506
to characterize ground water according to its impacts on the 43507
environment, the director shall consider both of the following: 43508

(i) The risks posed to humans, fauna, surface water, 43509

sediments, soil, air, and other resources by the continuing
presence of contaminated ground water;

(ii) The availability and feasibility of technology to remedy
ground water contamination.

(11) Governing the application for and issuance of variances
under section 3746.09 of the Revised Code;

(12)(a) In the case of voluntary actions involving
contaminated ground water, specifying the circumstances under
which the generic numerical clean-up standards established in
rules adopted under division (B)(1) of this section and standards
established through a risk assessment conducted pursuant to rules
adopted under division (B)(2) of this section shall be
inapplicable to the remediation of contaminated ground water and
under which the standards for remediating contaminated ground
water shall be established on a case-by-case basis prior to the
commencement of the voluntary action pursuant to rules adopted
under division (B)(12)(b) of this section;

(b) Criteria and procedures for the case-by-case
establishment of standards for the remediation of contaminated
ground water under circumstances in which the use of the generic
numerical clean-up standards and standards established through a
risk assessment are precluded by the rules adopted under division
(B)(12)(a) of this section. The rules governing the procedures for
the case-by-case development of standards for the remediation of
contaminated ground water shall establish application, public
participation, adjudication, and appeals requirements and
procedures that are equivalent to the requirements and procedures
established in section 3746.09 of the Revised Code and rules
adopted under division (B)(11) of this section, except that the
procedural rules shall not require an applicant to make the
demonstrations set forth in divisions (A)(1) to (3) of section

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3746.09 of the Revised Code. 43541

(13) A definition of the evidence that constitutes sufficient 43542
evidence for the purpose of division (A)(5) of section 3746.02 of 43543
the Revised Code. 43544

At least thirty days before filing the proposed rules 43545
required to be adopted under this section with the secretary of 43546
state, director of the legislative service commission, and joint 43547
committee on agency rule review in accordance with divisions (B) 43548
and (H) of section 119.03 of the Revised Code, the director of 43549
environmental protection shall hold at least one public meeting on 43550
the proposed rules in each of the five districts into which the 43551
agency has divided the state for administrative purposes. 43552

Sec. 3746.071. (A) As used in this section, "certified 43553
professional" means a certified professional deemed to be 43554
certified under division (D) of section 3746.07 of the Revised 43555
Code. 43556

(B) A certified professional shall do all of the following: 43557

(1) Protect the safety, health, and welfare of the public in 43558
the performance of ~~his~~ professional duties. If a circumstance 43559
arises where the certified professional faces a situation where 43560
the safety, health, or welfare of the public would not be 43561
protected, ~~he~~ the certified professional shall do all of the 43562
following: 43563

(a) Sever ~~his~~ the relationship with ~~his~~ the certified 43564
professional's employer or client; 43565

(b) Refuse to accept responsibility for the design, report, 43566
or statement involved; 43567

(c) Notify the director of environmental protection if, in 43568
the opinion of the certified professional, the situation is 43569
sufficiently important. 43570

(2) Undertake to perform assignments only when ~~he~~ the certified professional or ~~his~~ the certified professional's consulting support is qualified by training and experience in the specific technical fields involved;

(3) Be completely objective in any professional report, statement, or testimony. ~~He~~ The certified professional shall include all relevant and pertinent information in the report, statement, or testimony when the result of an omission would or reasonably could lead to a fallacious conclusion.

(4) Express an opinion as a technical or expert witness before any court, commission, or other tribunal only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of ~~his~~ the testimony.

(C) A certified professional shall not issue statements, criticisms, or arguments on matters connected with public policy that are inspired or paid for by an interested party, unless ~~he~~ the certified professional has prefaced ~~his~~ the remarks by explicitly identifying ~~himself~~ the certified professional, by disclosing the identity of the parties on whose behalf ~~he~~ the certified professional is speaking, and by revealing the existence of any pecuniary interest ~~he~~ the certified professional may have in the instant matters.

(D)(1) A certified professional shall conscientiously avoid any conflict of interest with ~~his~~ the certified professional's employer or client.

(2) A certified professional promptly shall inform ~~his~~ the certified professional's employer or client of any business association, interests, or circumstances that could influence ~~his~~ the certified professional's judgment or the quality of ~~his~~ the

certified professional's service to ~~his~~ the employer or client. 43602

(3) A certified professional shall not accept compensation, 43603
financial or otherwise, from more than one party for services on 43604
or pertaining to the same project, unless the circumstances are 43605
fully disclosed to, and agreed to, by all interested parties or 43606
their duly authorized agents. 43607

(4) A certified professional shall not solicit or accept 43608
financial or other valuable considerations from material or 43609
equipment suppliers for specifying their products. 43610

(5) A certified professional shall not solicit or accept 43611
gratuities, directly or indirectly, from contractors, their 43612
agents, or other parties dealing directly with ~~his~~ the certified 43613
professional's employer or client in connection with the work for 43614
which ~~he~~ the certified professional is responsible. 43615

(E)(1) A certified professional shall not pay, solicit, or 43616
offer, directly or indirectly, any bribe or commission for 43617
professional employment with the exception of ~~his~~ payment of the 43618
usual commission for securing salaried positions through licensed 43619
employment agencies. 43620

(2) A certified professional shall seek professional 43621
employment on the basis of qualification and competence for proper 43622
accomplishment of the work. A certified professional may submit 43623
proposed fee information prior to ~~his~~ selection to serve as a 43624
certified professional under this chapter and rules adopted under 43625
it. 43626

(3) A certified professional shall not falsify or permit 43627
misrepresentation of ~~his~~ the certified professional's or ~~his~~ the 43628
certified professional's associates' academic or professional 43629
qualifications. ~~He~~ The certified professional shall not 43630
misrepresent or exaggerate ~~his~~ the certified professional's degree 43631
of responsibility in or for the subject matter of prior 43632

assignments. 43633

(4) Brochures or other presentations incident to the 43634
solicitation of employment by a certified professional shall not 43635
misrepresent pertinent facts concerning ~~his~~ the certified 43636
professional's employers, employees, associates, or joint 43637
ventures, or ~~his or their~~ the past accomplishments of any of them, 43638
with the intent and purpose of enhancing ~~his~~ the certified 43639
professional's qualifications for ~~his~~ the certified professional's 43640
work. 43641

(F)(1) A certified professional shall not sign or seal 43642
professional work for which ~~he~~ the certified professional does not 43643
have personal professional knowledge and direct supervisory 43644
control and responsibility. 43645

(2) A certified professional shall not knowingly associate 43646
with, or permit the use of ~~his~~ the certified professional's own 43647
name or ~~his firm's~~ the name of the certified professional's firm 43648
in, a business venture by any person or firm that ~~he~~ the certified 43649
professional knows, or has reason to believe, is engaging in 43650
business or professional practices of a fraudulent or dishonest 43651
nature. 43652

(3) If a certified professional has knowledge or reason to 43653
believe that another person or firm has violated any of the 43654
provisions of this chapter or any requirement of this section, ~~he~~ 43655
the certified professional shall present the information to the 43656
director in writing. 43657

(G) The director, in accordance with ~~Chapter 3745.~~ rules 43658
adopted under section 3746.04 of the Revised Code, may suspend for 43659
a period of not more than five years or permanently revoke a 43660
certified professional's certification for a violation of or 43661
failure to comply with any requirement or obligation set forth in 43662
this section. 43663

Sec. 3748.07. (A) Every facility that proposes to handle 43664
radioactive material or radiation-generating equipment for which 43665
licensure or registration, respectively, by its handler is 43666
required shall apply in writing to the director of health on forms 43667
prescribed and provided by the director for licensure or 43668
registration. Terms and conditions of licenses and certificates of 43669
registration may be amended in accordance with rules adopted under 43670
section 3748.04 of the Revised Code or orders issued by the 43671
director pursuant to section 3748.05 of the Revised Code. 43672

(B) Until rules are adopted under section 3748.04 of the 43673
Revised Code, an application for a certificate of registration 43674
shall be accompanied by a biennial registration fee of two hundred 43675
eighteen dollars. On and after the effective date of those rules, 43676
an applicant for a license, registration certificate, or renewal 43677
of either shall pay the appropriate fee established in those 43678
rules. 43679

All fees collected under this section shall be deposited in 43680
the state treasury to the credit of the general operations fund 43681
created in section 3701.83 of the Revised Code. The fees shall be 43682
used solely to administer and enforce this chapter and rules 43683
adopted under it. 43684

Any fee required under this section that has not been paid 43685
within ninety days after the invoice date shall be assessed at two 43686
times the original invoiced fee. Any fee that has not been paid 43687
within one hundred eighty days after the invoice date shall be 43688
assessed at five times the original invoiced fee. 43689

(C) The director shall grant a license or registration to any 43690
applicant who has paid the required fee and is in compliance with 43691
this chapter and rules adopted under it. 43692

Until rules are adopted under section 3748.04 of the Revised 43693

Code, certificates of registration shall be effective for two 43694
years from the date of issuance. On and after the effective date 43695
of those rules, licenses and certificates of registration shall be 43696
effective for the applicable period established in those rules. 43697
Licenses and certificates of registration shall be renewed in 43698
accordance with the standard renewal procedure established in 43699
Chapter 4745. of the Revised Code. 43700

Sec. 3748.13. (A) The director of health shall inspect 43701
sources of radiation for which licensure or registration by the 43702
handler is required, and the sources' shielding and surroundings, 43703
according to the schedule established in rules adopted under 43704
division (D) of section 3748.04 of the Revised Code. In accordance 43705
with rules adopted under that section, the director shall inspect 43706
all records and operating procedures of handlers that install 43707
sources of radiation and all sources of radiation for which 43708
licensure of radioactive material or registration of 43709
radiation-generating equipment by the handler is required. The 43710
director may make other inspections upon receiving complaints or 43711
other evidence of violation of this chapter or rules adopted under 43712
it. 43713

The director shall require any hospital registered under 43714
division (A) of section 3701.07 of the Revised Code to develop and 43715
maintain a quality assurance program for all sources of 43716
radiation-generating equipment. A certified radiation expert shall 43717
conduct oversight and maintenance of the program and shall file a 43718
report of audits of the program with the director on forms 43719
prescribed by the director. The audit reports shall become part of 43720
the inspection record. 43721

(B) Until rules are adopted under division (A)(8) of section 43722
3748.04 of the Revised Code, a facility shall pay inspection fees 43723
according to the following schedule and categories: 43724

First dental x-ray tube	\$ 118.00 <u>129.00</u>	43725
Each additional dental x-ray tube at the same location	\$ 59.00 <u>64.00</u>	43726
First medical x-ray tube	\$ 235.00 <u>256.00</u>	43727
Each additional medical x-ray tube at the same location	\$ 125.00 <u>136.00</u>	43728
Each unit of ionizing radiation-generating equipment capable of operating at or above 250 kilovoltage peak	\$ 466.00 <u>508.00</u>	43729
First nonionizing radiation-generating equipment of any kind	\$ 235.00 <u>256.00</u>	43730
Each additional nonionizing radiation-generating equipment of any kind at the same location	\$ 125.00 <u>136.00</u>	43731
Assembler-maintainer inspection consisting of an inspection of records and operating procedures of handlers that install sources of radiation	\$ 291.00 <u>317.00</u>	43732
Until rules are adopted under division (A)(8) of section		43733
3748.04 of the Revised Code, the fee for an inspection to		43734
determine whether violations cited in a previous inspection have		43735
been corrected is fifty per cent of the fee applicable under the		43736
schedule in this division. Until those rules are adopted, the fee		43737
for the inspection of a facility that is not licensed or		43738
registered and for which no license or registration application is		43739
pending at the time of inspection is three hundred sixty-three		43740
<u>ninety-five</u> dollars plus the fee applicable under the schedule in		43741
this division.		43742
The director may conduct a review of shielding plans or the		43743

adequacy of shielding on the request of a licensee or registrant 43744
or an applicant for licensure or registration or during an 43745
inspection when the director considers a review to be necessary. 43746
Until rules are adopted under division (A)(8) of section 3748.04 43747
of the Revised Code, the fee for the review is ~~five~~ six hundred 43748
~~eighty-three~~ thirty-five dollars for each room where a source of 43749
radiation is used and is in addition to any other fee applicable 43750
under the schedule in this division. 43751

All fees shall be paid to the department of health no later 43752
than thirty days after the invoice for the fee is mailed. Fees 43753
shall be deposited in the general operations fund created in 43754
section 3701.83 of the Revised Code. The fees shall be used solely 43755
to administer and enforce this chapter and rules adopted under it. 43756

Any fee required under this section that has not been paid 43757
within ninety days after the invoice date shall be assessed at two 43758
times the original invoiced fee. Any fee that has not been paid 43759
within one hundred eighty days after the invoice date shall be 43760
assessed at five times the original invoiced fee. 43761

(C) If the director determines that a board of health of a 43762
city or general health district is qualified to conduct 43763
inspections of radiation-generating equipment, the director may 43764
delegate to the board, by contract, the authority to conduct such 43765
inspections. In making a determination of the qualifications of a 43766
board of health to conduct those inspections, the director shall 43767
evaluate the credentials of the individuals who are to conduct the 43768
inspections of radiation-generating equipment and the radiation 43769
detection and measuring equipment available to them for that 43770
purpose. If a contract is entered into, the board shall have the 43771
same authority to make inspections of radiation-generating 43772
equipment as the director has under this chapter and rules adopted 43773
under it. The contract shall stipulate that only individuals 43774
approved by the director as qualified shall be permitted to 43775

inspect radiation-generating equipment under the contract's 43776
provisions. The contract shall provide for such compensation for 43777
services as is agreed to by the director and the board of health 43778
of the contracting health district. The director may reevaluate 43779
the credentials of the inspection personnel and their radiation 43780
detecting and measuring equipment as often as the director 43781
considers necessary and may terminate any contract with the board 43782
of health of any health district that, in the director's opinion, 43783
is not satisfactorily performing the terms of the contract. 43784

(D) The director may enter at all reasonable times upon any 43785
public or private property to determine compliance with this 43786
chapter and rules adopted under it. 43787

Sec. 3770.061. There is hereby created in the state treasury 43788
the charitable gaming oversight fund. The state lottery commission 43789
shall credit to the fund any money it receives from the office of 43790
the attorney general under any agreement the commission and the 43791
office have entered into under division (I) of section 2915.08 of 43792
the Revised Code. The commission shall use money in the fund to 43793
provide oversight, licensing, and monitoring of charitable gaming 43794
activities in this state in accordance with the agreement and 43795
Chapter 2915. of the Revised Code. Not later than the first day of 43796
July of each fiscal year, or as soon as possible thereafter, the 43797
commission may certify to the office of budget and management any 43798
unobligated fund balances not necessary to be used under this 43799
section. The commission may request the office of budget and 43800
management to transfer these balances to the lottery profits 43801
education fund for use in accordance with section 3770.06 of the 43802
Revised Code. 43803

Sec. 3773.34. (A) The Ohio athletic commission shall adopt 43804
and may amend or rescind rules in accordance with Chapter 119. of 43805

the Revised Code, prescribing the conditions under which prize 43806
fights and public boxing or wrestling matches or exhibitions may 43807
be conducted, classifying professional boxers by weight, and 43808
providing for the administration of sections 3773.31 to 3773.57 of 43809
the Revised Code. The rules may require that an applicant for a 43810
contestant's license to participate in a public boxing match or 43811
exhibition take an HIV test, as defined in section 3701.24 of the 43812
Revised Code, before being issued the contestant's license and may 43813
require that a licensed contestant take such an HIV test before 43814
participating in a public boxing match or exhibition. The 43815
commission, or the commission's executive director when authorized 43816
by the commission, may issue, deny, suspend, or revoke permits to 43817
hold prize fights and public boxing or wrestling matches or 43818
exhibitions, ~~and. The commission~~ may issue, deny, suspend, or 43819
revoke licenses to persons engaged in any public boxing match or 43820
exhibition as authorized by sections 3773.31 to 3773.57 of the 43821
Revised Code. 43822

(B) In addition to the duties set forth in this chapter, the 43823
Ohio athletic commission shall take action as necessary to carry 43824
out the provisions of Chapter 4771. of the Revised Code governing 43825
athlete agents. 43826

(C) On or before the thirty-first day of December of each 43827
year, the commission shall make a report to the governor of its 43828
proceedings for the year ending on the first day of December of 43829
that calendar year, and may include in the report any 43830
recommendations pertaining to its duties. 43831

Sec. 3773.38. Each person who holds a promoter's license 43832
issued under section 3773.36 of the Revised Code who desires to 43833
conduct a public boxing or wrestling match or exhibition where one 43834
or more contests are to be held shall obtain a permit from the 43835
Ohio athletic commission or the commission's executive director 43836

when the executive director is authorized by the commission to 43837
issue those types of permits. Application for such a permit shall 43838
be made in writing and on forms prescribed by the commission, 43839
shall be filed with the commission, and shall be accompanied by 43840
the permit fee prescribed in section 3773.43 of the Revised Code. 43841

The application for a permit issued under this section shall 43842
include the date and starting time of the match or exhibition, the 43843
address of the place where the match or exhibition is to be held, 43844
the names of the contestants, the seating capacity of the building 43845
or hall where the exhibition is to be held, the admission charge 43846
or any other charges, the amount of compensation or the percentage 43847
of gate receipts to be paid to each contestant, the name and 43848
address of the applicant, a copy of the current official rules 43849
that govern the particular sport, and the serial number of the 43850
applicant's promoter's license. 43851

The commission, or the commission's executive director when 43852
authorized by the commission, may require the applicant to deposit 43853
with the commission before a public boxing match or exhibition a 43854
cash bond, certified check, bank draft, or surety bond in an 43855
amount equal to five per cent of the estimated gross receipts from 43856
the match or exhibition. 43857

Sec. 3773.39. (A) Upon receipt of an application for a permit 43858
to hold a public boxing or wrestling match or exhibition under 43859
section 3773.38 of the Revised Code, the Ohio athletic commission, 43860
or the commission's executive director when authorized by the 43861
commission, shall determine if the applicant holds a valid 43862
promoter's license issued pursuant to section 3773.36 of the 43863
Revised Code. Upon receipt of an application for a permit to hold 43864
a public boxing match or exhibition, the commission, or the 43865
commission's executive director when authorized by the commission, 43866
also shall determine if the contestants are evenly and fairly 43867

matched according to skill, experience, and weight so as to 43868
produce a fair and sportsmanlike contest, and whether the 43869
applicant is financially responsible and is able to pay to each 43870
contestant the compensation or percentage of the gate receipts 43871
named in the application. The commission, or the commission's 43872
executive director when authorized by the commission, may, if 43873
applicable, require the applicant to deposit with it within 43874
forty-eight hours before the match or exhibition the total 43875
compensation or estimated portion of gate receipts to be paid all 43876
contestants named in the application made under section 3773.38 of 43877
the Revised Code. 43878

(B) If the commission, or the commission's executive director 43879
when authorized by the commission, determines that the applicant 43880
has met all the requirements specified in division (A) of this 43881
section, ~~it~~ the commission or executive director shall issue the 43882
applicant a permit to conduct the match or exhibition. If the 43883
applicant fails to deposit any compensation or portion of gate 43884
receipts required by the commission, or executive director before 43885
the first contest of the match or exhibition is held, the 43886
commission, or the commission's executive director when authorized 43887
by the commission, may revoke the permit and order the applicant 43888
not to conduct the match or exhibition described in the permit. 43889

(C) Each permit issued pursuant to this section shall bear 43890
the name and post office address of the applicant, the address of 43891
the place where the public boxing or wrestling match or exhibition 43892
is to be held, the date and starting time of the match or 43893
exhibition, and a serial number designated by the commission. 43894

A permit issued under this section shall allow the permit 43895
holder to conduct only the match or exhibition named in the 43896
permit. A permit is not transferable. 43897

Sec. 3773.40. No person who holds a promoter's license to 43898

conduct a public boxing match or exhibition under section 3773.36 43899
of the Revised Code shall: 43900

(A) Hold any match or exhibition at any time or place other 43901
than that stated on a permit issued under section 3773.38 of the 43902
Revised Code; 43903

(B) Allow any contestant to participate in the match or 43904
exhibition unless the contestant is the licensed contestant named 43905
in the application for such permit or a licensed contestant 43906
authorized to compete as a substitute for such a contestant by the 43907
inspector assigned to the facility where the match or exhibition 43908
is held for that match or exhibition; 43909

(C) Charge a higher admission price for a match or exhibition 43910
than that stated in the application; 43911

(D) Pay a greater compensation or percentage of the gate 43912
receipts to any contestant than that stated in the application. 43913

The Ohio athletic commission, or the commission's executive 43914
director when authorized by the commission, upon application by a 43915
holder of a permit under section 3773.38 of the Revised Code, may 43916
allow the permit holder to hold the match or exhibition for which 43917
the permit was issued at an alternative site that is within the 43918
same municipal corporation or township and that offers 43919
substantially similar seating facilities, or allow the permit 43920
holder to substitute contestants or seconds, provided that the 43921
substitute contestants are evenly matched with their opponents in 43922
skill, experience, and weight. 43923

Sec. 3773.57. The Ohio athletic commission and the 43924
commission's executive director shall not issue a license or 43925
permit to conduct public boxing or wrestling matches or 43926
exhibitions in a municipal corporation or the unincorporated 43927
portion of a township if the commission or the commission's 43928

executive director determines that the legislative authority of 43929
the municipal corporation or board of township trustees has in 43930
effect an ordinance or resolution prohibiting such matches or 43931
exhibitions. 43932

Sec. 3781.07. There is hereby established in the department 43933
of commerce a board of building standards consisting of ~~ten~~ eleven 43934
members appointed by the governor with the advice and consent of 43935
the senate. The board shall appoint a secretary who shall serve in 43936
the unclassified civil service for a term of six years at a salary 43937
fixed pursuant to Chapter 124. of the Revised Code. The board may 43938
employ additional staff in the classified civil service. The 43939
secretary may be removed by the board under the rules the board 43940
adopts. Terms of office shall be for four years, commencing on the 43941
fourteenth day of October and ending on the thirteenth day of 43942
October. Each member shall hold office from the date of 43943
appointment until the end of the term for which the member was 43944
appointed. Any member appointed to fill a vacancy occurring prior 43945
to the expiration of the term for which the member's predecessor 43946
was appointed shall hold office for the remainder of such term. 43947
Any member shall continue in office subsequent to the expiration 43948
date of the member's term until the member's successor takes 43949
office, or until a period of sixty days has elapsed, whichever 43950
occurs first. One of the members appointed to the board shall be 43951
an attorney at law, admitted to the bar of this state; two shall 43952
be registered architects; two shall be professional engineers, one 43953
in the field of mechanical and one in the field of structural 43954
engineering, each of whom shall be duly licensed to practice such 43955
profession in this state; one shall be a person of recognized 43956
ability, broad training, and fifteen years experience in problems 43957
and practice incidental to the construction and equipment of 43958
buildings specified in section 3781.06 of the Revised Code; one 43959
shall be a person with recognized ability and experience in the 43960

manufacture and construction of industrialized units as defined in 43961
section 3781.06 of the Revised Code; one shall be a member of the 43962
fire service with recognized ability and broad training in the 43963
field of fire protection and suppression; one shall be a person 43964
with at least ten years of experience and recognized expertise in 43965
building codes and standards and the manufacture of construction 43966
materials; ~~and~~ one shall be a general contractor with experience 43967
in residential and commercial construction; and one, chosen from a 43968
list of three names the Ohio municipal league submits to the 43969
governor, shall be the mayor of a municipal corporation in which 43970
the Ohio residential and nonresidential building codes are being 43971
enforced in the municipal corporation by a certified building 43972
department. Each member of the board, not otherwise required to 43973
take an oath of office, shall take the oath prescribed by the 43974
constitution. Each member shall receive as compensation an amount 43975
fixed pursuant to division (J) of section 124.15 of the Revised 43976
Code, and shall receive actual and necessary expenses in the 43977
performance of official duties. The amount of such expenses shall 43978
be certified by the secretary of the board and paid in the same 43979
manner as the expenses of employees of the department of commerce 43980
are paid. 43981

Sec. 3781.10. (A)(1) The board of building standards shall 43982
formulate and adopt rules governing the erection, construction, 43983
repair, alteration, and maintenance of all buildings or classes of 43984
buildings specified in section 3781.06 of the Revised Code, 43985
including land area incidental to those buildings, the 43986
construction of industrialized units, the installation of 43987
equipment, and the standards or requirements for materials used in 43988
connection with those buildings. The board shall incorporate those 43989
rules into separate residential and nonresidential building codes. 43990
The standards shall relate to the conservation of energy and the 43991
safety and sanitation of those buildings. 43992

(2) The rules governing nonresidential buildings are the 43993
lawful minimum requirements specified for those buildings and 43994
industrialized units, except that no rule other than as provided 43995
in division (C) of section 3781.108 of the Revised Code that 43996
specifies a higher requirement than is imposed by any section of 43997
the Revised Code is enforceable. The rules governing residential 43998
buildings are uniform requirements for residential buildings in 43999
any area with a building department certified to enforce the state 44000
residential building code. In no case shall any local code or 44001
regulation differ from the state residential building code unless 44002
that code or regulation addresses subject matter not addressed by 44003
the state residential building code or is adopted pursuant to 44004
section 3781.01 of the Revised Code. 44005

(3) The rules adopted pursuant to this section are complete, 44006
lawful alternatives to any requirements specified for buildings or 44007
industrialized units in any section of the Revised Code. The board 44008
shall, on its own motion or on application made under sections 44009
3781.12 and 3781.13 of the Revised Code, formulate, propose, 44010
adopt, modify, amend, or repeal the rules to the extent necessary 44011
or desirable to effectuate the purposes of sections 3781.06 to 44012
3781.18 of the Revised Code. 44013

(B) The board shall report to the general assembly proposals 44014
for amendments to existing statutes relating to the purposes 44015
declared in section 3781.06 of the Revised Code that public health 44016
and safety and the development of the arts require and shall 44017
recommend any additional legislation to assist in carrying out 44018
fully, in statutory form, the purposes declared in that section. 44019
The board shall prepare and submit to the general assembly a 44020
summary report of the number, nature, and disposition of the 44021
petitions filed under sections 3781.13 and 3781.14 of the Revised 44022
Code. 44023

(C) On its own motion or on application made under sections 44024

3781.12 and 3781.13 of the Revised Code, and after thorough
testing and evaluation, the board shall determine by rule that any
particular fixture, device, material, process of manufacture,
manufactured unit or component, method of manufacture, system, or
method of construction complies with performance standards adopted
pursuant to section 3781.11 of the Revised Code. The board shall
make its determination with regard to adaptability for safe and
sanitary erection, use, or construction, to that described in any
section of the Revised Code, wherever the use of a fixture,
device, material, method of manufacture, system, or method of
construction described in that section of the Revised Code is
permitted by law. The board shall amend or annul any rule or issue
an authorization for the use of a new material or manufactured
unit on any like application. No department, officer, board, or
commission of the state other than the board of building standards
or the board of building appeals shall permit the use of any
fixture, device, material, method of manufacture, newly designed
product, system, or method of construction at variance with what
is described in any rule the board of building standards adopts or
issues or that is authorized by any section of the Revised Code.
Nothing in this section shall be construed as requiring approval,
by rule, of plans for an industrialized unit that conforms with
the rules the board of building standards adopts pursuant to
section 3781.11 of the Revised Code.

(D) The board shall recommend rules, codes, and standards to
help carry out the purposes of section 3781.06 of the Revised Code
and to help secure uniformity of state administrative rulings and
local legislation and administrative action to the bureau of
workers' compensation, the director of commerce, any other
department, officer, board, or commission of the state, and to
legislative authorities and building departments of counties,
townships, and municipal corporations, and shall recommend that

they audit those recommended rules, codes, and standards by any
appropriate action that they are allowed pursuant to law or the
constitution.

(E)(1) The board shall certify municipal, township, and
county building departments and the personnel of those building
departments, and persons and employees of individuals, firms, or
corporations as described in division (E)(7) of this section to
exercise enforcement authority, to accept and approve plans and
specifications, and to make inspections, pursuant to sections
3781.03, 3791.04, and 4104.43 of the Revised Code.

(2) The board shall certify departments, personnel, and
persons to enforce the state residential building code, to enforce
the nonresidential building code, or to enforce both the
residential and the nonresidential building codes. Any department,
personnel, or person may enforce only the type of building code
for which certified.

(3) The board shall not require a building department, its
personnel, or any persons that it employs to be certified for
residential building code enforcement if that building department
does not enforce the state residential building code. The board
shall specify, in rules adopted pursuant to Chapter 119. of the
Revised Code, the requirements for certification for residential
and nonresidential building code enforcement, which shall be
consistent with this division. The requirements for residential
and nonresidential certification may differ. Except as otherwise
provided in this division, the requirements shall include, but are
not limited to, the satisfactory completion of an initial
examination and, to remain certified, the completion of a
specified number of hours of continuing building code education
within each three-year period following the date of certification
which shall be not less than thirty hours. The rules shall provide
that continuing education credits and certification issued by the

council of American building officials, national model code 44089
organizations, and agencies or entities the board recognizes are 44090
acceptable for purposes of this division. The rules shall specify 44091
requirements that are compatible, to the extent possible, with 44092
requirements the council of American building officials and 44093
national model code organizations establish. 44094

(4) The board shall establish and collect a certification and 44095
renewal fee for building department personnel, and persons and 44096
employees of persons, firms, or corporations as described in this 44097
section, who are certified pursuant to this division. 44098

(5) Any individual certified pursuant to this division shall 44099
complete the number of hours of continuing building code education 44100
that the board requires or, for failure to do so, forfeit 44101
certification. 44102

(6) This division does not require or authorize the board to 44103
certify personnel of municipal, township, and county building 44104
departments, and persons and employees of persons, firms, or 44105
corporations as described in this section, whose responsibilities 44106
do not include the exercise of enforcement authority, the approval 44107
of plans and specifications, or making inspections under the state 44108
residential and nonresidential building codes. 44109

(7) Enforcement authority for approval of plans and 44110
specifications and enforcement authority for inspections may be 44111
exercised, and plans and specifications may be approved and 44112
inspections may be made on behalf of a municipal corporation, 44113
township, or county, by any of the following who the board of 44114
building standards certifies: 44115

(a) Officers or employees of the municipal corporation, 44116
township, or county; 44117

(b) Persons, or employees of persons, firms, or corporations, 44118
pursuant to a contract to furnish architectural ~~or~~ engineering, 44119

<u>or other</u> services to the municipal corporation, township, or	44120
county;	44121
(c) Officers or employees of, and persons under contract	44122
with, a municipal corporation, township, county, health district,	44123
or other political subdivision, pursuant to a contract to furnish	44124
architectural or , <u>engineering, or other</u> services.	44125
(8) Municipal, township, and county building departments have	44126
jurisdiction within the meaning of sections 3781.03, 3791.04, and	44127
4104.43 of the Revised Code, only with respect to the types of	44128
buildings and subject matters for which they are certified under	44129
this section.	44130
(9) Certification shall be granted upon application by the	44131
municipal corporation, the board of township trustees, or the	44132
board of county commissioners and approval of that application by	44133
the board of building standards. The application shall set forth:	44134
(a) Whether the certification is requested for residential or	44135
nonresidential buildings, or both;	44136
(b) The number and qualifications of the staff composing the	44137
building department;	44138
(c) The names, addresses, and qualifications of persons,	44139
firms, or corporations contracting to furnish work or services	44140
pursuant to division (E)(7)(b) of this section;	44141
(d) The names of any other municipal corporation, township,	44142
county, health district, or political subdivision under contract	44143
to furnish work or services pursuant to division (E)(7) of this	44144
section;	44145
(e) The proposed budget for the operation of the building	44146
department.	44147
(10) The board of building standards shall adopt rules	44148
governing all of the following:	44149

(a) The certification of building department personnel and 44150
persons and employees of persons, firms, or corporations 44151
exercising authority pursuant to division (E)(7) of this section. 44152
The rules shall disqualify any employee of the department or 44153
person who contracts for services with the department from 44154
performing services for the department when that employee or 44155
person would have to pass upon, inspect, or otherwise exercise 44156
authority over any labor, material, or equipment the employee or 44157
person furnishes for the construction, alteration, or maintenance 44158
of a building or the preparation of working drawings or 44159
specifications for work within the jurisdictional area of the 44160
department. The department shall provide other similarly qualified 44161
personnel to enforce the residential and nonresidential building 44162
codes as they pertain to that work. 44163

(b) The minimum services to be provided by a certified 44164
building department. 44165

(11) The board of building standards may revoke or suspend 44166
certification to enforce the residential and nonresidential 44167
building codes, on petition to the board by any person affected by 44168
that enforcement or approval of plans, or by the board on its own 44169
motion. Hearings shall be held and appeals permitted on any 44170
proceedings for certification or revocation or suspension of 44171
certification in the same manner as provided in section 3781.101 44172
of the Revised Code for other proceedings of the board of building 44173
standards. 44174

(12) Upon certification, and until that authority is revoked, 44175
any county or township building department shall enforce the 44176
residential and nonresidential building codes for which it is 44177
certified without regard to limitation upon the authority of 44178
boards of county commissioners under Chapter 307. of the Revised 44179
Code or boards of township trustees under Chapter 505. of the 44180
Revised Code. 44181

(F) In addition to hearings sections 3781.06 to 3781.18 and 44182
3791.04 of the Revised Code require, the board of building 44183
standards shall make investigations and tests, and require from 44184
other state departments, officers, boards, and commissions 44185
information the board considers necessary or desirable to assist 44186
it in the discharge of any duty or the exercise of any power 44187
mentioned in this section or in sections 3781.06 to 3781.18, 44188
3791.04, and 4104.43 of the Revised Code. 44189

(G) The board shall adopt rules and establish reasonable fees 44190
for the review of all applications submitted where the applicant 44191
applies for authority to use a new material, assembly, or product 44192
of a manufacturing process. The fee shall bear some reasonable 44193
relationship to the cost of the review or testing of the 44194
materials, assembly, or products and for the notification of 44195
approval or disapproval as provided in section 3781.12 of the 44196
Revised Code. 44197

(H) The residential construction advisory committee shall 44198
provide the board with a proposal for a state residential building 44199
code that the committee recommends pursuant to division (C)(1) of 44200
section 4740.14 of the Revised Code. Upon receiving a 44201
recommendation from the committee that is acceptable to the board, 44202
the board shall adopt rules establishing that code as the state 44203
residential building code. 44204

(I) The board shall cooperate with the director of job and 44205
family services when the director promulgates rules pursuant to 44206
section 5104.05 of the Revised Code regarding safety and 44207
sanitation in type A family day-care homes. 44208

(J) The board shall adopt rules to implement the requirements 44209
of section 3781.108 of the Revised Code. 44210

Sec. 3781.102. (A) Any county or municipal building 44211

department certified pursuant to division (E) of section 3781.10 44212
of the Revised Code as of September 14, 1970, and that, as of that 44213
date, was inspecting single-family, two-family, and three-family 44214
residences, and any township building department certified 44215
pursuant to division (E) of section 3781.10 of the Revised Code, 44216
is hereby declared to be certified to inspect single-family, 44217
two-family, and three-family residences containing industrialized 44218
units, and shall inspect the buildings or classes of buildings 44219
subject to division (E) of section 3781.10 of the Revised Code. 44220

(B) Each board of county commissioners may adopt, by 44221
resolution, rules establishing standards and providing for the 44222
licensing of electrical and heating, ventilating, and air 44223
conditioning contractors who are not required to hold a valid and 44224
unexpired license pursuant to Chapter 4740. of the Revised Code. 44225

Rules adopted by a board of county commissioners pursuant to 44226
this division may be enforced within the unincorporated areas of 44227
the county and within any municipal corporation where the 44228
legislative authority of the municipal corporation has contracted 44229
with the board for the enforcement of the county rules within the 44230
municipal corporation pursuant to section 307.15 of the Revised 44231
Code. The rules shall not conflict with rules adopted by the board 44232
of building standards pursuant to section 3781.10 of the Revised 44233
Code or by the department of commerce pursuant to Chapter 3703. of 44234
the Revised Code. This division does not impair or restrict the 44235
power of municipal corporations under Section 3 of Article XVIII, 44236
Ohio Constitution, to adopt rules concerning the erection, 44237
construction, repair, alteration, and maintenance of buildings and 44238
structures or of establishing standards and providing for the 44239
licensing of specialty contractors pursuant to section 715.27 of 44240
the Revised Code. 44241

A board of county commissioners, pursuant to this division, 44242

may require all electrical contractors and heating, ventilating, 44243
and air conditioning contractors, other than those who hold a 44244
valid and unexpired license issued pursuant to Chapter 4740. of 44245
the Revised Code, to successfully complete an examination, test, 44246
or demonstration of technical skills, and may impose a fee and 44247
additional requirements for a license to engage in their 44248
respective occupations within the jurisdiction of the board's 44249
rules under this division. 44250

(C) No board of county commissioners shall require any 44251
specialty contractor who holds a valid and unexpired license 44252
issued pursuant to Chapter 4740. of the Revised Code to 44253
successfully complete an examination, test, or demonstration of 44254
technical skills in order to engage in the type of contracting for 44255
which the license is held, within the unincorporated areas of the 44256
county and within any municipal corporation whose legislative 44257
authority has contracted with the board for the enforcement of 44258
county regulations within the municipal corporation, pursuant to 44259
section 307.15 of the Revised Code. 44260

(D) A board may impose a fee for registration of a specialty 44261
contractor who holds a valid and unexpired license issued pursuant 44262
to Chapter 4740. of the Revised Code before that specialty 44263
contractor may engage in the type of contracting for which the 44264
license is held within the unincorporated areas of the county and 44265
within any municipal corporation whose legislative authority has 44266
contracted with the board for the enforcement of county 44267
regulations within the municipal corporation, pursuant to section 44268
307.15 of the Revised Code, provided that the fee is the same for 44269
all specialty contractors who wish to engage in that type of 44270
contracting. If a board imposes such a fee, the board immediately 44271
shall permit a specialty contractor who presents proof of holding 44272
a valid and unexpired license and pays the required fee to engage 44273
in the type of contracting for which the license is held within 44274

the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to section 307.15 of the Revised Code.

(E) The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to division (E) of section 3781.10 of the Revised Code may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to sections 3781.03 and 3791.04 of the Revised Code.

(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following:

(1) Three per cent of the fees the political subdivision collects in connection with nonresidential buildings;

(2) One per cent of the fees the political subdivision collects in connection with residential buildings.

(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the board. The board shall pay the fees into the state treasury to the credit of the industrial compliance operating fund created in section 121.084 of the Revised Code.

(2) All money credited to the industrial compliance operating fund under this division shall be used exclusively for the following:

(a) Operating costs of the board;	44306
(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to division (E) of section 3781.10 of the Revised Code;	44307 44308 44309
<u>(c) Paying the expenses of the residential construction advisory committee, including the expenses of committee members as provided in section 4740.14 of the Revised Code.</u>	44310 44311 44312
(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of satisfying the requirements of rules adopted under that division, a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code that is held by an electrical or heating, ventilating, and air conditioning contractor, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.	44313 44314 44315 44316 44317 44318 44319 44320 44321 44322 44323
(I) A board of county commissioners shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter.	44324 44325 44326 44327
(J) As used in this section, "specialty contractor" means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code.	44328 44329 44330 44331 44332
<u>Sec. 3781.191. The Ohio board of building appeals has no authority to hear any case based on the Ohio residential building code or to grant any variance to the Ohio residential building</u>	44333 44334 44335

code.

44336

Sec. 3793.09. (A) There is hereby created the council on 44337
alcohol and drug addiction services which shall consist of the 44338
public officials specified in division (B) of this section, or 44339
their designees, and thirteen members appointed by the governor 44340
with the advice and consent of the senate. The members appointed 44341
by the governor shall be representatives of the following: boards 44342
of alcohol, drug addiction, and mental health services; the 44343
criminal and juvenile justice systems; and alcohol and drug 44344
addiction programs. At least four of the appointed members shall 44345
be persons who have received or are receiving alcohol or drug 44346
addiction services or are parents or other relatives of such 44347
persons; of these at least two shall be women and at least one 44348
shall be a member of a minority group. 44349

The governor shall make initial appointments to the council 44350
not later than thirty days after October 10, 1989. Of the initial 44351
appointments, six shall be for terms ending July 31, 1991, and 44352
seven shall be for terms ending July 31, 1992. Thereafter, terms 44353
of office shall be two years, with each term ending on the same 44354
day of the same month as the term it succeeds. Each member shall 44355
hold office from the date of the member's appointment until the 44356
end of the term for which the member was appointed. Members may be 44357
reappointed. Vacancies shall be filled in the same manner as 44358
original appointments. Any member appointed to fill a vacancy 44359
occurring prior to the expiration of the term for which the 44360
member's predecessor was appointed shall hold office as a member 44361
for the remainder of the term. A member shall continue in office 44362
subsequent to the expiration of the member's term until the 44363
member's successor takes office or until a period of sixty days 44364
has elapsed, whichever occurs first. 44365

(B) The directors of health, public safety, mental health, 44366
rehabilitation and correction, and youth services; the 44367
superintendents of public instruction and liquor control; the 44368
attorney general; the adjutant general; and the executive director 44369
of the ~~office~~ division of criminal justice services in the 44370
department of public safety shall be voting members of the 44371
council, except that any of these officials may designate an 44372
individual to serve in the official's place as a voting member of 44373
the council. The director of alcohol and drug addiction services 44374
shall serve as a nonvoting member of the council. 44375

(C) The governor shall annually appoint a ~~chairman~~ 44376
chairperson from among the members of the council. The council 44377
shall meet quarterly and at other times the ~~chairman~~ chairperson 44378
considers necessary. In addition to other duties specified in this 44379
chapter, the council shall review the development of the 44380
comprehensive statewide plan for alcohol and drug addiction 44381
services, revisions of the plan, and other actions taken to 44382
implement the purposes of this chapter by the department of 44383
alcohol and drug addiction services and shall act as an advisory 44384
council to the director of alcohol and drug addiction services. 44385

(D) Members of the council shall serve without compensation, 44386
but shall be paid actual and necessary expenses incurred in the 44387
performance of their duties. 44388

Sec. 3901.021. (A) Three-fourths of all appointment and other 44389
fees collected under section 3905.10, ~~and~~ and division (B) of section 44390
3905.20, ~~and division (A)(6) of section 3905.40~~ of the Revised 44391
Code shall be paid into the state treasury to the credit of the 44392
department of insurance operating fund, which is hereby created. 44393
The remaining one-fourth shall be credited to the general revenue 44394
fund. All other revenues collected by the superintendent of 44395
insurance, such as registration fees for sponsored seminars or 44396

conferences and grants from private entities, shall be paid into 44397
the state treasury to the credit of the department of insurance 44398
operating fund. 44399

(B) Seven-tenths of all fees collected under divisions 44400
(A)(2), (A)(3), and (A)(6) of section 3905.40 of the Revised Code 44401
shall be paid into the state treasury to the credit of the 44402
department of insurance operating fund. The remaining three-tenths 44403
shall be credited to the general revenue fund. 44404

(C) All operating expenses of the department of insurance 44405
except those expenses defined under section 3901.07 of the Revised 44406
Code shall be paid from the department of insurance operating 44407
fund. 44408

Sec. 3901.17. (A) As used in this section: 44409

(1) "Captive insurer" has the meaning defined in section 44410
3905.36 of the Revised Code. 44411

(2) "Insurer" includes, but is not limited to, any person 44412
that is an affiliate of or affiliated with the insurer, as defined 44413
in division (A) of section 3901.32 of the Revised Code, and any 44414
person that is a subsidiary of the insurer as defined in division 44415
(F) of section 3901.32 of the Revised Code. 44416

~~(2)~~(3) "Laws of this state relating to insurance" has the 44417
meaning defined in division (A)(1) of section 3901.04 of the 44418
Revised Code. 44419

~~(3)~~(4) "Person" has the meaning defined in division (A) of 44420
section 3901.19 of the Revised Code. 44421

(B) Any of the following acts in this state, effected by mail 44422
or otherwise, by any foreign or alien insurer not authorized to 44423
transact business within this state, any nonresident person acting 44424
on behalf of an insurer, or any nonresident insurance agent 44425
subjects the insurer, person, or agent to the exercise of personal 44426

jurisdiction over the insurer, person, or agent to the extent	44427
permitted by the constitutions of this state and of the United	44428
States:	44429
(1) Issuing or delivering contracts of insurance to residents	44430
of this state or to corporations authorized to do business	44431
therein;	44432
(2) Making or proposing to make any insurance contracts;	44433
(3) Soliciting, taking, or receiving any application for	44434
insurance;	44435
(4) Receiving or collecting any premium, commission,	44436
membership fee, assessment, dues, or other consideration for any	44437
insurance contract or any part thereof;	44438
(5) Disseminating information as to coverage or rates,	44439
forwarding applications, inspecting risks, fixing rates,	44440
investigating or adjusting claims or losses, transacting any	44441
matters subsequent to effecting a contract of insurance and	44442
arising out of it;	44443
(6) Doing any kind of business recognized as constituting the	44444
doing of an insurance business under Title XXXIX of the Revised	44445
Code or subject to regulation by the superintendent of insurance	44446
under the laws of this state relating to insurance.	44447
Any such act shall be considered to be the doing of an	44448
insurance business in this state by such insurer, person, or agent	44449
and shall be its agreement that service of any lawful subpoena,	44450
notice, order, or process is of the same legal force and validity	44451
as personal service of the subpoena, notice, order, or process in	44452
this state upon the insurer, person, or agent.	44453
(C) Service of process in judicial proceedings shall be as	44454
provided by the Rules of Civil Procedure. Service in or out of	44455
this state of notice, orders, or subpoenas in administrative	44456

proceedings before the superintendent shall be as provided in 44457
section 3901.04 of the Revised Code. 44458

(D) Service of any notice, order, subpoena, or process in any 44459
such action, suit, or proceeding shall, in addition to the manner 44460
provided in division (C) of this section, be valid if served upon 44461
any person within this state who, in this state on behalf of such 44462
insurer, person, or agent is or has been: 44463

(1) Soliciting, procuring, effecting, or negotiating for 44464
insurance; 44465

(2) Making, issuing, or delivering any contract of insurance; 44466

(3) Collecting or receiving any premium, membership fees, 44467
assessment, dues, or other consideration for insurance; 44468

(4) Disseminating information as to coverage or rates, 44469
forwarding applications, inspecting risks, fixing rates, 44470
investigating or adjusting claims or losses, or transacting any 44471
matters subsequent to effecting a contract of insurance and 44472
arising out of it. 44473

(E) Nothing in this section shall limit or abridge the right 44474
to serve any subpoena, order, process, notice, or demand upon any 44475
insurer, person, or agent in any other manner permitted by law. 44476

(F) Every person investigating or adjusting any loss or claim 44477
under a policy of insurance not excepted under division (I) of 44478
this section and issued by any such insurer and covering a subject 44479
of insurance that was resident, located, or to be performed in 44480
this state at the time of issuance shall immediately report the 44481
policy to the superintendent. 44482

(G) Each such insurer that does any of the acts set forth in 44483
division (B) of this section in this state by mail or otherwise 44484
shall be subject to a tax of five per cent on the gross premiums, 44485
membership fees, assessments, dues, and other considerations 44486

received on all contracts of insurance covering subjects of 44487
insurance resident, located, or to be performed within this state. 44488
Such insurer shall annually, on or before the first day of July, 44489
pay such tax to the treasurer of state, as calculated on a form 44490
prescribed by the treasurer of state. If the tax is not paid when 44491
due, the tax shall be increased by a penalty of twenty-five per 44492
cent. An interest charge computed as set forth in section 5725.221 44493
of the Revised Code shall be made on the entire sum of the tax 44494
plus penalty, which interest shall be computed from the date the 44495
tax is due until it is paid. The treasurer of state shall 44496
determine and report all claims for penalties and interest 44497
accruing under this section to the attorney general for 44498
collection. 44499

For purposes of this division, payment is considered made 44500
when it is received by the treasurer of state, irrespective of any 44501
United States postal service marking or other stamp or mark 44502
indicating the date on which the payment may have been mailed. 44503

(H) No contract of insurance effected in this state by mail 44504
or otherwise by any such insurer is enforceable by the insurer. 44505

(I) This section does not apply to: 44506

(1) Insurance obtained pursuant to sections 3905.30 to 44507
3905.36 of the Revised Code; 44508

(2) The transaction of reinsurance by insurers; 44509

(3) Transactions in this state involving a policy solicited, 44510
written, and delivered outside this state covering only subjects 44511
of insurance not resident, located, or to be performed in this 44512
state at the time of issuance, provided such transactions are 44513
subsequent to the issuance of the policy; 44514

(4) Transactions in this state involving a policy of group 44515
life or group accident and sickness insurance solicited, written, 44516

and delivered outside this state;	44517
(5) Transactions involving contracts of insurance	44518
independently procured through negotiations occurring entirely	44519
outside this state which are reported to the superintendent and	44520
with respect to which the tax provided by section 3905.36 of the	44521
Revised Code is paid;	44522
(6) An attorney at law acting on behalf of the attorney's	44523
clients in the adjustment of claims or losses;	44524
(7) <u>Any Except as provided in division (G) of this section,</u>	44525
<u>any</u> insurance company underwriter issuing contracts of insurance	44526
to employer insureds or contracts of insurance issued to an	44527
employer insured. For purposes of this section, an "employer	44528
insured" is an insured to whom all of the following apply:	44529
(a) The insured procures the insurance of any risk or risks	44530
by use of the services of a full-time employee acting as an	44531
insurance manager or buyer or the services of a regularly and	44532
continuously qualified insurance consultant. As used in division	44533
(I)(7)(a) of this section, a "regularly and continuously qualified	44534
insurance consultant" does not include any person licensed under	44535
Chapter 3905. of the Revised Code.	44536
(b) The insured's aggregate annual premiums for insurance on	44537
all risks total at least twenty-five thousand dollars; and	44538
(c) The insured has at least twenty-five full-time employees.	44539
(8) Ocean marine insurance;	44540
<u>(9) Transactions involving policies issued by a captive</u>	44541
<u>insurer.</u>	44542
Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of	44543
the Revised Code do not apply to the following:	44544
(A) Policies offering coverage that is regulated under	44545

Chapters 3935. and 3937. of the Revised Code; 44546

(B) An employer's self-insurance plan and any of its 44547
administrators, as defined in section 3959.01 of the Revised Code, 44548
to the extent that federal law supersedes, preempts, prohibits, or 44549
otherwise precludes the application of any provisions of those 44550
sections to the plan and its administrators; 44551

(C)(1) A third-party payer for coverage provided under the 44552
medicare ~~plus choice or medicaid programs~~ advantage program 44553
operated under Title XVIII ~~and XIX~~ of the "Social Security Act," 44554
49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended; 44555

(2) A third-party payer for coverage provided under the 44556
medicaid program operated under Title XIX of the Social Security 44557
Act, except that if a federal waiver applied for under section 44558
5101.94 of the Revised Code is granted or the director of job and 44559
family services determines that this provision can be implemented 44560
without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of 44561
the Revised Code apply to coverage of medicaid recipients by 44562
health insuring corporations licensed under Chapter 1751. of the 44563
Revised Code; 44564

(D) A third-party payer for coverage provided under the 44565
tricare program offered by the United States department of 44566
defense. 44567

~~Sec. 3901.78. Upon the filing of each of its annual 44568
statements, or as soon thereafter as practicable, the 44569
superintendent of insurance shall issue to each insurance company 44570
or association authorized to do business in this state but not 44571
incorporated under the laws of this state a certificate of 44572
compliance, an original of which must be published in accordance 44573
with section 3901.781 of the Revised Code in every county where 44574
the insurance company or association has an agency. Upon request 44575~~

or in any other circumstance that the superintendent of insurance 44576
determines to be appropriate, the superintendent may issue ~~either~~ 44577
~~certificates of compliance, which certificates are not subject to~~ 44578
~~section 3901.781 of the Revised Code,~~ to insurance companies and 44579
associations authorized to do business in this state. ~~Certificates~~ 44580
~~of compliance either must,~~ which shall be on either forms 44581
established by the national association of insurance commissioners 44582
or on such other forms as the superintendent may prescribe. 44583

Sec. 3903.14. (A) The superintendent of insurance as 44584
rehabilitator may appoint one or more special deputies, who shall 44585
have all the powers and responsibilities of the rehabilitator 44586
granted under this section, and the superintendent may employ such 44587
clerks and assistants as considered necessary. The compensation of 44588
the special deputies, clerks, and assistants and all expenses of 44589
taking possession of the insurer and of conducting the proceedings 44590
shall be fixed by the superintendent, with the approval of the 44591
court and shall be paid out of the funds or assets of the insurer. 44592
The persons appointed under this section shall serve at the 44593
pleasure of the superintendent. In the event that the property of 44594
the insurer does not contain sufficient cash or liquid assets to 44595
defray the costs incurred, the superintendent may advance the 44596
costs so incurred out of any appropriation for the maintenance of 44597
the department of insurance. Any amounts so advanced for expenses 44598
of administration shall be repaid to the superintendent for the 44599
use of the department out of the first available money of the 44600
insurer. 44601

(B) The rehabilitator may take such action as ~~he~~ the 44602
rehabilitator considers necessary or appropriate to reform and 44603
revitalize the insurer. ~~He~~ The rehabilitator shall have all the 44604
powers of the directors, officers, and managers, whose authority 44605
shall be suspended, except as they are redelegated by the 44606
rehabilitator. ~~He~~ The rehabilitator shall have full power to 44607

direct and manage, to hire and discharge employees subject to any 44608
contract rights they may have, and to deal with the property and 44609
business of the insurer. 44610

(C) If it appears to the rehabilitator that there has been 44611
criminal or tortious conduct, or breach of any contractual or 44612
fiduciary obligation detrimental to the insurer by any officer, 44613
manager, agent, director, trustee, broker, employee, or other 44614
person, ~~he~~ the rehabilitator may pursue all appropriate legal 44615
remedies on behalf of the insurer. 44616

(D) If the rehabilitator determines that reorganization, 44617
consolidation, conversion, reinsurance, merger, or other 44618
transformation of the insurer is appropriate, ~~he~~ the rehabilitator 44619
shall prepare a plan to effect such changes. Upon application of 44620
the rehabilitator for approval of the plan, and after such notice 44621
and hearings as the court may prescribe, the court may either 44622
approve or disapprove the plan proposed, or may modify it and 44623
approve it as modified. Any plan approved under this section shall 44624
be, in the judgment of the court, fair and equitable to all 44625
parties concerned. If the plan is approved, the rehabilitator 44626
shall carry out the plan. In the case of a life insurer, the plan 44627
proposed may include the imposition of liens upon the policies of 44628
the company, if all rights of shareholders are first relinquished. 44629
A plan for a life insurer may also propose imposition of a 44630
moratorium upon loan and cash surrender rights under policies, for 44631
such period and to such an extent as may be necessary. 44632

(E) In the case of a medicaid health insuring corporation 44633
that has posted a bond or deposited securities in accordance with 44634
section 1751.271 of the Revised Code, the plan proposed under 44635
division (D) of this section may include the use of the proceeds 44636
of the bond or securities to first pay the claims of contracted 44637
providers for covered health care services provided to medicaid 44638
recipients, then next to pay other claimants with any remaining 44639

funds, consistent with the priorities set forth in sections 44640
3903.421 and 3903.42 of the Revised Code. 44641

(F) The rehabilitator shall have the power under sections 44642
3903.26 and 3903.27 of the Revised Code to avoid fraudulent 44643
transfers. 44644

(G) As used in this section: 44645

(1) "Contracted provider" means a provider with a contract 44646
with a medicaid health insuring corporation to provide covered 44647
health care services to medicaid recipients. 44648

(2) "Medicaid recipient" means a person eligible for 44649
assistance under the medicaid program operated pursuant to Chapter 44650
5111. of the Revised Code. 44651

Sec. 3903.42. The priority of distribution of claims from the 44652
insurer's estate shall be in accordance with the order in which 44653
each class of claims is set forth in this section. Every claim in 44654
each class shall be paid in full or adequate funds retained for 44655
such payment before the members of the next class receive any 44656
payment. No subclasses shall be established within any class. The 44657
order of distribution of claims shall be: 44658

(A) Class 1. The costs and expenses of administration, 44659
including but not limited to the following: 44660

(1) The actual and necessary costs of preserving or 44661
recovering the assets of the insurer; 44662

(2) Compensation for all services rendered in the 44663
liquidation; 44664

(3) Any necessary filing fees; 44665

(4) The fees and mileage payable to witnesses; 44666

(5) Reasonable attorney's fees; 44667

(6) The reasonable expenses of a guaranty association or 44668

foreign guaranty association in handling claims. 44669

(B) Class 2. All claims under policies for losses incurred, 44670
including third party claims, all claims against a health insuring 44671
corporation by the corporation's contracted providers, all claims 44672
against the insurer for liability for bodily injury or for injury 44673
to or destruction of tangible property that are not under 44674
policies, and all claims of a guaranty association or foreign 44675
guaranty association. All claims under life insurance and annuity 44676
policies, whether for death proceeds, annuity proceeds, or 44677
investment values, shall be treated as loss claims. That portion 44678
of any loss, indemnification for which is provided by other 44679
benefits or advantages recovered by the claimant, shall not be 44680
included in this class, other than benefits or advantages 44681
recovered or recoverable in discharge of familial obligations of 44682
support or by way of succession at death or as proceeds of life 44683
insurance, or as gratuities. No payment by an employer to an 44684
employee shall be treated as a gratuity. Claims under 44685
nonassessable policies for unearned premium or other premium 44686
refunds. 44687

(C) Class 3. Claims of the federal government. 44688

(D) Class 4. Debts due to employees for services performed to 44689
the extent that they do not exceed one thousand dollars and 44690
represent payment for services performed within one year before 44691
the filing of the complaint for liquidation. Officers and 44692
directors shall not be entitled to the benefit of this priority. 44693
Such priority shall be in lieu of any other similar priority that 44694
may be authorized by law as to wages or compensation of employees. 44695

(E) Class 5. Claims of general creditors. 44696

(F) Class 6. Claims of any state or local government. Claims, 44697
including those of any state or local governmental body for a 44698
penalty or forfeiture, shall be allowed in this class only to the 44699

extent of the pecuniary loss sustained from the act, transaction, 44700
or proceeding out of which the penalty or forfeiture arose, with 44701
reasonable and actual costs occasioned thereby. The remainder of 44702
such claims shall be postponed to the class of claims under 44703
division (I) of this section. 44704

(G) Class 7. Claims filed late or any other claims other than 44705
claims under divisions (H) and (I) of this section. 44706

(H) Class 8. Surplus or contribution notes, or similar 44707
obligations, and premium refunds on assessable policies. Payments 44708
to members of domestic mutual insurance companies shall be limited 44709
in accordance with law. 44710

(I) Class 9. The claims of shareholders or other owners. 44711

If any provision of this section or the application of any 44712
provision of this section to any person or circumstance is held 44713
invalid, the invalidity does not affect other provisions or 44714
applications of this section, and to this end the provisions are 44715
severable. 44716

Sec. 3903.421. (A) Notwithstanding section 3903.42 of the 44717
Revised Code, both of the following apply to medicaid health 44718
insuring corporation performance bonds and securities: 44719

(1) Proceeds from the bond issued or securities held pursuant 44720
to section 1751.271 of the Revised Code that have been paid to or 44721
deposited with the department of insurance shall be considered 44722
special deposits for purposes of satisfying claims of contracted 44723
providers for covered health care services provided to medicaid 44724
recipients; 44725

(2) Contracted providers that have claims against a health 44726
insuring corporation for covered health care services provided to 44727
medicaid recipients shall be given first priority against the 44728
proceeds of the bond or securities held pursuant to section 44729

1751.27 of the Revised Code, to the exclusion of other creditors, 44730
except as provided for in this section. 44731

(B) If the amount of the proceeds of the bond or securities 44732
are not sufficient to satisfy all of the allowed claims of 44733
contracted providers for covered health care services provided to 44734
medicaid recipients, payment shall proceed as follows: 44735

(1) Contracted providers shall share in the proceeds of the 44736
bond or securities pro rata based on the allowed amount of the 44737
providers' claims against the health insuring corporation for 44738
covered health care services provided to medicaid recipients; 44739

(2) After payments are made under division (B)(1) of this 44740
section, the net unpaid balance of the claims of contracted 44741
providers shall be allowed for payment from the general assets of 44742
the estate in accordance with the priorities set forth in section 44743
3903.42 of the Revised Code. 44744

(C) If the amount of the proceeds of the bond or securities 44745
exceeds the allowed claims of contracted providers for covered 44746
health care services provided to medicaid recipients, the excess 44747
amount shall be considered a general asset of the health insuring 44748
corporation's estate to be distributed to other claimants in 44749
accordance with the priorities set forth in section 3903.42 of the 44750
Revised Code. 44751

(D) As used in this section: 44752

(1) "Contracted provider" means a provider with a contract 44753
with a medicaid health insuring corporation to provide covered 44754
health care services to medicaid recipients. 44755

(2) "Medicaid recipient" means a person eligible for 44756
assistance under the medicaid program operated pursuant to Chapter 44757
5111. of the Revised Code. 44758

Sec. 3905.04. (A) Except as otherwise provided in section 44759

3905.041 of the Revised Code, a resident individual applying for 44760
an insurance agent license for any of the lines of authority 44761
described in division (B) of this section shall take a written 44762
examination. The examination shall test the knowledge of the 44763
individual with respect to the lines of authority for which 44764
application is made, the duties and responsibilities of an 44765
insurance agent, and the insurance laws of this state. Before 44766
admission to the examination, each individual shall pay the 44767
nonrefundable fee required under division ~~(D)~~(C) of section 44768
3905.40 of the Revised Code. 44769

(B) The examination described in division (A) of this section 44770
shall be required for the following lines of authority: 44771

(1) Any of the lines of authority set forth in divisions 44772
(B)(1) to (6) of section 3905.06 of the Revised Code; 44773

(2) Title insurance; 44774

(3) Surety bail bonds as provided in sections 3905.83 to 44775
3905.95 of the Revised Code; 44776

(4) Any other line of authority designated by the 44777
superintendent of insurance. 44778

(C) An individual shall not be permitted to take the 44779
examination described in division (A) of this section unless one 44780
or both of the following apply: 44781

(1) The individual has earned a bachelor's or associate's 44782
degree in insurance from an accredited institution. 44783

(2) The individual has completed, for each line of authority 44784
for which the individual has applied, twenty hours of study in a 44785
program of insurance education approved by the superintendent, in 44786
consultation with the insurance agent education advisory council, 44787
under criteria established by the superintendent. Division (C) of 44788
this section does not apply with respect to title insurance or any 44789

other line of authority designated by the superintendent. 44790

(D) An individual who fails to appear for an examination as 44791
scheduled, or fails to pass an examination, may reapply for the 44792
examination if the individual pays the required fee and submits 44793
any necessary forms prior to being rescheduled for the 44794
examination. 44795

(E)(1) The superintendent may, in accordance with Chapter 44796
119. of the Revised Code, adopt any rule necessary for the 44797
implementation of this section. 44798

(2) The superintendent may make any necessary arrangements, 44799
including contracting with an outside testing service, for the 44800
administration of the examinations and the collection of the fees 44801
required by this section. 44802

Sec. 3905.36. ~~Every~~ (A) Except as provided in divisions (B) 44803
and (C) of this section, every insured association, company, 44804
corporation, or other person that enters, directly or indirectly, 44805
into any agreements with any insurance company, association, 44806
individual, firm, underwriter, or Lloyd, not authorized to do 44807
business in this state, whereby the insured shall procure, 44808
continue, or renew contracts of insurance covering subjects of 44809
insurance resident, located, or to be performed within this state, 44810
with such unauthorized insurance company, association, individual, 44811
firm, underwriter, or Lloyd, for which insurance there is a gross 44812
premium, membership fee, assessment, dues, or other consideration 44813
charged or collected, shall annually, on or before the 44814
thirty-first day of January, return to the superintendent of 44815
insurance a statement under oath showing the name and address of 44816
the insured, name and address of the insurer, subject of the 44817
insurance, general description of the coverage, and amount of 44818
gross premium, fee, assessment, dues, or other consideration for 44819
such insurance for the preceding twelve-month period and shall at 44820

the same time pay to the treasurer of state a tax of five per cent 44821
of such gross premium, fee, assessment, dues, or other 44822
consideration, after a deduction for return premium, if any, as 44823
calculated on a form prescribed by the treasurer of state. All 44824
taxes collected under this section by the treasurer of state shall 44825
be paid into the general revenue fund. If the tax is not paid when 44826
due, the tax shall be increased by a penalty of twenty-five per 44827
cent. An interest charge computed as set forth in section 5725.221 44828
of the Revised Code shall be made on the entire sum of the tax 44829
plus penalty, which interest shall be computed from the date the 44830
tax is due until it is paid. For purposes of this section, payment 44831
is considered made when it is received by the treasurer of state, 44832
irrespective of any United States postal service marking or other 44833
stamp or mark indicating the date on which the payment may have 44834
been mailed. ~~This~~ 44835

~~(B) This~~ section does not apply to: 44836

~~(A) Insurance obtained pursuant to sections 3905.30 to 44837
3905.35 of the Revised Code;~~ 44838

~~(B)(1) Transactions in this state involving a policy 44839
solicited, written, and delivered outside this state covering only 44840
subjects of insurance not resident, located, or to be performed in 44841
this state at the time of issuance, provided such transactions are 44842
subsequent to the issuance of the policy;~~ 44843

~~(C)(2) Attorneys-at-law acting on behalf of their clients in 44844
the adjustment of claims or losses;~~ 44845

~~(D) Any insurance company underwriter issuing contracts of 44846
insurance to employer insureds or contracts of insurance issued to 44847
an employer insured. For purposes of this section an "employer 44848
insured" is an insured;~~ 44849

~~(1) Who procures the insurance of any risk or risks by use of 44850
the services of a full time employee acting as an insurance 44851~~

~~manager or buyer or the services of a regularly and continuously
qualified insurance consultant. As used in division (D)(1) of this
section, a "regularly and continuously qualified insurance
consultant" does not include any person licensed under Chapter
3905. of the Revised Code.~~

~~(2) Whose aggregate annual premiums for insurance on all
risks total at least twenty five thousand dollars; and~~

~~(3) Who has at least twenty five full time employees.~~

(3) Transactions involving policies issued by a captive
insurer. For this purpose, a "captive insurer" means any of the
following:

(a) An insurer owned by one or more individuals or
organizations, whose exclusive purpose is to insure risks of one
or more of the parent organizations or individual owners and risks
of one or more affiliates of the parent organizations or
individual owners;

(b) In the case of groups and associations, insurers owned by
the group or association whose exclusive purpose is to insure
risks of members of the group or association and affiliates of the
members;

(c) Other types of insurers, licensed and operated in
accordance with the captive insurance laws of their jurisdictions
of domicile and operated in a manner so as to self-insure risks of
their owners and insureds.

~~Each~~ (C) In transactions that are subject to sections 3905.30
to 3905.35 of the Revised Code, each person licensed under section
3905.30 of the Revised Code shall pay to the treasurer of state,
on or before the thirty-first day of January of each year, five
per cent of the balance of the gross premiums charged for
insurance placed or procured under the license after a deduction

for return premiums, as reported on a form prescribed by the 44882
treasurer of state. The tax shall be collected from the insured by 44883
the surplus line broker who placed or procured the policy of 44884
insurance at the time the policy is delivered to the insured. No 44885
license issued under section 3905.30 of the Revised Code shall be 44886
renewed until payment is made. If the tax is not paid when due, 44887
the tax shall be increased by a penalty of twenty-five per cent. 44888
An interest charge computed as set forth in section 5725.221 of 44889
the Revised Code shall be made on the entire sum of the tax plus 44890
penalty, which interest shall be computed from the date the tax is 44891
due until it is paid. For purposes of this section, payment is 44892
considered made when it is received by the treasurer of state, 44893
irrespective of any United States postal service marking or other 44894
stamp or mark indicating the date on which the payment may have 44895
been mailed. 44896

Sec. 3905.40. There shall be paid to the superintendent of 44897
insurance the following fees: 44898

(A) Each insurance company doing business in this state shall 44899
pay: 44900

(1) For filing a copy of its charter or deed of settlement, 44901
two hundred fifty dollars; 44902

(2) For filing each statement, ~~twenty-five~~ one hundred
seventy-five dollars; 44903
44904

(3) For each certificate of authority or license, one hundred
seventy-five, and for each certified copy thereof, five dollars; 44905
44906

(4) For each copy of a paper filed in the superintendent's 44907
office, twenty cents per page; 44908

(5) For issuing certificates of deposits or certified copies 44909
thereof, five dollars for the first certificate or copy and one 44910
dollar for each additional certificate or copy; 44911

(6) For issuing certificates of compliance or certified 44912
copies thereof, ~~twenty~~ sixty dollars; 44913

(7) For affixing the seal of office and certifying documents, 44914
other than those enumerated herein, two dollars. 44915

(B) Each domestic life insurance company doing business in 44916
this state shall pay for annual valuation of its policies, one 44917
cent on every one thousand dollars of insurance. 44918

~~(C) Each foreign insurance company doing business in this 44919
state shall pay for making and forwarding annually, semiannually, 44920
and quarterly the interest checks and coupons accruing upon bonds 44921
and securities deposited, fifty dollars each year on each one 44922
hundred thousand dollars deposited. 44923~~

~~(D)~~ Each applicant for licensure as an insurance agent shall 44924
pay ten dollars before admission to any examination required by 44925
the superintendent. Such fee shall not be paid by the appointing 44926
insurance company. 44927

~~(E)~~ (D) Each domestic mutual life insurance company shall pay 44928
for verifying that any amendment to its articles of incorporation 44929
was regularly adopted, two hundred fifty dollars with each 44930
application for verification. Any such amendment shall be 44931
considered to have been regularly adopted when approved by the 44932
affirmative vote of two-thirds of the policyholders present in 44933
person or by proxy at any annual meeting of policyholders or at a 44934
special meeting of policyholders called for that purpose. 44935

Sec. 3923.27. No policy of sickness and accident insurance 44936
delivered, issued for delivery, or renewed in this state after ~~the~~ 44937
~~effective date of this section~~ August 26, 1976, including both 44938
individual and group policies, that provides hospitalization 44939
coverage for mental illness shall exclude such coverage for the 44940
reason that the insured is hospitalized in an institution or 44941

facility receiving tax support from the state, any municipal 44942
corporation, county, or joint county board, whether such 44943
institution or facility is deemed charitable or otherwise, 44944
provided the institution or facility or portion thereof is fully 44945
accredited by the joint commission on accreditation of hospitals 44946
or certified under Titles XVIII and XIX of the "Social Security 44947
Act of 1935," 79 Stat. 291, 42 U.S.C.A. 1395, as amended. The 44948
insurance coverage shall provide payment amounting to the lesser 44949
of either the full amount of the statutory charge for the cost of 44950
the services pursuant to ~~division (B)(8) of section 5121.04~~ 44951
section 5121.33 of the Revised Code or the benefits payable for 44952
the services under the applicable insurance policy. Insurance 44953
benefits for the coverage shall be paid so long as patients and 44954
their liable relatives retain their statutory liability pursuant 44955
to ~~the requirements of sections 5121.01 to 5121.10~~ section 5121.33 44956
of the Revised Code. Only that portion or per cent of the benefits 44957
shall be payable that has been assigned, or ordered to be paid, to 44958
the state or other appropriate provider for services rendered by 44959
the institution or facility. 44960

Sec. 4112.12. (A) There is hereby created the commission on 44961
African-American males, which shall consist of not more than 44962
forty-one members as follows: the directors or their designees of 44963
the departments of health, development, alcohol and drug addiction 44964
services, job and family services, rehabilitation and correction, 44965
mental health, and youth services; the adjutant general or the 44966
adjutant general's designee; the equal employment opportunity 44967
officer of the department of administrative services or the equal 44968
employment opportunity officer's designee; the executive director 44969
or the executive director's designee of the Ohio civil rights 44970
commission; the executive director or the executive director's 44971
designee of the ~~office~~ division of criminal justice services in 44972
the department of public safety; the superintendent of public 44973

instruction; the chancellor or the chancellor's designee of the 44974
Ohio board of regents; two members of the house of representatives 44975
appointed by the speaker of the house of representatives; three 44976
members of the senate appointed by the president of the senate; 44977
and not more than twenty-three members appointed by the governor. 44978
The members appointed by the governor shall include an additional 44979
member of the governor's cabinet and at least one representative 44980
of each of the following: the national association for the 44981
advancement of colored people; the urban league; an organization 44982
representing black elected officials; an organization representing 44983
black attorneys; the black religious community; the black business 44984
community; the nonminority business community; and organized 44985
labor; at least one black medical doctor, one black elected member 44986
of a school board, and one black educator; and at least two 44987
representatives of local private industry councils. The remaining 44988
members that may be appointed by the governor shall be selected 44989
from elected officials, civic and community leaders, and 44990
representatives of the employment, criminal justice, education, 44991
and health communities. 44992

(B) Terms of office shall be for three years, with each term 44993
ending on the same day of the same month as did the term that it 44994
succeeds. Each member shall hold office from the date of 44995
appointment until the end of the term for which the member was 44996
appointed. Members may be reappointed. Vacancies shall be filled 44997
in the manner provided for original appointments. Any member 44998
appointed to fill a vacancy occurring prior to the expiration date 44999
of the term for which the member's predecessor was appointed shall 45000
hold office as a member for the remainder of that term. A member 45001
shall continue in office subsequent to the expiration date of the 45002
member's term until the member's successor takes office or until a 45003
period of sixty days has elapsed, whichever occurs first. 45004

The commission annually shall elect a chairperson from among 45005

its members. 45006

(C) Members of the commission and members of subcommittees 45007
appointed under division (B) of section 4112.13 of the Revised 45008
Code shall not be compensated, but shall be reimbursed for their 45009
necessary and actual expenses incurred in the performance of their 45010
official duties. 45011

(D)(1) The Ohio civil rights commission shall serve as the 45012
commission on African-American males' fiscal agent and shall 45013
perform all of the following services: 45014

(a) Prepare and process payroll and other personnel documents 45015
that the commission on African-American males approves; 45016

(b) Maintain ledgers of accounts and reports of account 45017
balances, and monitor budgets and allotment plans in consultation 45018
with the commission on African-American males; 45019

(c) Perform other routine support services that the executive 45020
director of the Ohio civil rights commission or the executive 45021
director's designee and the Commission on African-American males 45022
or its designee consider appropriate to achieve efficiency. 45023

(2) The Ohio civil rights commission shall not approve any 45024
payroll or other personnel-related documents or any biennial 45025
budget, grant, expenditure, audit, or fiscal-related document 45026
without the advice and consent of the commission on 45027
African-American males. 45028

(3) The Ohio civil rights commission shall determine fees to 45029
be charged to the commission on African-American males for 45030
services performed under this division, which shall be in 45031
proportion to the services performed for the commission on 45032
African-American males. 45033

(4) The commission on African-American males or its designee 45034
has: 45035

(a) Sole authority to draw funds for any federal program in which the commission is authorized to participate;	45036 45037
(b) Sole authority to expend funds from accounts for programs and any other necessary expenses the commission on African-American males may incur;	45038 45039 45040
(c) The duty to cooperate with the Ohio civil rights commission to ensure that the Ohio civil rights commission is fully apprised of all financial transactions.	45041 45042 45043
(E) The commission on African-American males shall appoint an executive director, who shall be in the unclassified civil service. The executive director shall supervise the commission's activities and report to the commission on the progress of those activities. The executive director shall do all things necessary for the efficient and effective implementation of the duties of the commission.	45044 45045 45046 45047 45048 45049 45050
The responsibilities assigned to the executive director do not relieve the members of the commission from final responsibility for the proper performance of the requirements of this division.	45051 45052 45053 45054
(F) The commission on African-American males shall:	45055
(1) Employ, promote, supervise, and remove all employees, as needed, in connection with the performance of its duties under this section;	45056 45057 45058
(2) Maintain its office in Columbus;	45059
(3) Acquire facilities, equipment, and supplies necessary to house the commission, its employees, and files and records under its control, and to discharge any duty imposed upon it by law. The expense of these acquisitions shall be audited and paid for in the same manner as other state expenses.	45060 45061 45062 45063 45064
(4) Prepare and submit to the office of budget and management	45065

a budget for each biennium in accordance with sections 101.55 and 45066
107.03 of the Revised Code. The budget submitted shall cover the 45067
costs of the commission and its staff in the discharge of any duty 45068
imposed upon the commission by law. The commission shall pay its 45069
own payroll and other operating expenses from appropriation items 45070
designated by the general assembly. The commission shall not 45071
delegate any authority to obligate funds. 45072

(5) Establish the overall policy and management of the 45073
commission in accordance with this chapter; 45074

(6) Follow all state procurement requirements; 45075

(7) Pay fees owed to the Ohio civil rights commission under 45076
division (D) of this section from the commission on 45077
African-American males' general revenue fund or from any other 45078
fund from which the operating expenses of the commission on 45079
African-American males are paid. Any amounts set aside for a 45080
fiscal year for the payment of such fees shall be used only for 45081
the services performed for the commission on African-American 45082
males by the Ohio civil rights commission in that fiscal year. 45083

(G) The commission on African-American males may: 45084

(1) Hold sessions at any place within the state; 45085

(2) Establish, change, or abolish positions, and assign and 45086
reassign duties and responsibilities of any employee of the 45087
commission on African-American males as necessary to achieve the 45088
most efficient performance of its functions. 45089

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the 45090
Revised Code: 45091

(A) "Public authority" means any officer, board, or 45092
commission of the state, or any political subdivision of the 45093
state, authorized to enter into a contract for the construction of 45094
a public improvement or to construct the same by the direct 45095

employment of labor, or any institution supported in whole or in 45096
part by public funds and said sections apply to expenditures of 45097
such institutions made in whole or in part from public funds. 45098

(B) "Construction" means either of the following: 45099

(1) Any new construction of any public improvement, the total 45100
overall project cost of which is fairly estimated to be more than 45101
fifty thousand dollars adjusted biennially by the director of 45102
commerce pursuant to section 4115.034 of the Revised Code and 45103
performed by other than full-time employees who have completed 45104
their probationary periods in the classified service of a public 45105
authority; 45106

(2) Any reconstruction, enlargement, alteration, repair, 45107
remodeling, renovation, or painting of any public improvement, the 45108
total overall project cost of which is fairly estimated to be more 45109
than fifteen thousand dollars adjusted biennially by the 45110
administrator pursuant to section 4115.034 of the Revised Code and 45111
performed by other than full-time employees who have completed 45112
their probationary period in the classified civil service of a 45113
public authority. 45114

(C) "Public improvement" includes all buildings, roads, 45115
streets, alleys, sewers, ditches, sewage disposal plants, water 45116
works, and all other structures or works constructed by a public 45117
authority of the state or any political subdivision thereof or by 45118
any person who, pursuant to a contract with a public authority, 45119
constructs any structure for a public authority of the state or a 45120
political subdivision thereof. When a public authority rents or 45121
leases a newly constructed structure within six months after 45122
completion of such construction, all work performed on such 45123
structure to suit it for occupancy by a public authority is a 45124
"public improvement." "Public improvement" does not include an 45125
improvement authorized by section 1515.08 of the Revised Code that 45126

is constructed pursuant to a contract with a soil and water
conservation district, as defined in section 1515.01 of the
Revised Code, or performed as a result of a petition filed
pursuant to Chapter 6131., 6133., or 6135. of the Revised Code,
wherein no less than seventy-five per cent of the project is
located on private land and no less than seventy-five per cent of
the cost of the improvement is paid for by private property owners
pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised
Code.

(D) "Locality" means the county wherein the physical work
upon any public improvement is being performed.

(E) "Prevailing wages" means the sum of the following:

(1) The basic hourly rate of pay;

(2) The rate of contribution irrevocably made by a contractor
or subcontractor to a trustee or to a third person pursuant to a
fund, plan, or program;

(3) The rate of costs to the contractor or subcontractor
which may be reasonably anticipated in providing the following
fringe benefits to laborers and mechanics pursuant to an
enforceable commitment to carry out a financially responsible plan
or program which was communicated in writing to the laborers and
mechanics affected:

(a) Medical or hospital care or insurance to provide such;

(b) Pensions on retirement or death or insurance to provide
such;

(c) Compensation for injuries or illnesses resulting from
occupational activities if it is in addition to that coverage
required by Chapters 4121. and 4123. of the Revised Code;

(d) Supplemental unemployment benefits that are in addition
to those required by Chapter 4141. of the Revised Code;

(e) Life insurance;	45157
(f) Disability and sickness insurance;	45158
(g) Accident insurance;	45159
(h) Vacation and holiday pay;	45160
(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;	45161 45162 45163
(j) Other bona fide fringe benefits.	45164
None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.	45165 45166 45167 45168
(F) "Interested party," with respect to a particular public improvement, means:	45169 45170
(1) Any person who submits a bid for the purpose of securing the award of a contract for construction of the public improvement;	45171 45172 45173
(2) Any person acting as a subcontractor of a person mentioned in division (F)(1) of this section;	45174 45175
(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person mentioned in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;	45176 45177 45178 45179 45180 45181
(4) Any association having as members any of the persons mentioned in division (F)(1) or (2) of this section.	45182 45183
(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an	45184 45185

office of trust, command, or authority in a corporation, business trust, partnership, or association. 45186
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Sec. 4115.032. Construction on any project, facility, or project facility to which section 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, or 3706.042 of the Revised Code applies is hereby deemed to be construction of a public improvement within section 4115.03 of the Revised Code. All contractors and subcontractors working on such projects, facilities, or project facilities shall be subject to and comply with sections 4115.03 to 4115.16 of the Revised Code, and the director of commerce shall ~~and any interested party may~~, bring proceedings under such sections to enforce compliance. 45188
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The director shall make the determination of wages as required under sections 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, and 3706.042 of the Revised Code and shall designate one of the director's employees to act as the prevailing wage coordinator under section 4115.071 for any project, facility, or project facility for which a coordinator has not been designated by any public authority. 45198
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Sec. 4115.071. (A) Each contracting public authority that enters into a contract other than a contract for printing, binding, and related services, whose contractor and subcontractors are subject to sections 4115.03 to 4115.16 of the Revised Code shall, no later than ten days before the first payment of wages is payable to any employee of any contractor or subcontractor, designate and appoint one of its own employees to serve as the prevailing wage coordinator during the life of the contract. The duties of the coordinator shall include: 45205
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(1) Setting up and maintaining, available for public inspection including inspection by ~~interested parties or~~ affected 45214
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employees, files of payroll reports and affidavits submitted by 45216
contractors and subcontractors pursuant to sections 4115.03 to 45217
4115.16 of the Revised Code; 45218

(2) Ascertaining from each contractor or subcontractor, at 45219
the beginning of performance under the contract, the dates during 45220
its life when payments of wages to employees are to be made; 45221

(3) Receiving from each contractor or subcontractor, a copy 45222
of the contractor's or subcontractor's complete payroll for each 45223
date exhibiting for each employee paid any wages, the employee's 45224
name, current address, social security number, number of hours 45225
worked each day during the pay period and the total for each week, 45226
the employee's hourly rate of pay, the employee's job 45227
classification, fringe payments, and deductions from the 45228
employee's wages; 45229

(4) Establishing and following procedures to monitor the 45230
compliance by each contractor and subcontractor with the 45231
requirement imposed by this section for timely filing of copies of 45232
payroll records; 45233

(5) Receiving from each contractor or subcontractor upon 45234
completion of the public improvement and prior to final payment 45235
therefor the affidavit required by section 4115.07 of the Revised 45236
Code; 45237

(6) Reporting any delinquency in the filing of the certified 45238
copy of the payroll and the affidavit to the chief officer of the 45239
contracting public authority and the director of commerce. 45240

(B) Any contracting public authority having a permanent 45241
employee with the title, powers, and functions described in 45242
division (A) of this section for the prevailing wage coordinator 45243
need not separately designate and appoint an employee for each 45244
public work contract entered into by the contracting public 45245
authority. 45246

(C) Every contractor and subcontractor who is subject to 45247
sections 4115.03 to 4115.16 of the Revised Code shall, upon 45248
beginning performance under the contractor's or subcontractor's 45249
contract with any contracting public authority, supply to the 45250
prevailing wage coordinator of the contracting public authority a 45251
schedule of the dates during the life of the contract with the 45252
authority on which the contractor or subcontractor is required to 45253
pay wages to employees. The contractor or subcontractor shall also 45254
deliver to the prevailing wage coordinator a certified copy of the 45255
contractor's or subcontractor's payroll, within two weeks after 45256
the initial pay date, and supplemental reports for each month 45257
thereafter which shall exhibit for each employee paid any wages, 45258
the employee's name, current address, social security number, 45259
number of hours worked during each day of the pay periods covered 45260
and the total for each week, the employee's hourly rate of pay, 45261
the employee's job classification, fringe payments, and deductions 45262
from the employee's wages. If the life of the contract is expected 45263
to be no more than four months from the beginning of performance 45264
by the contractor or subcontractor, such supplemental reports 45265
shall be filed each week after the initial report. The 45266
certification of each payroll shall be executed by the contractor, 45267
subcontractor, or duly appointed agent thereof and shall recite 45268
that the payroll is correct and complete and that the wage rates 45269
shown are not less than those required by the contract. 45270

(D) If it is found that a public authority or prevailing wage 45271
coordinator has not complied with this section, the director shall 45272
give notice thereof in writing to the public authority or 45273
prevailing wage coordinator. Sufficient time shall be allowed for 45274
compliance as the director deems necessary. At the expiration of 45275
the time prescribed in the notice, the director shall, in writing, 45276
inform the attorney general of the fact that notice has been given 45277
and that the public authority or prevailing wage coordinator to 45278

whom it was directed has not complied with it. On receipt thereof, 45279
the attorney general shall bring suit in the name of the state in 45280
the court of common pleas of the county in which the public 45281
authority is located, to require the public authority or 45282
prevailing wage coordinator to comply with this section. 45283

Sec. ~~4115.21~~ 4115.16. A person who files a complaint with the 45284
director of commerce alleging a violation of sections 4115.03 to 45285
4115.16 of the Revised Code shall file the complaint within two 45286
years after the completion of the public improvement upon which 45287
the violation is alleged to have occurred or be barred from 45288
further administrative action under this chapter. 45289

Sec. 4115.32. (A) ~~There~~ Subject to section 4115.36 of the 45290
Revised Code, there is hereby created the state committee for the 45291
purchase of products and services provided by persons with severe 45292
disabilities. The committee shall be composed ex officio of the 45293
following persons, or their designees: 45294

(1) The directors of administrative services, mental health, 45295
mental retardation and developmental disabilities, transportation, 45296
natural resources, and commerce; 45297

(2) The administrators of the rehabilitation services 45298
commission and the bureau of workers' compensation; 45299

(3) The secretary of state; 45300

(4) One representative of a purchasing department of a 45301
political subdivision who is designated by the governor. 45302

The governor shall appoint two representatives of a qualified 45303
nonprofit agency for persons with severe disabilities, and a 45304
person with a severe disability to the committee. 45305

(B) Within thirty days after September 29, 1995, the governor 45306
shall appoint the representatives of a qualified nonprofit agency 45307

for persons with severe disabilities to the committee for a term 45308
ending August 31, 1996. Thereafter, terms for such representatives 45309
are for three years, each term ending on the same day of the same 45310
month of the year as did the term that it succeeds. Each committee 45311
member shall serve from the date of the member's appointment until 45312
the end of the term for which the member was appointed. Vacancies 45313
shall be filled in the same manner provided for original 45314
appointments. Any member appointed to fill a vacancy occurring 45315
prior to the expiration date of the term for which the member's 45316
predecessor was appointed shall serve as a member for the 45317
remainder of that term. A member shall serve subsequent to the 45318
expiration of the member's term and shall continue to serve until 45319
the member's successor takes office. 45320

(C) Members of the committee shall serve without 45321
compensation. Except as otherwise provided in divisions (C)(1) and 45322
(2) of this section, members shall be reimbursed for actual and 45323
necessary expenses, including travel expenses, incurred while away 45324
from their homes or regular places of business and incurred while 45325
performing services for the committee. 45326

(1) The members listed in divisions (A)(1) to (3) of this 45327
section, or their designees, shall not be reimbursed for any 45328
expenses. 45329

(2) No member of the committee who is entitled to receive 45330
reimbursement for the performance of services for the committee 45331
from another agency or entity shall receive reimbursement from the 45332
committee. 45333

(D) The committee shall elect from among its members a 45334
chairperson. The committee may request from any agency of the 45335
state, political subdivision, or instrumentality of the state any 45336
information necessary to enable it to carry out the intent of 45337
sections 4115.31 to 4115.35 of the Revised Code. Upon request of 45338

the committee, the agency, subdivision, or instrumentality shall 45339
furnish the information to the chairperson of the committee. 45340

(E) The committee shall not later than one hundred eighty 45341
days following the close of each fiscal year transmit to the 45342
governor, the general assembly, and each qualified nonprofit 45343
agency for persons with severe disabilities a report that includes 45344
the names of the committee members serving during the preceding 45345
fiscal year, the dates of committee meetings in that year, and any 45346
recommendations for changes in sections 4115.31 to 4115.35 of the 45347
Revised Code that the committee determines are necessary. 45348

(F) The director of ~~mental retardation and developmental~~ 45349
~~disabilities~~ administrative services shall designate a subordinate 45350
to act as executive director of the committee and shall furnish 45351
other staff and clerical assistance, office space, and supplies 45352
required by the committee. 45353

Sec. 4115.34. (A) ~~If~~ Except as provided in section 4115.36 of 45354
the Revised Code, if any state agency, political subdivision, or 45355
instrumentality of the state intends to procure any product or 45356
service, it shall determine whether the product or service is on 45357
the procurement list published pursuant to section 4115.33 of the 45358
Revised Code; and it shall, in accordance with rules of the state 45359
committee for the purchase of products and services provided by 45360
persons with severe disabilities, procure such product or service 45361
at the fair market price established by the committee from a 45362
qualified nonprofit agency for persons with severe disabilities, 45363
if the product or service is on the procurement list and is 45364
available within the period required by that agency, subdivision, 45365
or instrumentality, notwithstanding any law requiring the purchase 45366
of products and services on a competitive bid basis. Sections 45367
4115.31 to 4115.35 of the Revised Code do not apply if the 45368
products or services are available for procurement from any state 45369

agency, political subdivision, or instrumentality of the state and 45370
procurement from such agency, subdivision, or instrumentality is 45371
required under any law in effect on August 13, 1976. 45372

(B) The committee and any state agency, political 45373
subdivision, or instrumentality of the state may enter into 45374
contractual agreements, cooperative working relationships, or 45375
other arrangements determined necessary for effective coordination 45376
and efficient realization of the objectives of sections 4115.31 to 45377
4115.35 of the Revised Code and any other law requiring 45378
procurement of products or services from any state agency, 45379
political subdivision, or instrumentality of the state. 45380

(C) Notwithstanding any other section of the Revised Code, or 45381
any appropriations act, that may require a state agency, political 45382
subdivision, or instrumentality of the state to purchase supplies, 45383
services, or materials by means of a competitive bid procedure, 45384
state agencies, political subdivisions, or instrumentalities of 45385
the state need not utilize the required bidding procedures if the 45386
supplies, services, or materials are to be purchased from a 45387
qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 45388
of the Revised Code. 45389

Sec. 4115.36. Sections 4115.31 to 4115.35 of the Revised Code 45390
have no effect after the director of administrative services 45391
abolishes the state committee for the purchase of products and 45392
services provided by persons with severe disabilities. Upon 45393
abolishment of the committee, sections 125.60 to 125.6012 of the 45394
Revised Code shall govern the procurement of products and services 45395
provided by persons with work-limiting disabilities from qualified 45396
nonprofit agencies. 45397

Sec. 4117.10. (A) An agreement between a public employer and 45398
an exclusive representative entered into pursuant to this chapter 45399

governs the wages, hours, and terms and conditions of public 45400
employment covered by the agreement. If the agreement provides for 45401
a final and binding arbitration of grievances, public employers, 45402
employees, and employee organizations are subject solely to that 45403
grievance procedure and the state personnel board of review or 45404
civil service commissions have no jurisdiction to receive and 45405
determine any appeals relating to matters that were the subject of 45406
a final and binding grievance procedure. Where no agreement exists 45407
or where an agreement makes no specification about a matter, the 45408
public employer and public employees are subject to all applicable 45409
state or local laws or ordinances pertaining to the wages, hours, 45410
and terms and conditions of employment for public employees. Laws 45411
pertaining to civil rights, affirmative action, unemployment 45412
compensation, workers' compensation, the retirement of public 45413
employees, and residency requirements, the minimum educational 45414
requirements contained in the Revised Code pertaining to public 45415
education including the requirement of a certificate by the fiscal 45416
officer of a school district pursuant to section 5705.41 of the 45417
Revised Code, the provisions of division (A) of section 124.34 of 45418
the Revised Code governing the disciplining of officers and 45419
employees who have been convicted of a felony, and the minimum 45420
standards promulgated by the state board of education pursuant to 45421
division (D) of section 3301.07 of the Revised Code prevail over 45422
conflicting provisions of agreements between employee 45423
organizations and public employers. The law pertaining to the 45424
leave of absence and compensation provided under section 5923.05 45425
of the Revised Code prevails over any conflicting provisions of 45426
such agreements if the terms of the agreement contain benefits 45427
which are less than those contained in that section or the 45428
agreement contains no such terms and the public authority is the 45429
state or any agency, authority, commission, or board of the state 45430
or if the public authority is another entity listed in division 45431
(B) of section 4117.01 of the Revised Code that elects to provide 45432

leave of absence and compensation as provided in section 5923.05 45433
of the Revised Code. Except for sections 306.08, 306.12, 306.35, 45434
and 4981.22 of the Revised Code and arrangements entered into 45435
thereunder, and section 4981.21 of the Revised Code as necessary 45436
to comply with section 13(c) of the "Urban Mass Transportation Act 45437
of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and 45438
arrangements entered into thereunder, this chapter prevails over 45439
any and all other conflicting laws, resolutions, provisions, 45440
present or future, except as otherwise specified in this chapter 45441
or as otherwise specified by the general assembly. Nothing in this 45442
section prohibits or shall be construed to invalidate the 45443
provisions of an agreement establishing supplemental workers' 45444
compensation or unemployment compensation benefits or exceeding 45445
minimum requirements contained in the Revised Code pertaining to 45446
public education or the minimum standards promulgated by the state 45447
board of education pursuant to division (D) of section 3301.07 of 45448
the Revised Code. 45449

(B) The public employer shall submit a request for funds 45450
necessary to implement an agreement and for approval of any other 45451
matter requiring the approval of the appropriate legislative body 45452
to the legislative body within fourteen days of the date on which 45453
the parties finalize the agreement, unless otherwise specified, 45454
but if the appropriate legislative body is not in session at the 45455
time, then within fourteen days after it convenes. The legislative 45456
body must approve or reject the submission as a whole, and the 45457
submission is deemed approved if the legislative body fails to act 45458
within thirty days after the public employer submits the 45459
agreement. The parties may specify that those provisions of the 45460
agreement not requiring action by a legislative body are effective 45461
and operative in accordance with the terms of the agreement, 45462
provided there has been compliance with division (C) of this 45463
section. If the legislative body rejects the submission of the 45464
public employer, either party may reopen all or part of the entire 45465

agreement. 45466

As used in this section, "legislative body" includes ~~the~~ 45467
~~general assembly,~~ the governing board of a municipal corporation, 45468
school district, college or university, village, township, or 45469
board of county commissioners or any other body that has authority 45470
to approve the budget of their public jurisdiction and, with 45471
regard to the state, "legislative body" means the controlling 45472
board. 45473

(C) The chief executive officer, or the chief executive 45474
officer's representative, of each municipal corporation, the 45475
designated representative of the board of education of each school 45476
district, college or university, or any other body that has 45477
authority to approve the budget of their public jurisdiction, the 45478
designated representative of the board of county commissioners and 45479
of each elected officeholder of the county whose employees are 45480
covered by the collective negotiations, and the designated 45481
representative of the village or the board of township trustees of 45482
each township is responsible for negotiations in the collective 45483
bargaining process; except that the legislative body may accept or 45484
reject a proposed collective bargaining agreement. When the 45485
matters about which there is agreement are reduced to writing and 45486
approved by the employee organization and the legislative body, 45487
the agreement is binding upon the legislative body, the employer, 45488
and the employee organization and employees covered by the 45489
agreement. 45490

(D) There is hereby established an office of collective 45491
bargaining in the department of administrative services for the 45492
purpose of negotiating with and entering into written agreements 45493
between state agencies, departments, boards, and commissions and 45494
the exclusive representative on matters of wages, hours, terms and 45495
other conditions of employment and the continuation, modification, 45496
or deletion of an existing provision of a collective bargaining 45497

agreement. Nothing in any provision of law to the contrary shall
be interpreted as excluding the bureau of workers' compensation
and the industrial commission from the preceding sentence. This
office shall not negotiate on behalf of other statewide elected
officials or boards of trustees of state institutions of higher
education who shall be considered as separate public employers for
the purposes of this chapter; however, the office may negotiate on
behalf of these officials or trustees where authorized by the
officials or trustees. The staff of the office of collective
bargaining are in the unclassified service. The director of
administrative services shall fix the compensation of the staff.

The office of collective bargaining shall:

(1) Assist the director in formulating management's
philosophy for public collective bargaining as well as planning
bargaining strategies;

(2) Conduct negotiations with the exclusive representatives
of each employee organization;

(3) Coordinate the state's resources in all mediation,
fact-finding, and arbitration cases as well as in all labor
disputes;

(4) Conduct systematic reviews of collective bargaining
agreements for the purpose of contract negotiations;

(5) Coordinate the systematic compilation of data by all
agencies that is required for negotiating purposes;

(6) Prepare and submit an annual report and other reports as
requested to the governor and the general assembly on the
implementation of this chapter and its impact upon state
government.

Sec. 4117.103. Notwithstanding any provision of section
4117.08 or 4117.10 of the Revised Code to the contrary, no

agreement entered into under this chapter on or after the 45528
effective date of this section shall prohibit a school district 45529
board of education from utilizing volunteers to assist the 45530
district and its schools in performing any of their functions, 45531
other than functions for which a license, permit, or certificate 45532
issued by the state board of education under section 3301.074 or 45533
Chapter 3319. of the Revised Code or a certificate issued under 45534
division (A) or (B) of section 3327.10 of the Revised Code is 45535
required. 45536

Sec. 4117.24. The training ~~and~~, publications, and grants fund 45537
is hereby created in the state treasury. The state employment 45538
relations board shall deposit into the training ~~and~~, publications, 45539
and grants fund all ~~payments~~ moneys received from the following 45540
sources: 45541

(A) Payments received by the board for copies of documents, 45542
rulebooks, and other publications; ~~fees~~ 45543

(B) Fees received from seminar participants; ~~and receipts~~ 45544

(C) Receipts from the sale of clearinghouse data; 45545

(D) Moneys received from grants, donations, awards, bequests, 45546
gifts, reimbursements, and similar funds; 45547

(E) Reimbursement received for professional services and 45548
expenses related to professional services; 45549

(F) Funds received to support the development of labor 45550
relations services and programs. The state employment relations 45551
board shall use all moneys deposited into the training ~~and~~, 45552
publications, and grants fund to defray the costs of furnishing 45553
and making available copies of documents, rulebooks, and other 45554
publications; the costs of planning, organizing, and conducting 45555
training seminars; ~~the costs associated with grant projects,~~ 45556

innovative labor-management cooperation programs, research 45557
projects related to these grants and programs, and the advancement 45558
in professionalism of public sector relations; the professional 45559
development of board employees; and the costs of compiling 45560
clearinghouse data. 45561

The board may seek, solicit, apply for, receive, and accept 45562
grants, gifts, and contributions of money, property, labor, and 45563
other things of value to be held for, used for, and applied to 45564
only the purpose for which the grants, gifts, and contributions 45565
are made, from individuals, private and public corporations, the 45566
United States or any agency thereof, the state or any agency 45567
thereof, and any political subdivision of the state, and may enter 45568
into any contract with any such public or private source in 45569
connection therewith to be held for, used for, and applied to only 45570
the purposes for which such grants are made and contracts are 45571
entered into, all subject to and in accordance with the purposes 45572
of this chapter. Any money received from the grants, gifts, 45573
contributions, or contracts shall be deposited into the training, 45574
publications, and grants fund. 45575

Sec. 4121.12. (A) There is hereby created the workers' 45576
compensation oversight commission consisting of ~~nine~~ eleven 45577
members, of which members the governor shall appoint five with the 45578
advice and consent of the senate. Of the five members the governor 45579
appoints, two shall be individuals who, on account of their 45580
previous vocation, employment, or affiliations, can be classed as 45581
representative of employees, at least one of whom is 45582
representative of employees who are members of an employee 45583
organization; two shall be individuals who, on account of their 45584
previous vocation, employment, or affiliations, can be classed as 45585
representative of employers, one of whom represents self-insuring 45586
employers and one of whom has experience as an employer in 45587
compliance with section 4123.35 of the Revised Code other than a 45588

self-insuring employer, and one of those two representatives also 45589
shall represent employers whose employees are not members of an 45590
employee organization; and one shall represent the public and also 45591
be an individual who, on account of the individual's previous 45592
vocation, employment, or affiliations, cannot be classed as either 45593
predominantly representative of employees or of employers. The 45594
governor shall select the chairperson of the commission who shall 45595
serve as chairperson at the pleasure of the governor. No more than 45596
three members appointed by the governor shall belong to or be 45597
affiliated with the same political party. 45598

Each of these five members shall have at least three years' 45599
experience in the field of insurance, finance, workers' 45600
compensation, law, accounting, actuarial, personnel, investments, 45601
or data processing, or in the management of an organization whose 45602
size is commensurate with that of the bureau of workers' 45603
compensation. At least one of these five members shall be an 45604
attorney licensed under Chapter 4705. of the Revised Code to 45605
practice law in this state. 45606

(B) Of the initial appointments made to the commission, the 45607
governor shall appoint one member who represents employees to a 45608
term ending one year after September 1, 1995, one member who 45609
represents employers to a term ending two years after September 1, 45610
1995, the member who represents the public to a term ending three 45611
years after September 1, 1995, one member who represents employees 45612
to a term ending four years after September 1, 1995, and one 45613
member who represents employers to a term ending five years after 45614
September 1, 1995. Thereafter, terms of office shall be for ~~five~~ 45615
three years, with each term ending on the same day of the same 45616
month as did the term that it succeeds. Each member shall hold 45617
office from the date of the member's appointment until the end of 45618
the term for which the member was appointed. 45619

The governor shall not appoint any person to more than two 45620

full terms of office on the commission. This restriction does not
prevent the governor from appointing a person to fill a vacancy
caused by the death, resignation, or removal of a commission
member and also appointing that person twice to full terms on the
commission, or from appointing a person previously appointed to
fill less than a full term twice to full terms on the commission.
Any member appointed to fill a vacancy occurring prior to the
expiration date of the term for which the member's predecessor was
appointed shall hold office as a member for the remainder of that
term. A member shall continue in office subsequent to the
expiration date of the member's term until a successor takes
office or until a period of sixty days has elapsed, whichever
occurs first.

(C) In making appointments to the commission, the governor
shall select the members from the list of names submitted by the
workers' compensation oversight commission nominating committee
pursuant to this division. Within fourteen days after the governor
calls the initial meeting of the nominating committee pursuant to
division (C) of section 4121.123 of the Revised Code, the
nominating committee shall submit to the governor, for the initial
appointments, a list containing four separate names for each of
the members on the commission. Within fourteen days after the
submission of the list, the governor shall appoint individuals
from the list.

For the appointment of the member who is representative of
employees who are members of an employee organization, both for
initial appointments and for the filling of vacancies, the list of
four names submitted by the nominating committee shall be
comprised of four individuals who are members of the executive
committee of the largest statewide labor federation.

Thereafter, within sixty days after a vacancy occurring as a
result of the expiration of a term and within thirty days after

other vacancies occurring on the commission, the nominating
committee shall submit a list containing four names for each
vacancy. Within fourteen days after the submission of the list,
the governor shall appoint individuals from the list. With respect
to the filling of vacancies, the nominating committee shall
provide the governor with a list of four individuals who are, in
the judgment of the nominating committee, the most fully qualified
to accede to membership on the commission. The nominating
committee shall not include the name of an individual upon the
list for the filling of vacancies if the appointment of that
individual by the governor would result in more than three members
of the commission belonging to or being affiliated with the same
political party. The committee shall include on the list for the
filling of vacancies only the names of attorneys admitted to
practice law in this state if, to fulfill the requirement of
division (A) of section 4121.12 of the Revised Code, the vacancy
must be filled by an attorney.

In order for the name of an individual to be submitted to the
governor under this division, the nominating committee shall
approve the individual by an affirmative vote of a majority of its
members.

(D) The commission shall also consist of two members, known
as the investment expert members. One investment expert member
shall be appointed by the treasurer of state and one investment
expert member shall be jointly appointed by the speaker of the
house of representatives and the president of the senate. Each
investment expert member shall have the following qualifications:

(1) Be a resident of this state:

(2) Within the three years immediately preceding the
appointment, not have been employed by the bureau of workers'
compensation or by any person, partnership, or corporation that

has provided to the bureau services of a financial or investment 45684
nature, including the management, analysis, supervision, or 45685
investment of assets; 45686

(3) Have direct experience in the management, analysis, 45687
supervision, or investment of assets. 45688

Terms of office of the investment expert members shall be for 45689
three years, with each term ending on the same day of the same 45690
month as did the term that it succeeds. Each member shall hold 45691
office for the date of the member's appointment until the end of 45692
the term for which the member was appointed. The president, 45693
speaker, and treasurer shall not appoint any person to more than 45694
two full terms of office on the commission. This restriction does 45695
not prevent the president, speaker, and treasurer from appointing 45696
a person to fill a vacancy caused by the death, resignation, or 45697
removal of a commission member and also appointing that person 45698
twice to full terms on the commission, or from appointing a person 45699
previously appointed to fill less than a full term twice to full 45700
terms on the commission. Any investment expert member appointed to 45701
fill a vacancy occurring prior to the expiration of the term for 45702
which the member's predecessor was appointed shall hold office 45703
until the end of that term. The member shall continue in office 45704
subsequent to the expiration date of the member's term until the 45705
member's successor takes office or until a period of sixty days 45706
has elapsed, whichever occurs first. 45707

The investment expert members of the oversight commission 45708
shall vote only on investment matters. 45709

(E) The remaining four members of the commission shall be the 45710
chairperson and ranking minority member of the standing committees 45711
of the house of representatives and of the senate to which 45712
legislation concerning this chapter and Chapters 4123., 4127., and 45713
4131. of the Revised Code normally are referred, or a designee of 45714

the chairperson or ranking minority member, provided that the 45715
designee is a member of the standing committee. Legislative 45716
members shall serve during the session of the general assembly to 45717
which they are elected and for as long as they are members of the 45718
general assembly. Legislative members shall serve in an advisory 45719
capacity to the commission and shall have no voting rights on 45720
matters coming before the commission. Membership on the commission 45721
by legislative members shall not be deemed as holding a public 45722
office. 45723

~~(E)(F)~~ All members of the commission shall receive their 45724
reasonable and necessary expenses pursuant to section 126.31 of 45725
the Revised Code while engaged in the performance of their duties 45726
as members. ~~Legislative members also shall receive fifty dollars~~ 45727
~~per meeting that they attend.~~ Members appointed by the governor 45728
and the investment expert members also shall receive an annual 45729
salary as follows: 45730

~~(1) On and before August 31, 1998, not to exceed six thousand~~ 45731
~~dollars payable at the rate of five hundred dollars per month. A~~ 45732
~~member shall receive the monthly five hundred dollar salary only~~ 45733
~~if the member has attended at least one meeting of the commission~~ 45734
~~during that month. A member may receive no more than the monthly~~ 45735
~~five hundred dollar salary regardless of the number of meetings~~ 45736
~~held by the commission during a month or the number of meetings in~~ 45737
~~excess of one within a month that the member attends.~~ 45738

~~(2) After August 31, 1998, not to exceed eighteen thousand~~ 45739
dollars payable on the following basis: 45740

~~(a)(1)~~ Except as provided in division ~~(E)(F)(2)(b)~~ of this 45741
section, a member shall receive two thousand dollars during a 45742
month in which the member attends one or more meetings of the 45743
commission and shall receive no payment during a month in which 45744
the member attends no meeting of the commission. 45745

~~(b)~~(2) A member may receive no more than the annual eighteen 45746
thousand dollar salary regardless of the number of meetings held 45747
by the commission during a year or the number of meetings in 45748
excess of nine within a year that the member attends. 45749

The chairperson of the commission shall set the meeting dates 45750
of the commission as necessary to perform the duties of the 45751
commission under this chapter and Chapters 4123., 4127., and 4131. 45752
of the Revised Code. The commission shall meet at least nine times 45753
during the period commencing on the first day of September and 45754
ending on the thirty-first day of August of the following year. 45755
The administrator of workers' compensation shall provide 45756
professional and clerical assistance to the commission, as the 45757
commission considers appropriate. 45758

~~(F)~~(G) The commission shall: 45759

(1) Review progress of the bureau in meeting its cost and 45760
quality objectives and in complying with this chapter and Chapters 45761
4123., 4127., and 4131. of the Revised Code; 45762

(2) Issue an annual report on the cost and quality objectives 45763
of the bureau to the president of the senate, the speaker of the 45764
house of representatives, and the governor; 45765

(3) Review all independent financial audits of the bureau. 45766
The administrator shall provide access to records of the bureau to 45767
facilitate the review required under this division. 45768

(4) Study issues as requested by the administrator or the 45769
governor; 45770

(5) Contract with an independent actuarial firm to assist the 45771
commission in making recommendations to the administrator 45772
regarding premium rates; 45773

(6) Establish objectives, policies, and criteria for the 45774
administration of the investment program that include asset 45775

allocation targets and ranges, risk factors, asset class 45776
benchmarks, time horizons, total return objectives, and 45777
performance evaluation guidelines, and monitor the administrator's 45778
progress in implementing the objectives, policies, and criteria on 45779
a quarterly basis. The commission shall review and publish the 45780
objectives, policies, and criteria no less than annually and shall 45781
make copies available to interested parties. The commission shall 45782
prohibit, on a prospective basis, any specific investment activity 45783
it finds to be contrary to its investment objectives, policies, 45784
and criteria. 45785

~~The investment policy in existence on March 7, 1997, shall 45786
continue until the commission approves objectives, policies, and 45787
criteria for the administration of the investment program pursuant 45788
to this section. 45789~~

The objectives, policies, and criteria adopted by the 45790
commission for the operation of the investment program shall 45791
prohibit investing assets of funds, directly or indirectly, in 45792
vehicles that target any of the following: 45793

(a) Coins; 45794

(b) Artwork; 45795

(c) Horses; 45796

(d) Jewelry or gems; 45797

(e) Stamps; 45798

(f) Antiques; 45799

(g) Artifacts; 45800

(h) Collectibles; 45801

(i) Memorabilia; 45802

(j) Similar unregulated investments that are not commonly 45803
part of an institutional portfolio, that lack liquidity, and that 45804

lack readily determinable valuation. 45805

(7) Specify in the objectives, policies, and criteria for the investment program that the administrator is permitted to invest in an investment class only if the commission, by a majority vote, opens that class. After the commission opens a class but prior to the administrator investing in that class, the commission shall adopt rules establishing due diligence standards for employees' of the bureau to follow when investing in that class and shall establish policies and procedures to review and monitor the performance and value of each investment class. The commission shall submit a report annually on the performance and value of each investment class to the governor, the president of the senate, and the speaker of the house of representatives. The commission may vote to close any investment class. 45806
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(8) Advise and consent on all of the following: 45819

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating; 45820
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(b) The overall policy of the bureau of workers' compensation as set by the administrator; 45826
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(c) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code; 45828
45829

(d) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code; 45830
45831
45832

(e) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk 45833
45834

reduction program and the protection of public health care workers 45835
from exposure incidents. 45836

As used in this division, "public health care worker" and 45837
"exposure incident" have the same meanings as in section 4167.25 45838
of the Revised Code. 45839

~~(8)~~(9) Perform all duties required under section 4121.125 of 45840
the Revised Code. 45841

~~(G)~~(H) The office of a member of the commission who is 45842
convicted of or pleads guilty to a felony, a theft offense as 45843
defined in section 2913.01 of the Revised Code, or a violation of 45844
section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 45845
2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code 45846
shall be deemed vacant. The vacancy shall be filled in the same 45847
manner as the original appointment. A person who has pleaded 45848
guilty to or been convicted of an offense of that nature is 45849
ineligible to be a member of the commission. A member who receives 45850
a bill of indictment for any of the offenses specified in this 45851
section shall be automatically suspended from the commission 45852
pending resolution of the criminal matter. 45853

(I) As used in this section, "employee organization" means 45854
any labor or bona fide organization in which employees participate 45855
and which exists for the purpose, in whole or in part, of dealing 45856
with employers concerning grievances, labor disputes, wages, 45857
hours, terms and other conditions of employment. 45858

Sec. 4121.121. (A) There is hereby created the bureau of 45859
workers' compensation, which shall be administered by the 45860
administrator of workers' compensation. A person appointed to the 45861
position of administrator shall possess significant management 45862
experience in effectively managing an organization or 45863
organizations of substantial size and complexity. The governor 45864

shall appoint the administrator as provided in section 121.03 of 45865
the Revised Code, and the administrator shall serve at the 45866
pleasure of the governor. The governor shall fix the 45867
administrator's salary on the basis of the administrator's 45868
experience and the administrator's responsibilities and duties 45869
under this chapter and Chapters 4123., 4127., 4131., and 4167. of 45870
the Revised Code. The governor shall not appoint to the position 45871
of administrator any person who has, or whose spouse has, given a 45872
contribution to the campaign committee of the governor in an 45873
amount greater than one thousand dollars during the two-year 45874
period immediately preceding the date of the appointment of the 45875
administrator. 45876

The administrator shall hold no other public office and shall 45877
devote full time to the duties of administrator. Before entering 45878
upon the duties of the office, the administrator shall take an 45879
oath of office as required by sections 3.22 and 3.23 of the 45880
Revised Code, and shall file in the office of the secretary of 45881
state, a bond signed by the administrator and by surety approved 45882
by the governor, for the sum of fifty thousand dollars payable to 45883
the state, conditioned upon the faithful performance of the 45884
administrator's duties. 45885

(B) The administrator is responsible for the management of 45886
the bureau of workers' compensation and for the discharge of all 45887
administrative duties imposed upon the administrator in this 45888
chapter and Chapters 4123., 4127., 4131., and 4167. of the Revised 45889
Code, and in the discharge thereof shall do all of the following: 45890

(1) Establish the overall administrative policy of the bureau 45891
for the purposes of this chapter and Chapters 4123., 4127., 4131., 45892
and 4167. of the Revised Code, and perform all acts and exercise 45893
all authorities and powers, discretionary and otherwise that are 45894
required of or vested in the bureau or any of its employees in 45895
this chapter and Chapters 4123., 4127., 4131., and 4167. of the 45896

Revised Code, except the acts and the exercise of authority and
power that is required of and vested in the oversight commission
or the industrial commission pursuant to those chapters. The
treasurer of state shall honor all warrants signed by the
administrator, or by one or more of the administrator's employees,
authorized by the administrator in writing, or bearing the
facsimile signature of the administrator or such employee under
sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in
connection with the performance of the duties assigned to the
bureau by this chapter and Chapters 4123., 4127., 4131., and 4167.
of the Revised Code, and may establish job classification plans
and compensation for all employees of the bureau provided that
this grant of authority shall not be construed as affecting any
employee for whom the state employment relations board has
established an appropriate bargaining unit under section 4117.06
of the Revised Code. All positions of employment in the bureau are
in the classified civil service except those employees the
administrator may appoint to serve at the administrator's pleasure
in the unclassified civil service pursuant to section 124.11 of
the Revised Code. The administrator shall fix the salaries of
employees the administrator appoints to serve at the
administrator's pleasure, including the chief operating officer,
staff physicians, and other senior management personnel of the
bureau and shall establish the compensation of staff attorneys of
the bureau's legal section and their immediate supervisors, and
take whatever steps are necessary to provide adequate compensation
for other staff attorneys.

The administrator may appoint a person holding a certified
position in the classified service to any state position in the
unclassified service of the bureau of workers' compensation. A
person so appointed shall retain the right to resume the position

and status held by the person in the classified service 45929
immediately prior to the person's appointment in the unclassified 45930
service. If the position the person previously held has been 45931
filled or placed in the unclassified service, or is otherwise 45932
unavailable, the person shall be appointed to a position in the 45933
classified service within the bureau that the department of 45934
administrative services certifies is comparable in compensation to 45935
the position the person previously held. Reinstatement to a 45936
position in the classified service shall be to a position 45937
substantially equal to that held previously, as certified by the 45938
department of administrative services. Service in the position in 45939
the unclassified service shall be counted as service in the 45940
position in the classified service held by the person immediately 45941
prior to the person's appointment in the unclassified service. 45942
When a person is reinstated to a position in the classified 45943
service as provided in this section, the person is entitled to all 45944
rights, status, and benefits accruing to the position during the 45945
person's time of service in the position in the unclassified 45946
service. 45947

(3) Reorganize the work of the bureau, its sections, 45948
departments, and offices to the extent necessary to achieve the 45949
most efficient performance of its functions and to that end may 45950
establish, change, or abolish positions and assign and reassign 45951
duties and responsibilities of every employee of the bureau. All 45952
persons employed by the commission in positions that, after 45953
November 3, 1989, are supervised and directed by the administrator 45954
under this section are transferred to the bureau in their 45955
respective classifications but subject to reassignment and 45956
reclassification of position and compensation as the administrator 45957
determines to be in the interest of efficient administration. The 45958
civil service status of any person employed by the commission is 45959
not affected by this section. Personnel employed by the bureau or 45960

the commission who are subject to Chapter 4117. of the Revised
Code shall retain all of their rights and benefits conferred
pursuant to that chapter as it presently exists or is hereafter
amended and nothing in this chapter or Chapter 4123. of the
Revised Code shall be construed as eliminating or interfering with
Chapter 4117. of the Revised Code or the rights and benefits
conferred under that chapter to public employees or to any
bargaining unit.

(4) Provide offices, equipment, supplies, and other
facilities for the bureau.

(5) Prepare and submit to the oversight commission
information the administrator considers pertinent or the oversight
commission requires, together with the administrator's
recommendations, in the form of administrative rules, for the
advice and consent of the oversight commission, for
classifications of occupations or industries, for premium rates
and contributions, for the amount to be credited to the surplus
fund, for rules and systems of rating, rate revisions, and merit
rating. The administrator shall obtain, prepare, and submit any
other information the oversight commission requires for the prompt
and efficient discharge of its duties.

(6) Keep the accounts required by division (A) of section
4123.34 of the Revised Code and all other accounts and records
necessary to the collection, administration, and distribution of
the workers' compensation funds and shall obtain the statistical
and other information required by section 4123.19 of the Revised
Code.

(7) Exercise the investment powers vested in the
administrator by section 4123.44 of the Revised Code in accordance
with the investment objectives, policies, and criteria established
by the oversight commission pursuant to section 4121.12 of the

Revised Code and in consultation with the chief investment officer 45992
of the bureau of workers' compensation. The administrator shall 45993
not engage in any prohibited investment activity specified by the 45994
oversight commission pursuant to division ~~(F)~~(G)(6) of section 45995
4121.12 of the Revised Code and shall not invest in any type of 45996
investment specified in division (G)(6)(a) to (j) of that section. 45997
All business shall be transacted, all funds invested, all warrants 45998
for money drawn and payments made, and all cash and securities and 45999
other property held, in the name of the bureau, or in the name of 46000
its nominee, provided that nominees are authorized by the 46001
administrator solely for the purpose of facilitating the transfer 46002
of securities, and restricted to the administrator and designated 46003
employees. 46004

(8) Make contracts for and supervise the construction of any 46005
project or improvement or the construction or repair of buildings 46006
under the control of the bureau. 46007

(9) Purchase supplies, materials, equipment, and services; 46008
make contracts for, operate, and superintend the telephone, other 46009
telecommunication, and computer services for the use of the 46010
bureau; and make contracts in connection with office reproduction, 46011
forms management, printing, and other services. Notwithstanding 46012
sections 125.12 to 125.14 of the Revised Code, the administrator 46013
may transfer surplus computers and computer equipment directly to 46014
an accredited public school within the state. The computers and 46015
computer equipment may be repaired or refurbished prior to the 46016
transfer. 46017

(10) Separately from the budget the industrial commission 46018
submits, prepare and submit to the director of budget and 46019
management a budget for each biennium. The budget submitted shall 46020
include estimates of the costs and necessary expenditures of the 46021
bureau in the discharge of any duty imposed by law. 46022

(11) As promptly as possible in the course of efficient 46023
administration, decentralize and relocate such of the personnel 46024
and activities of the bureau as is appropriate to the end that the 46025
receipt, investigation, determination, and payment of claims may 46026
be undertaken at or near the place of injury or the residence of 46027
the claimant and for that purpose establish regional offices, in 46028
such places as the administrator considers proper, capable of 46029
discharging as many of the functions of the bureau as is 46030
practicable so as to promote prompt and efficient administration 46031
in the processing of claims. All active and inactive lost-time 46032
claims files shall be held at the service office responsible for 46033
the claim. A claimant, at the claimant's request, shall be 46034
provided with information by telephone as to the location of the 46035
file pertaining to the claimant's claim. The administrator shall 46036
ensure that all service office employees report directly to the 46037
director for their service office. 46038

(12) Provide a written binder on new coverage where the 46039
administrator considers it to be in the best interest of the risk. 46040
The administrator, or any other person authorized by the 46041
administrator, shall grant the binder upon submission of a request 46042
for coverage by the employer. A binder is effective for a period 46043
of thirty days from date of issuance and is nonrenewable. Payroll 46044
reports and premium charges shall coincide with the effective date 46045
of the binder. 46046

(13) Set standards for the reasonable and maximum handling 46047
time of claims payment functions, ensure, by rules, the impartial 46048
and prompt treatment of all claims and employer risk accounts, and 46049
establish a secure, accurate method of time stamping all incoming 46050
mail and documents hand delivered to bureau employees. 46051

(14) Ensure that all employees of the bureau follow the 46052
orders and rules of the commission as such orders and rules relate 46053
to the commission's overall adjudicatory policy-making and 46054

management duties under this chapter and Chapters 4123., 4127., 46055
and 4131. of the Revised Code. 46056

(15) Manage and operate a data processing system with a 46057
common data base for the use of both the bureau and the commission 46058
and, in consultation with the commission, using electronic data 46059
processing equipment, shall develop a claims tracking system that 46060
is sufficient to monitor the status of a claim at any time and 46061
that lists appeals that have been filed and orders or 46062
determinations that have been issued pursuant to section 4123.511 46063
or 4123.512 of the Revised Code, including the dates of such 46064
filings and issuances. 46065

(16) Establish and maintain a medical section within the 46066
bureau. The medical section shall do all of the following: 46067

(a) Assist the administrator in establishing standard medical 46068
fees, approving medical procedures, and determining eligibility 46069
and reasonableness of the compensation payments for medical, 46070
hospital, and nursing services, and in establishing guidelines for 46071
payment policies which recognize usual, customary, and reasonable 46072
methods of payment for covered services; 46073

(b) Provide a resource to respond to questions from claims 46074
examiners for employees of the bureau; 46075

(c) Audit fee bill payments; 46076

(d) Implement a program to utilize, to the maximum extent 46077
possible, electronic data processing equipment for storage of 46078
information to facilitate authorizations of compensation payments 46079
for medical, hospital, drug, and nursing services; 46080

(e) Perform other duties assigned to it by the administrator. 46081

(17) Appoint, as the administrator determines necessary, 46082
panels to review and advise the administrator on disputes arising 46083
over a determination that a health care service or supply provided 46084

to a claimant is not covered under this chapter or Chapter 4123. 46085
of the Revised Code or is medically unnecessary. If an individual 46086
health care provider is involved in the dispute, the panel shall 46087
consist of individuals licensed pursuant to the same section of 46088
the Revised Code as such health care provider. 46089

(18) Pursuant to section 4123.65 of the Revised Code, approve 46090
applications for the final settlement of claims for compensation 46091
or benefits under this chapter and Chapters 4123., 4127., and 46092
4131. of the Revised Code as the administrator determines 46093
appropriate, except in regard to the applications of self-insuring 46094
employers and their employees. 46095

(19) Comply with section 3517.13 of the Revised Code, and 46096
except in regard to contracts entered into pursuant to the 46097
authority contained in section 4121.44 of the Revised Code, comply 46098
with the competitive bidding procedures set forth in the Revised 46099
Code for all contracts into which the administrator enters 46100
provided that those contracts fall within the type of contracts 46101
and dollar amounts specified in the Revised Code for competitive 46102
bidding and further provided that those contracts are not 46103
otherwise specifically exempt from the competitive bidding 46104
procedures contained in the Revised Code. 46105

(20) Adopt, with the advice and consent of the oversight 46106
commission, rules for the operation of the bureau. 46107

(21) Prepare and submit to the oversight commission 46108
information the administrator considers pertinent or the oversight 46109
commission requires, together with the administrator's 46110
recommendations, in the form of administrative rules, for the 46111
advice and consent of the oversight commission, for the health 46112
partnership program and the qualified health plan system, as 46113
provided in sections 4121.44, 4121.441, and 4121.442 of the 46114
Revised Code. 46115

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has significant experience in the field of workers' compensation insurance or other similar insurance industry experience if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

Sec. 4121.125. (A) The workers' compensation oversight commission may contract with one or more outside actuarial firms and other professional persons, as the oversight commission determines necessary, to assist the oversight commission in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The oversight commission, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The oversight commission may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

(C) The administrator and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the oversight commission to the extent necessary for fulfillment of both of the following

requirements: 46147

(1) Conduct of the measurements and comparisons described in 46148
division (A) of this section; 46149

(2) Conduct of the management and financial audits and 46150
establishment of the principles and methods described in division 46151
(B) of this section. 46152

(D) The oversight commission shall have an independent 46153
auditor, at least once every ten years, conduct a fiduciary 46154
performance audit of the investment program of the bureau of 46155
workers' compensation. That audit shall include an audit of the 46156
investment policies of the oversight commission and investment 46157
procedures of the bureau. The oversight commission shall submit a 46158
copy of that audit to the auditor of state. 46159

(E) The bureau of workers' compensation, with the advice and 46160
consent of the oversight commission, shall employ an internal 46161
auditor who shall report directly to the oversight commission on 46162
investment matters. The oversight commission may request and 46163
review internal audits conducted by the internal auditor. 46164

(F) The administrator shall pay the expenses incurred by the 46165
oversight commission to effectively fulfill its duties and 46166
exercise its powers under this section as the administrator pays 46167
other operating expenses of the bureau. 46168

Sec. 4121.126. Except as provided in this chapter, no member 46169
of the workers' compensation oversight commission or employee of 46170
the bureau of workers' compensation shall have any direct or 46171
indirect interest in the gains or profits of any investment made 46172
by the administrator of workers' compensation or shall receive 46173
directly or indirectly any pay or emolument for the member's or 46174
employee's services. No member or person connected with the bureau 46175
directly or indirectly, for self or as an agent or partner of 46176

others, shall borrow any of its funds or deposits or in any manner 46177
use the funds or deposits except to make current and necessary 46178
payments that are authorized by the administrator. No member of 46179
the oversight commission or employee of the bureau shall become an 46180
indorser or surety or become in any manner an obligor for moneys 46181
loaned by or borrowed from the bureau. 46182

The administrator shall make no investments through or 46183
purchases from, or otherwise do any business with, any individual 46184
who is, or any partnership, association, or corporation that is 46185
owned or controlled by, a person who within the preceding three 46186
years was employed by the bureau, a board member of, or an officer 46187
of the oversight commission, or a person who within the preceding 46188
three years was employed by or was an officer holding a fiduciary, 46189
administrative, supervisory, or trust position, or any other 46190
position in which such person would be involved, on behalf of the 46191
person's employer, in decisions or recommendations affecting the 46192
investment policy of the bureau, and in which such person would 46193
benefit by any monetary gain. 46194

Sec. 4121.127. (A) Except as provided in division (B) of this 46195
section, a fiduciary shall not cause the bureau of workers' 46196
compensation to engage in a transaction, if the fiduciary knows or 46197
should know that such transaction constitutes any of the 46198
following, whether directly or indirectly: 46199

(1) The sale, exchange, or leasing of any property between 46200
the bureau and a party in interest; 46201

(2) Lending of money or other extension of credit between the 46202
bureau and a party in interest; 46203

(3) Furnishing of goods, services, or facilities between the 46204
bureau and a party in interest; 46205

(4) Transfer to, or use by or for the benefit of a party in 46206

<u>interest, of any assets of the bureau;</u>	46207
<u>(5) Acquisition, on behalf of the bureau, of any employer security or employer real property.</u>	46208
<u>(B) Nothing in this section shall prohibit any transaction between the bureau and any fiduciary or party in interest if both of the following occur:</u>	46209
<u>(1) All the terms and conditions of the transaction are comparable to the terms and conditions that might reasonably be expected in a similar transaction between similar parties who are not parties in interest.</u>	46210
<u>(2) The transaction is consistent with fiduciary duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.</u>	46211
<u>(C) A fiduciary shall not do any of the following:</u>	46212
<u>(1) Deal with the assets of the bureau in the fiduciary's own interest or for the fiduciary's own account;</u>	46213
<u>(2) In the fiduciary's individual capacity or in any other capacity, act in any transaction involving the bureau on behalf of a party, or represent a party, whose interests are adverse to the interests of the bureau or to the injured employees served by the bureau;</u>	46214
<u>(3) Receive any consideration for the fiduciary's own personal account from any party dealing with the bureau in connection with a transaction involving the assets of the bureau.</u>	46215
<u>(D) In addition to any liability that a fiduciary may have under any other provision, a fiduciary, with respect to bureau, shall be liable for a breach of fiduciary responsibility in any the following circumstances:</u>	46216
<u>(1) If the fiduciary knowingly participates in or knowingly undertakes to conceal an act or omission of another fiduciary,</u>	46217
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knowing such act or omission is a breach; 46237

(2) If, by the fiduciary's failure to comply with this 46238
chapter or Chapter 4123., 4127., or 4131. of the Revised Code, the 46239
fiduciary has enabled another fiduciary to commit a breach; 46240

(3) If the fiduciary has knowledge of a breach by another 46241
fiduciary of that fiduciary's duties under this chapter and 46242
Chapters 4123., 4127., and 4131. of the Revised Code, unless the 46243
fiduciary makes reasonable efforts under the circumstances to 46244
remedy the breach. 46245

(E) Every fiduciary of the bureau shall be bonded or insured 46246
for an amount of not less than one million dollars for loss by 46247
reason of acts of fraud or dishonesty. 46248

(F) As used in this section, "fiduciary" means a person who 46249
does any of the following: 46250

(1) Exercises discretionary authority or control with respect 46251
to the management of the bureau or with respect to the management 46252
or disposition of its assets; 46253

(2) Renders investment advice for a fee, directly or 46254
indirectly, with respect to money or property of the bureau; 46255

(3) Has discretionary authority or responsibility in the 46256
administration of the bureau. 46257

Sec. 4121.128. The attorney general shall be the legal 46258
adviser of the workers' compensation oversight commission. 46259

Sec. 4123.27. Information contained in the annual statement 46260
provided for in section 4123.26 of the Revised Code, and such 46261
other information as may be furnished to the bureau of workers' 46262
compensation by employers in pursuance of that section, is for the 46263
exclusive use and information of the bureau in the discharge of 46264
its official duties, and shall not be open to the public nor be 46265

used in any court in any action or proceeding pending therein 46266
unless the bureau is a party to the action or proceeding; but the 46267
information contained in the statement may be tabulated and 46268
published by the bureau in statistical form for the use and 46269
information of other state departments and the public. No person 46270
in the employ of the bureau, except those who are authorized by 46271
the administrator of workers' compensation, shall divulge any 46272
information secured by the person while in the employ of the 46273
bureau in respect to the transactions, property, claim files, 46274
records, or papers of the bureau or in respect to the business or 46275
mechanical, chemical, or other industrial process of any company, 46276
firm, corporation, person, association, partnership, or public 46277
utility to any person other than the administrator or to the 46278
superior of such employee of the bureau. 46279

Notwithstanding the restrictions imposed by this section, the 46280
governor, select or standing committees of the general assembly, 46281
the auditor of state, the attorney general, or their designees, 46282
pursuant to the authority granted in this chapter and Chapter 46283
4121. of the Revised Code, may examine any records, claim files, 46284
or papers in possession of the industrial commission or the 46285
bureau. They also are bound by the privilege that attaches to 46286
these papers. 46287

The administrator shall report to the director of job and 46288
family services or to the county director of job and family 46289
services the name, address, and social security number or other 46290
identification number of any person receiving workers' 46291
compensation whose name or social security number or other 46292
identification number is the same as that of a person required by 46293
a court or child support enforcement agency to provide support 46294
payments to a recipient or participant of public assistance, and 46295
whose name is submitted to the administrator by the director under 46296
section 5101.36 of the Revised Code. The administrator also shall 46297

inform the director of the amount of workers' compensation paid to 46298
the person during such period as the director specifies. 46299

Within fourteen days after receiving from the director of job 46300
and family services a list of the names and social security 46301
numbers of recipients or participants of public assistance 46302
pursuant to section 5101.181 of the Revised Code, the 46303
administrator shall inform the auditor of state of the name, 46304
current or most recent address, and social security number of each 46305
person receiving workers' compensation pursuant to this chapter 46306
whose name and social security number are the same as that of a 46307
person whose name or social security number was submitted by the 46308
director. The administrator also shall inform the auditor of state 46309
of the amount of workers' compensation paid to the person during 46310
such period as the director specifies. 46311

The bureau and its employees, except for purposes of 46312
furnishing the auditor of state with information required by this 46313
section, shall preserve the confidentiality of recipients or 46314
participants of public assistance in compliance with division (A) 46315
of section 5101.181 of the Revised Code. 46316

For the purposes of this section, "public assistance" means 46317
medical assistance provided through the medical assistance program 46318
established under section 5111.01 of the Revised Code, Ohio works 46319
first provided under Chapter 5107. of the Revised Code, 46320
prevention, retention, and contingency benefits and services 46321
provided under Chapter 5108. of the Revised Code, or disability 46322
financial assistance provided under Chapter 5115. of the Revised 46323
Code, ~~or disability medical assistance provided under Chapter~~ 46324
~~5115. of the Revised Code.~~ 46325

Sec. 4123.44. The voting members of the workers' compensation 46326
oversight commission, the administrator of workers' compensation, 46327
and the bureau of workers' compensation chief investment officer 46328

are the trustees of the state insurance fund. The administrator of 46329
workers' compensation, in accordance with sections 4121.126 and 46330
4121.127 of the Revised Code and the investment objectives, 46331
policies, and criteria established by the workers' compensation 46332
oversight commission pursuant to section 4121.12 of the Revised 46333
Code, and in consultation with the bureau of workers' compensation 46334
chief investment officer, may invest any of the surplus or reserve 46335
belonging to the state insurance fund. 46336

The administrator shall not invest in any type of investment 46337
specified in divisions (G)(6)(a) to (j) of section 4121.12 of the 46338
Revised Code. 46339

The administrator and other fiduciaries shall discharge their 46340
duties with respect to the funds with the care, skill, prudence, 46341
and diligence under the circumstances then prevailing that a 46342
prudent person acting in a like capacity and familiar with such 46343
matters would use in the conduct of an enterprise of a like 46344
character and with like aims, and by diversifying the investments 46345
of the assets of the funds so as to minimize the risk of large 46346
losses, unless under the circumstances it is clearly prudent not 46347
to do so. 46348

To facilitate investment of the funds, the administrator may 46349
establish a partnership, trust, limited liability company, 46350
corporation, including a corporation exempt from taxation under 46351
the Internal Revenue Code, 100 Stat. 2085, 26 U.S.C. 1, as 46352
amended, or any other legal entity authorized to transact business 46353
in this state. 46354

When reporting on the performance of investments, the 46355
administrator shall comply with the performance presentation 46356
standards established by the association for investment management 46357
and research. 46358

All investments shall be purchased at current market prices 46359

and the evidences of title to the investments shall be placed in 46360
the custody of the treasurer of state, who is hereby designated as 46361
custodian, or in the custody of the treasurer of state's 46362
authorized agent. Evidences of title of the investments so 46363
purchased may be deposited by the treasurer of state for 46364
safekeeping with an authorized agent selected by the treasurer of 46365
state who is a qualified trustee under section 135.18 of the 46366
Revised Code. The treasurer of state or the agent shall collect 46367
the principal, dividends, distributions, and interest as they 46368
become due and payable and place them when collected into the 46369
state insurance fund. 46370

The treasurer of state shall pay for investments purchased by 46371
the administrator on receipt of written or electronic instructions 46372
from the administrator or the administrator's designated agent 46373
authorizing the purchase, and pending receipt of the evidence of 46374
title of the investment by the treasurer of state or the treasurer 46375
of state's authorized agent. The administrator may sell 46376
investments held by the administrator, and the treasurer of state 46377
or the treasurer of state's authorized agent shall accept payment 46378
from the purchaser and deliver evidence of title of the investment 46379
to the purchaser, on receipt of written or electronic instructions 46380
from the administrator or the administrator's designated agent 46381
authorizing the sale, and pending receipt of the moneys for the 46382
investments. The amount received shall be placed in the state 46383
insurance fund. The administrator and the treasurer of state may 46384
enter into agreements to establish procedures for the purchase and 46385
sale of investments under this division and the custody of the 46386
investments. 46387

No purchase or sale of any investment shall be made under 46388
this section, except as authorized by the administrator. 46389

Any statement of financial position distributed by the 46390
administrator shall include the fair value, as of the statement 46391

date, of all investments held by the administrator under this 46392
section. 46393

When in the judgment of the administrator it is necessary to 46394
provide available funds for the payment of compensation or 46395
benefits under this chapter, the administrator may borrow money 46396
from any available source and pledge as security a sufficient 46397
amount of bonds or other securities in which the state insurance 46398
fund is invested. The aggregate unpaid amount of loans existing at 46399
any one time for money so borrowed shall not exceed ten million 46400
dollars. The bonds or other securities so pledged as security for 46401
such loans to the administrator shall be the sole security for the 46402
payment of the principal and interest of any such loan. The 46403
administrator shall not be personally liable for the payment of 46404
the principal or the interest of any such loan. No such loan shall 46405
be made for a longer period of time than one year. Such loans may 46406
be renewed but no one renewal shall be for a period in excess of 46407
one year. Such loans shall bear such rate of interest as the 46408
administrator determines and in negotiating the loans, the 46409
administrator shall endeavor to secure as favorable interest rates 46410
and terms as circumstances will permit. 46411

The treasurer of state may deliver to the person or 46412
governmental agency making such loan, the bonds or other 46413
securities which are to be pledged by the administrator as 46414
security for such loan, upon receipt by the treasurer of state of 46415
an order of the administrator authorizing such loan. Upon payment 46416
of any such loan by the administrator, the bonds or other 46417
securities pledged as security therefor shall be returned to the 46418
treasurer of state as custodian of such bonds. 46419

The administrator may pledge with the treasurer of state such 46420
amount of bonds or other securities in which the state insurance 46421
fund is invested as is reasonably necessary as security for any 46422
certificates issued, or paid out, by the treasurer of state upon 46423

any warrants drawn by the administrator. 46424

The administrator may secure investment information services, 46425
consulting services, and other like services to facilitate 46426
investment of the surplus and reserve belonging to the state 46427
insurance fund. The administrator shall pay the expense of 46428
securing such services from the state insurance fund. 46429

Sec. 4123.441. (A) The bureau of workers' compensation, with 46430
the advice and consent of the workers' compensation oversight 46431
commission shall employ a person or designate an employee of the 46432
bureau who is designated as a chartered financial analyst by the 46433
CFA institute and who is licensed by the division of securities in 46434
the department of commerce as a bureau of workers' compensation 46435
chief investment officer to be the chief investment officer for 46436
the bureau of workers' compensation. After ninety days after the 46437
effective date of this section, the bureau of workers' 46438
compensation may not employ a bureau of workers' compensation 46439
chief investment officer, as defined in section 1707.01 of the 46440
Revised Code, who does not hold a valid bureau of workers' 46441
compensation chief investment officer license issued by the 46442
division of securities in the department of commerce. The 46443
oversight commission shall notify the division of securities of 46444
the department of commerce in writing of its designation and of 46445
any change in its designation within ten calendar days after the 46446
designation or change. 46447

(B) The bureau of workers' compensation chief investment 46448
officer shall reasonably supervise employees of the bureau who 46449
handle investment of assets of funds specified in this chapter and 46450
Chapters 4121., 4127., and 4131. of the Revised Code with a view 46451
toward preventing violations of Chapter 1707. of the Revised Code, 46452
the "Commodity Exchange Act," 42 Stat. 998, 7 U.S.C. 1, the 46453
"Securities Act of 1933," 48 Stat. 74, 15 U.S.C. 77a, the 46454

"Securities Exchange Act of 1934," 48 Stat. 881, 15 U.S.C. 78a, 46455
and the rules and regulations adopted under those statutes. This 46456
duty of reasonable supervision shall include the adoption, 46457
implementation, and enforcement of written policies and procedures 46458
reasonably designed to prevent employees of the bureau who handle 46459
investment of assets of the funds specified in this chapter and 46460
Chapters 4121., 4127., and 4131. of the Revised Code, from 46461
misusing material, nonpublic information in violation of those 46462
laws, rules, and regulations. 46463

For purposes of this division, no bureau of workers' 46464
compensation chief investment officer shall be considered to have 46465
failed to satisfy the officer's duty of reasonable supervision if 46466
the officer has done all of the following: 46467

(1) Adopted and implemented written procedures, and a system 46468
for applying the procedures, that would reasonably be expected to 46469
prevent and detect, insofar as practicable, any violation by 46470
employees handling investments of assets of the funds specified in 46471
this chapter and Chapters 4121., 4127., and 4131. of the Revised 46472
Code; 46473

(2) Reasonably discharged the duties and obligations 46474
incumbent on the bureau of workers' compensation chief investment 46475
officer by reason of the established procedures and the system for 46476
applying the procedures when the officer had no reasonable cause 46477
to believe that there was a failure to comply with the procedures 46478
and systems; 46479

(3) Reviewed, at least annually, the adequacy of the policies 46480
and procedures established pursuant to this section and the 46481
effectiveness of their implementation. 46482

(C) The bureau of workers' compensation chief investment 46483
officer shall establish and maintain a policy to monitor and 46484
evaluate the effectiveness of securities transactions executed on 46485

behalf of the bureau.

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Sec. 4123.444. (A) As used in this section and section
4123.445 of the Revised Code:

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(1) "Bureau of workers' compensation funds" means any fund
specified in Chapter 4121., 4123., 4127., or 4131. of the Revised
Code that the administrator of workers' compensation has the
authority to invest, in accordance with the administrator's
investment authority under section 4123.44 of the Revised Code.

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(2) "Investment manager" means any person with whom the
administrator of workers' compensation contracts pursuant to
section 4123.44 of the Revised Code to facilitate the investment
of assets of bureau of workers' compensation funds.

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(3) "Business entity" means any person with whom an
investment manager contracts for the investment of assets of
bureau of workers' compensation funds.

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(4) "Financial or investment crime" means any criminal
offense involving theft, receiving stolen property, embezzlement,
forgery, fraud, passing bad checks, money laundering, drug
trafficking, or any criminal offense involving money or
securities, as set forth in Chapters 2909., 2911., 2913., 2915.,
2921., 2923., and 2925. of the Revised Code or other law of this
state, or the laws of any other state or the United States that
are substantially equivalent to those offenses.

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(B)(1) Before entering into a contract with an investment
manager to invest bureau of workers' compensation funds, the
administrator shall do both of the following:

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(a) Request from any investment manager with whom the
administrator wishes to contract for those investments a list of
all employees who will be investing assets of bureau of workers'
compensation funds. The list shall specify each employee's state

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of residence for the five years prior to the date of the 46516
administrator's request. 46517

(b) Request that the superintendent of the bureau of criminal 46518
investigation and identification conduct a criminal records check 46519
in accordance with this section and section 109.579 of the Revised 46520
Code with respect to every employee the investment manager names 46521
in that list. 46522

(2) After an investment manager enters into a contract with 46523
the administrator to invest bureau of workers' compensation funds 46524
and before an investment manager enters into a contract with a 46525
business entity to facilitate those investments, the investment 46526
manager shall request from any business entity with whom the 46527
investment manager wishes to contract to make those investments a 46528
list of all employees who will be investing assets of the bureau 46529
of workers' compensation funds. The list shall specify each 46530
employee's state of residence for the five years prior to the 46531
investment manager's request. The investment manager shall forward 46532
to the administrator the list received from the business entity. 46533
The administrator shall request the superintendent to conduct a 46534
criminal records check in accordance with this section and section 46535
109.579 of the Revised Code with respect to every employee the 46536
business entity names in that list. Upon receipt of the results of 46537
the criminal records check, the administrator shall forward a copy 46538
of those results to the investment manager. 46539

(3) If, after a contract has been entered into between the 46540
administrator and an investment manager or between an investment 46541
manager and a business entity for the investment of assets of 46542
bureau of workers' compensation funds, the investment manager or 46543
business entity wishes to have an employee who was not the subject 46544
of a criminal records check under division (B)(1) or (B)(2) of 46545
this section invest assets of the bureau of workers' compensation 46546
funds, that employee shall be the subject of a criminal records 46547

check pursuant to this section and section 109.579 of the Revised Code prior to handling the investment of assets of those funds. The investment manager shall submit to the administrator the name of that employee along with the employee's state of residence for the five years prior to the date in which the administrator requests the criminal records check. The administrator shall request that the superintendent conduct a criminal records check on that employee pursuant to this section and section 109.579 of the Revised Code.

(C)(1) If an employee who is the subject of a criminal records check pursuant to division (B) of this section has not been a resident of this state for the five-year period immediately prior to the time the criminal records check is requested or does not provide evidence that within that five-year period the superintendent has requested information about the employee from the federal bureau of investigation in a criminal records check, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the employee. If the employee has been a resident of this state for at least that five-year period, the administrator may, but is not required to, request that the superintendent request and include in the criminal records check information about that employee from the federal bureau of investigation.

(2) The administrator shall provide to an investment manager a copy of the form prescribed pursuant to division (C)(1) of section 109.579 of the Revised Code and a standard impression sheet for each employee for whom a criminal records check must be performed, to obtain fingerprint impressions as prescribed pursuant to division (C)(2) of section 109.579 of the Revised Code. The investment manager shall obtain the completed form and impression sheet either directly from each employee or from a

business entity and shall forward the completed form and sheet to 46580
the administrator, who shall forward these forms and sheets to the 46581
superintendent. 46582

(3) Any employee who receives a copy of the form and the 46583
impression sheet pursuant to division (C)(2) of this section and 46584
who is requested to complete the form and provide a set of 46585
fingerprint impressions shall complete the form or provide all the 46586
information necessary to complete the form and shall complete the 46587
impression sheets in the manner prescribed in division (C)(2) of 46588
section 109.579 of the Revised Code. 46589

(D) For each criminal records check the administrator 46590
requests under this section, at the time the administrator makes a 46591
request the administrator shall pay to the superintendent the fee 46592
the superintendent prescribes pursuant to division (E) of section 46593
109.579 of the Revised Code. 46594

Sec. 4123.445. (A) The administrator of workers' compensation 46595
shall not enter into a contract with an investment manager for the 46596
investment of assets of the bureau of workers' compensation funds 46597
if any employee of that investment manager who will be investing 46598
assets of bureau of workers' compensation funds has been convicted 46599
of or pleaded guilty to a financial or investment crime. 46600

(B) An investment manager who has entered into a contract 46602
with the bureau of workers' compensation for the investment of 46603
assets of bureau of workers' compensation funds shall not contract 46604
with a business entity for the investment of those assets if any 46605
employee of that business manager who will be investing assets of 46606
bureau of workers' compensation funds has been convicted of or 46607
pleaded guilty to a financial or investment crime. 46608

(C) The administrator shall not enter into a contract with an 46609

investment manager who refuses to submit the list of the 46610
investment manager's employees required under division (B) of 46611
section 4123.444 of the Revised Code. An investment manager shall 46612
not enter into a contract with a business entity who refuses to 46613
submit the list of the business entity's employees required under 46614
division (B) of section 4123.444 of the Revised Code. 46615

(D) If, after a contract has been awarded to an investment 46616
manager or business entity for the investment of assets of bureau 46617
of workers' compensation funds, the investment manager or business 46618
entity discovers that an employee who is handling the investment 46619
of those assets has been convicted of or pleaded guilty to a 46620
financial or investment crime, the investment manager or business 46621
entity immediately shall notify the administrator. 46622

Sec. 4123.47. (A) The administrator of workers' compensation 46623
shall have actuarial audits of the state insurance fund and all 46624
other funds specified in this chapter and Chapters 4121., 4127., 46625
and 4131. of the Revised Code made at least once every two years 46626
each year. The audits shall be made and certified by recognized 46627
insurance actuaries who shall be selected as the administrator 46628
determines. The audits shall cover the premium rates, 46629
classifications, and all other matters involving the 46630
administration of the state insurance fund and all other funds 46631
specified in this chapter and Chapters 4121., 4127., and 4131. of 46632
the Revised Code. The expense of the audits shall be paid from the 46633
state insurance fund. The administrator shall make copies of the 46634
audits available to the public at cost. 46635

(B) The auditor of state annually shall conduct an audit of 46636
the administration of this chapter by the industrial commission 46637
and the bureau of workers' compensation and the safety and hygiene 46638
fund. The cost of the audit shall be charged to the administrative 46639
costs of the bureau as defined in section 4123.341 of the Revised 46640

Code. The audit shall include audits of all fiscal activities, 46641
claims processing and handling, and employer premium collections. 46642
The auditor shall prepare a report of the audit together with 46643
recommendations and transmit copies of the report to the 46644
industrial commission the workers' compensation oversight 46645
commission, the administrator, the governor, and to the general 46646
assembly. The auditor shall make copies of the report available to 46647
the public at cost. 46648

(C) The administrator may retain the services of a recognized 46649
actuary on a consulting basis for the purpose of evaluating the 46650
actuarial soundness of premium rates and classifications and all 46651
other matters involving the administration of the state insurance 46652
fund. The expense of services provided by the actuary shall be 46653
paid from the state insurance fund. 46654

Sec. 4301.10. (A) The division of liquor control shall do all 46655
of the following: 46656

(1) Control the traffic in beer and intoxicating liquor in 46657
this state, including the manufacture, importation, and sale of 46658
beer and intoxicating liquor; 46659

(2) Grant or refuse permits for the manufacture, 46660
distribution, transportation, and sale of beer and intoxicating 46661
liquor and the sale of alcohol, as authorized or required by this 46662
chapter and Chapter 4303. of the Revised Code. A certificate, 46663
signed by the superintendent of liquor control and to which is 46664
affixed the official seal of the division, stating that it appears 46665
from the records of the division that no permit has been issued to 46666
the person specified in the certificate, or that a permit, if 46667
issued, has been revoked, canceled, or suspended, shall be 46668
received as prima-facie evidence of the facts recited in the 46669
certificate in any court or before any officer of this state. 46670

(3) Put into operation, manage, and control a system of state liquor stores for the sale of spirituous liquor at retail and to holders of permits authorizing the sale of spirituous liquor; however, the division shall not establish any drive-in state liquor stores; and by means of those types of stores, and any manufacturing plants, distributing and bottling plants, warehouses, and other facilities that it considers expedient, establish and maintain a state monopoly of the distribution of spirituous liquor and its sale in packages or containers; and for that purpose, manufacture, buy, import, possess, and sell spirituous liquors as provided in this chapter and Chapter 4303. of the Revised Code, and in the rules promulgated by the superintendent of liquor control pursuant to those chapters; lease or in any manner acquire the use of any land or building required for any of those purposes; purchase any equipment that is required; and borrow money to carry on its business, and issue, sign, endorse, and accept notes, checks, and bills of exchange; but all obligations of the division created under authority of this division shall be a charge only upon the moneys received by the division from the sale of spirituous liquor and its other business transactions in connection with the sale of spirituous liquor, and shall not be general obligations of the state;

(4) Enforce the administrative provisions of this chapter and Chapter 4303. of the Revised Code, and the rules and orders of the liquor control commission and the superintendent relating to the manufacture, importation, transportation, distribution, and sale of beer ~~and or~~ intoxicating ~~liquors~~ liquor. The attorney general, any prosecuting attorney, and any prosecuting officer of a municipal corporation or a municipal court shall, at the request of the division of liquor control or the department of public safety, prosecute any person charged with the violation of any provision in those chapters or of any section of the Revised Code

relating to the manufacture, importation, transportation, 46703
distribution, and sale of beer ~~and~~ or intoxicating liquor. 46704

(5) Determine the locations of all state liquor stores and 46705
manufacturing, distributing, and bottling plants required in 46706
connection with those stores, subject to this chapter and Chapter 46707
4303. of the Revised Code; 46708

(6) Conduct inspections of liquor permit premises to 46709
determine compliance with the administrative provisions of this 46710
chapter and Chapter 4303. of the Revised Code and the rules 46711
adopted under those provisions by the liquor control commission. 46712

Except as otherwise provided in division (A)(6) of this 46713
section, those inspections may be conducted only during those 46714
hours in which the permit holder is open for business and only by 46715
authorized agents or employees of the division or by any peace 46716
officer, as defined in section 2935.01 of the Revised Code. 46717
Inspections may be conducted at other hours only to determine 46718
compliance with laws or commission rules that regulate the hours 46719
of sale of beer ~~and~~ or intoxicating liquor and only if the 46720
investigator has reasonable cause to believe that those laws or 46721
rules are being violated. Any inspection conducted pursuant to 46722
division (A)(6) of this section is subject to all of the following 46723
requirements: 46724

(a) The only property that may be confiscated is contraband, 46725
as defined in section 2901.01 of the Revised Code, or property 46726
that is otherwise necessary for evidentiary purposes. 46727

(b) A complete inventory of all property confiscated from the 46728
premises shall be given to the permit holder or the permit 46729
holder's agent or employee by the confiscating agent or officer at 46730
the conclusion of the inspection. At that time, the inventory 46731
shall be signed by the confiscating agent or officer, and the 46732
agent or officer shall give the permit holder or the permit 46733

holder's agent or employee the opportunity to sign the inventory. 46734

(c) Inspections conducted pursuant to division (A)(6) of this 46735
section shall be conducted in a reasonable manner. A finding by 46736
any court of competent jurisdiction that ~~the~~ an inspection was not 46737
conducted in a reasonable manner in accordance with this section 46738
or any rules ~~promulgated~~ adopted by the commission may be 46739
considered grounds for suppression of evidence. A finding by the 46740
~~liquor control~~ commission that ~~the~~ an inspection was not conducted 46741
in a reasonable manner in accordance with this section or any 46742
rules ~~promulgated~~ adopted by ~~the commission~~ it may be considered 46743
grounds for dismissal of the commission case. 46744

If any court of competent jurisdiction finds that property 46745
confiscated as the result of an administrative inspection is not 46746
necessary for evidentiary purposes and is not contraband, as 46747
defined in section 2901.01 of the Revised Code, the court shall 46748
order the immediate return of the confiscated property, provided 46749
that property is not otherwise subject to forfeiture, to the 46750
permit holder. However, the return of this property is not grounds 46751
for dismissal of the case. The commission likewise may order the 46752
return of confiscated property if no criminal prosecution is 46753
pending or anticipated. 46754

(7) Delegate to any of its agents or employees any power of 46755
investigation that the division possesses with respect to the 46756
enforcement of any of the administrative laws relating to beer ~~and~~ 46757
or intoxicating liquor, provided that this division does not 46758
authorize the division to designate any agent or employee to serve 46759
as an enforcement agent. The employment and designation of 46760
enforcement agents shall be within the exclusive authority of the 46761
director of public safety pursuant to sections 5502.13 to 5502.19 46762
of the Revised Code. 46763

(8) Collect the following fees: 46764

(a) A biennial ~~fifty-dollar~~ fifty-dollar registration fee for 46765
each agent, solicitor, or salesperson, registered pursuant to 46766
section 4303.25 of the Revised Code, of a beer or intoxicating 46767
liquor manufacturer, supplier, broker, or wholesale distributor 46768
doing business in this state; 46769

(b) A fifty-dollar product registration fee for each new beer 46770
or intoxicating liquor product sold in this state. The product 46771
registration fee shall be accompanied by a copy of the federal 46772
label and product approval for the new product. 46773

(c) An annual three-hundred-dollar supplier registration fee 46774
from each manufacturer or supplier that produces and ships into 46775
this state, or ships into this state, intoxicating liquor or beer, 46776
in addition to an initial application fee of one hundred dollars. 46777

Each supplier, agent, solicitor, or salesperson registration 46778
issued under this division shall authorize the person named to 46779
carry on the activity specified in the registration. Each agent, 46780
solicitor, or salesperson registration is valid for two years or 46781
for the unexpired portion of a two-year registration period. Each 46782
supplier registration is valid for one year or for the unexpired 46783
portion of a one-year registration period. Registrations shall end 46784
on their respective uniform expiration date, which shall be 46785
designated by the division, and are subject to suspension, 46786
revocation, cancellation, or fine as authorized by this chapter 46787
and Chapter 4303. of the Revised Code. 46788

(9) Establish a system of electronic data interchange within 46789
the division and regulate the electronic transfer of information 46790
and funds among persons and governmental entities engaged in the 46791
manufacture, distribution, and retail sale of alcoholic beverages; 46792

(10) Exercise all other powers expressly or by necessary 46793
implication conferred upon the division by this chapter and 46794
Chapter 4303. of the Revised Code, and all powers necessary for 46795

the exercise or discharge of any power, duty, or function
expressly conferred or imposed upon the division by those
chapters. 46796
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(B) The division may do all of the following: 46799

(1) Sue, but may be sued only in connection with the
execution of leases of real estate and the purchases and contracts
necessary for the operation of the state liquor stores that are
made under this chapter and Chapter 4303. of the Revised Code; 46800
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(2) Enter into leases and contracts of all descriptions and
acquire and transfer title to personal property with regard to the
sale, distribution, and storage of spirituous liquor within the
state; 46804
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(3) Terminate at will any lease entered into pursuant to
division (B)(2) of this section upon first giving ninety days'
notice in writing to the lessor of its intention to do so; 46808
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(4) Fix the wholesale and retail prices at which the various
classes, varieties, and brands of spirituous liquor shall be sold
by the division. Those retail prices shall be the same at all
state liquor stores, except to the extent that a price
differential is required to collect a county sales tax levied
pursuant to section 5739.021 of the Revised Code and for which tax
the tax commissioner has authorized prepayment pursuant to section
5739.05 of the Revised Code. In fixing selling prices, the
division shall compute an anticipated gross profit at least
sufficient to provide in each calendar year all costs and expenses
of the division and also an adequate working capital reserve for
the division. The gross profit shall not exceed forty per cent of
the retail selling price based on costs of the division, and in
addition the sum required by section 4301.12 of the Revised Code
to be paid into the state treasury. An amount equal to one and
one-half per cent of that gross profit shall be paid into the 46811
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statewide treatment and prevention fund created by section 4301.30 46827
of the Revised Code and be appropriated by the general assembly 46828
from the fund to the department of alcohol and drug addiction 46829
services as provided in section 4301.30 of the Revised Code. 46830

On spirituous liquor manufactured in this state from the 46831
juice of grapes or fruits grown in this state, the division shall 46832
compute an anticipated gross profit of not to exceed ten per cent. 46833
The 46834

The wholesale prices fixed under this division shall be at a 46835
discount of not less than ~~twelve and one-half~~ six per cent of the 46836
retail selling prices as determined by the division in accordance 46837
with this section. 46838

(C) The division may approve the expansion or diminution of a 46839
premises to which a liquor permit has been issued and may adopt 46840
standards governing such an expansion or diminution. 46841

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of 46842
the Revised Code: 46843

(1) "Gallon" or "wine gallon" means one hundred twenty-eight 46844
fluid ounces. 46845

(2) "Sale" or "sell" includes exchange, barter, gift, 46846
distribution, and, except with respect to A-4 permit holders, 46847
offer for sale. 46848

(B) For the purposes of providing revenues for the support of 46849
the state and encouraging the grape industries in the state, a tax 46850
is hereby levied on the sale or distribution of wine in Ohio, 46851
except for known sacramental purposes, at the rate of thirty cents 46852
per wine gallon for wine containing not less than four per cent of 46853
alcohol by volume and not more than fourteen per cent of alcohol 46854
by volume, ninety-eight cents per wine gallon for wine containing 46855
more than fourteen per cent but not more than twenty-one per cent 46856

of alcohol by volume, one dollar and eight cents per wine gallon 46857
for vermouth, and one dollar and forty-eight cents per wine gallon 46858
for sparkling and carbonated wine and champagne, the tax to be 46859
paid by the holders of A-2 and B-5 permits or by any other person 46860
selling or distributing wine upon which no tax has been paid. From 46861
the tax paid under this section on wine, vermouth, and sparkling 46862
and carbonated wine and champagne, the treasurer of state shall 46863
credit to the Ohio grape industries fund created under section 46864
924.54 of the Revised Code a sum equal to one cent per gallon for 46865
each gallon upon which the tax is paid. 46866

(C) For the purpose of providing revenues for the support of 46867
the state, there is hereby levied a tax on prepared and bottled 46868
highballs, cocktails, cordials, and other mixed beverages at the 46869
rate of one dollar and twenty cents per wine gallon to be paid by 46870
holders of A-4 permits or by any other person selling or 46871
distributing those products upon which no tax has been paid. Only 46872
one sale of the same article shall be used in computing the amount 46873
of tax due. The tax on mixed beverages to be paid by holders of 46874
A-4 permits under this section shall not attach until the 46875
ownership of the mixed beverage is transferred for valuable 46876
consideration to a wholesaler or retailer, and no payment of the 46877
tax shall be required prior to that time. 46878

(D) During the period of July 1, ~~2003~~ 2005, through June 30, 46879
~~2005~~ 2007, from the tax paid under this section on wine, vermouth, 46880
and sparkling and carbonated wine and champagne, the treasurer of 46881
state shall credit to the Ohio grape industries fund created under 46882
section 924.54 of the Revised Code a sum equal to two cents per 46883
gallon upon which the tax is paid. The amount credited under this 46884
division is in addition to the amount credited to the Ohio grape 46885
industries fund under division (B) of this section. 46886

(E) For the purpose of providing revenues for the support of 46887
the state, there is hereby levied a tax on cider at the rate of 46888

twenty-four cents per wine gallon to be paid by the holders of A-2 46889
and B-5 permits or by any other person selling or distributing 46890
cider upon which no tax has been paid. Only one sale of the same 46891
article shall be used in computing the amount of the tax due. 46892

Sec. 4303.182. (A) Except as otherwise provided in divisions 46893
(B) to (G) of this section, permit D-6 shall be issued to the 46894
holder of an A-1-A, A-2, C-2, D-2, D-3, D-3a, D-4, D-4a, D-5, 46895
D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, 46896
or D-7 permit to allow sale under that permit between the hours of 46897
ten a.m. and midnight, or between the hours of one p.m. and 46898
midnight, on Sunday, as applicable, if that sale has been 46899
authorized under section 4301.361, 4301.364, 4301.365, or 4301.366 46900
of the Revised Code and under the restrictions of that 46901
authorization. 46902

(B) Permit D-6 shall be issued to the holder of any permit, 46903
including a D-4a and D-5d permit, authorizing the sale of 46904
intoxicating liquor issued for a premises located at any publicly 46905
owned airport, as defined in section 4563.01 of the Revised Code, 46906
at which commercial airline companies operate regularly scheduled 46907
flights on which space is available to the public, to allow sale 46908
under such permit between the hours of ten a.m. and midnight on 46909
Sunday, whether or not that sale has been authorized under section 46910
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 46911

(C) Permit D-6 shall be issued to the holder of a D-5a 46912
permit, and to the holder of a D-3 or D-3a permit who is the owner 46913
or operator of a hotel or motel that is required to be licensed 46914
under section 3731.03 of the Revised Code, that contains at least 46915
fifty rooms for registered transient guests, and that has on its 46916
premises a retail food establishment or a food service operation 46917
licensed pursuant to Chapter 3717. of the Revised Code that 46918
operates as a restaurant for purposes of this chapter and is 46919

affiliated with the hotel or motel and within or contiguous to the 46920
hotel or motel and serving food within the hotel or motel, to 46921
allow sale under such permit between the hours of ten a.m. and 46922
midnight on Sunday, whether or not that sale has been authorized 46923
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the 46924
Revised Code. 46925

(D) The holder of a D-6 permit that is issued to a sports 46926
facility may make sales under the permit between the hours of 46927
eleven a.m. and midnight on any Sunday on which a professional 46928
baseball, basketball, football, hockey, or soccer game is being 46929
played at the sports facility. As used in this division, "sports 46930
facility" means a stadium or arena that has a seating capacity of 46931
at least four thousand and that is owned or leased by a 46932
professional baseball, basketball, football, hockey, or soccer 46933
franchise or any combination of those franchises. 46934

(E) Permit D-6 shall be issued to the holder of any permit 46935
that authorizes the sale of beer or intoxicating liquor and that 46936
is issued to a premises located in or at the Ohio historical 46937
society area or the state fairgrounds, as defined in division (B) 46938
of section 4301.40 of the Revised Code, to allow sale under that 46939
permit between the hours of ten a.m. and midnight on Sunday, 46940
whether or not that sale has been authorized under section 46941
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code. 46942

(F) Permit D-6 shall be issued to the holder of any permit 46943
that authorizes the sale of intoxicating liquor and that is issued 46944
to an outdoor performing arts center to allow sale under that 46945
permit between the hours of one p.m. and midnight on Sunday, 46946
whether or not that sale has been authorized under section 46947
4301.361 of the Revised Code. A D-6 permit issued under this 46948
division is subject to the results of an election, held after the 46949
D-6 permit is issued, on question (B)(4) as set forth in section 46950
4301.351 of the Revised Code. Following the end of the period 46951

during which an election may be held on question (B)(4) as set
forth in that section, sales of intoxicating liquor may continue
at an outdoor performing arts center under a D-6 permit issued
under this division, unless an election on that question is held
during the permitted period and a majority of the voters voting in
the precinct on that question vote "no."

As used in this division, "outdoor performing arts center"
means an outdoor performing arts center that is located on not
less than eight hundred acres of land and that is open for
performances from the first day of April to the last day of
October of each year.

(G) Permit D-6 shall be issued to the holder of any permit
that authorizes the sale of beer or intoxicating liquor and that
is issued to a golf course owned by the state, a conservancy
district, a park district created under Chapter 1545. of the
Revised Code, or another political subdivision to allow sale under
that permit between the hours of ten a.m. and midnight on Sunday,
whether or not that sale has been authorized under section
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(H) Permit D-6 shall be issued to the holder of a D-5g permit
to allow sale under that permit between the hours of ten a.m. and
midnight on Sunday, whether or not that sale has been authorized
under section 4301.361, 4301.364, 4301.365, or 4301.366 of the
Revised Code.

(I) Permit D-6 shall be issued to the holder of a D-5 permit
for a premises that is licensed under section 3717.43 of the
Revised Code and that is located at a ski area as defined in
section 4169.01 of the Revised Code to allow sale under the D-6
permit between the hours of ten a.m. and midnight on Sunday,
whether or not that sale has been authorized under section
4301.361, 4301.364, 4301.365, or 4301.366 of the Revised Code.

(J) If the restriction to licensed premises where the sale of food and other goods and services exceeds fifty per cent of the total gross receipts of the permit holder at the premises is applicable, the division of liquor control may accept an affidavit from the permit holder to show the proportion of the permit holder's gross receipts derived from the sale of food and other goods and services. If the liquor control commission determines that affidavit to have been false, it shall revoke the permits of the permit holder at the premises concerned.

~~(J)~~(K) The fee for the D-6 permit is five hundred dollars when it is issued to the holder of an A-1-A, A-2, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, or D-7 permit. The fee for the D-6 permit is four hundred dollars when it is issued to the holder of a C-2 permit.

Sec. 4501.01. As used in this chapter and Chapters 4503., 4505., 4507., 4509., 4510., 4511., 4513., 4515., and 4517. of the Revised Code, and in the penal laws, except as otherwise provided:

(A) "Vehicles" means everything on wheels or runners, including motorized bicycles, but does not mean electric personal assistive mobility devices, vehicles that are operated exclusively on rails or tracks or from overhead electric trolley wires, and vehicles that belong to any police department, municipal fire department, or volunteer fire department, or that are used by such a department in the discharge of its functions.

(B) "Motor vehicle" means any vehicle, including mobile homes and recreational vehicles, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires. "Motor vehicle" does not include utility vehicles as defined in division (VV) of this section, motorized bicycles, road rollers, traction engines, power shovels, power

cranes, and other equipment used in construction work and not 47014
designed for or employed in general highway transportation, 47015
well-drilling machinery, ditch-digging machinery, farm machinery, 47016
trailers that are used to transport agricultural produce or 47017
agricultural production materials between a local place of storage 47018
or supply and the farm when drawn or towed on a public road or 47019
highway at a speed of twenty-five miles per hour or less, 47020
threshing machinery, hay-baling machinery, corn sheller, 47021
hammermill and agricultural tractors, machinery used in the 47022
production of horticultural, agricultural, and vegetable products, 47023
and trailers that are designed and used exclusively to transport a 47024
boat between a place of storage and a marina, or in and around a 47025
marina, when drawn or towed on a public road or highway for a 47026
distance of no more than ten miles and at a speed of twenty-five 47027
miles per hour or less. 47028

(C) "Agricultural tractor" and "traction engine" mean any 47029
self-propelling vehicle that is designed or used for drawing other 47030
vehicles or wheeled machinery, but has no provisions for carrying 47031
loads independently of such other vehicles, and that is used 47032
principally for agricultural purposes. 47033

(D) "Commercial tractor," except as defined in division (C) 47034
of this section, means any motor vehicle that has motive power and 47035
either is designed or used for drawing other motor vehicles, or is 47036
designed or used for drawing another motor vehicle while carrying 47037
a portion of the other motor vehicle or its load, or both. 47038

(E) "Passenger car" means any motor vehicle that is designed 47039
and used for carrying not more than nine persons and includes any 47040
motor vehicle that is designed and used for carrying not more than 47041
fifteen persons in a ridesharing arrangement. 47042

(F) "Collector's vehicle" means any motor vehicle or 47043
agricultural tractor or traction engine that is of special 47044
interest, that has a fair market value of one hundred dollars or 47045

more, whether operable or not, and that is owned, operated, 47046
collected, preserved, restored, maintained, or used essentially as 47047
a collector's item, leisure pursuit, or investment, but not as the 47048
owner's principal means of transportation. "Licensed collector's 47049
vehicle" means a collector's vehicle, other than an agricultural 47050
tractor or traction engine, that displays current, valid license 47051
tags issued under section 4503.45 of the Revised Code, or a 47052
similar type of motor vehicle that displays current, valid license 47053
tags issued under substantially equivalent provisions in the laws 47054
of other states. 47055

(G) "Historical motor vehicle" means any motor vehicle that 47056
is over twenty-five years old and is owned solely as a collector's 47057
item and for participation in club activities, exhibitions, tours, 47058
parades, and similar uses, but that in no event is used for 47059
general transportation. 47060

(H) "Noncommercial motor vehicle" means any motor vehicle, 47061
including a farm truck as defined in section 4503.04 of the 47062
Revised Code, that is designed by the manufacturer to carry a load 47063
of no more than one ton and is used exclusively for purposes other 47064
than engaging in business for profit. 47065

(I) "Bus" means any motor vehicle that has motor power and is 47066
designed and used for carrying more than nine passengers, except 47067
any motor vehicle that is designed and used for carrying not more 47068
than fifteen passengers in a ridesharing arrangement. 47069

(J) "Commercial car" or "truck" means any motor vehicle that 47070
has motor power and is designed and used for carrying merchandise 47071
or freight, or that is used as a commercial tractor. 47072

(K) "Bicycle" means every device, other than a tricycle that 47073
is designed solely for use as a play vehicle by a child, that is 47074
propelled solely by human power upon which any person may ride, 47075
and that has either two tandem wheels, or one wheel in front and 47076

two wheels in the rear, any of which is more than fourteen inches
in diameter. 47077
47078

(L) "Motorized bicycle" means any vehicle that either has two 47079
tandem wheels or one wheel in the front and two wheels in the 47080
rear, that is capable of being pedaled, and that is equipped with 47081
a helper motor of not more than fifty cubic centimeters piston 47082
displacement that produces no more than one brake horsepower and 47083
is capable of propelling the vehicle at a speed of no greater than 47084
twenty miles per hour on a level surface. 47085

(M) "Trailer" means any vehicle without motive power that is 47086
designed or used for carrying property or persons wholly on its 47087
own structure and for being drawn by a motor vehicle, and includes 47088
any such vehicle that is formed by or operated as a combination of 47089
a semitrailer and a vehicle of the dolly type such as that 47090
commonly known as a trailer dolly, a vehicle used to transport 47091
agricultural produce or agricultural production materials between 47092
a local place of storage or supply and the farm when drawn or 47093
towed on a public road or highway at a speed greater than 47094
twenty-five miles per hour, and a vehicle that is designed and 47095
used exclusively to transport a boat between a place of storage 47096
and a marina, or in and around a marina, when drawn or towed on a 47097
public road or highway for a distance of more than ten miles or at 47098
a speed of more than twenty-five miles per hour. "Trailer" does 47099
not include a manufactured home or travel trailer. 47100

(N) "Noncommercial trailer" means any trailer, except a 47101
travel trailer or trailer that is used to transport a boat as 47102
described in division (B) of this section, but, where applicable, 47103
includes a vehicle that is used to transport a boat as described 47104
in division (M) of this section, that has a gross weight of no 47105
more than three thousand pounds, and that is used exclusively for 47106
purposes other than engaging in business for a profit. 47107

(O) "Mobile home" means a building unit or assembly of closed construction that is fabricated in an off-site facility, is more than thirty-five body feet in length or, when erected on site, is three hundred twenty or more square feet, is built on a permanent chassis, is transportable in one or more sections, and does not qualify as a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code or as an industrialized unit as defined in division (C)(3) of section 3781.06 of the Revised Code.

(P) "Semitrailer" means any vehicle of the trailer type that does not have motive power and is so designed or used with another and separate motor vehicle that in operation a part of its own weight or that of its load, or both, rests upon and is carried by the other vehicle furnishing the motive power for propelling itself and the vehicle referred to in this division, and includes, for the purpose only of registration and taxation under those chapters, any vehicle of the dolly type, such as a trailer dolly, that is designed or used for the conversion of a semitrailer into a trailer.

(Q) "Recreational vehicle" means a vehicular portable structure that meets all of the following conditions:

(1) It is designed for the sole purpose of recreational travel.

(2) It is not used for the purpose of engaging in business for profit.

(3) It is not used for the purpose of engaging in intrastate commerce.

(4) It is not used for the purpose of commerce as defined in 49 C.F.R. 383.5, as amended.

(5) It is not regulated by the public utilities commission

pursuant to Chapter 4919., 4921., or 4923. of the Revised Code. 47138

(6) It is classed as one of the following: 47139

(a) "Travel trailer" means a nonself-propelled recreational 47140
vehicle that does not exceed an overall length of thirty-five 47141
feet, exclusive of bumper and tongue or coupling, and contains 47142
less than three hundred twenty square feet of space when erected 47143
on site. "Travel trailer" includes a tent-type fold-out camping 47144
trailer as defined in section 4517.01 of the Revised Code. 47145

(b) "Motor home" means a self-propelled recreational vehicle 47146
that has no fifth wheel and is constructed with permanently 47147
installed facilities for cold storage, cooking and consuming of 47148
food, and for sleeping. 47149

(c) "Truck camper" means a nonself-propelled recreational 47150
vehicle that does not have wheels for road use and is designed to 47151
be placed upon and attached to a motor vehicle. "Truck camper" 47152
does not include truck covers that consist of walls and a roof, 47153
but do not have floors and facilities enabling them to be used as 47154
a dwelling. 47155

(d) "Fifth wheel trailer" means a vehicle that is of such 47156
size and weight as to be movable without a special highway permit, 47157
that has a gross trailer area of four hundred square feet or less, 47158
that is constructed with a raised forward section that allows a 47159
bi-level floor plan, and that is designed to be towed by a vehicle 47160
equipped with a fifth-wheel hitch ordinarily installed in the bed 47161
of a truck. 47162

(e) "Park trailer" means a vehicle that is commonly known as 47163
a park model recreational vehicle, meets the American national 47164
standard institute standard A119.5 (1988) for park trailers, is 47165
built on a single chassis, has a gross trailer area of four 47166
hundred square feet or less when set up, is designed for seasonal 47167
or temporary living quarters, and may be connected to utilities 47168

necessary for the operation of installed features and appliances. 47169

(R) "Pneumatic tires" means tires of rubber and fabric or 47170
tires of similar material, that are inflated with air. 47171

(S) "Solid tires" means tires of rubber or similar elastic 47172
material that are not dependent upon confined air for support of 47173
the load. 47174

(T) "Solid tire vehicle" means any vehicle that is equipped 47175
with two or more solid tires. 47176

(U) "Farm machinery" means all machines and tools that are 47177
used in the production, harvesting, and care of farm products, and 47178
includes trailers that are used to transport agricultural produce 47179
or agricultural production materials between a local place of 47180
storage or supply and the farm when drawn or towed on a public 47181
road or highway at a speed of twenty-five miles per hour or less. 47182

(V) "Owner" includes any person or firm, other than a 47183
manufacturer or dealer, that has title to a motor vehicle, except 47184
that, in sections 4505.01 to 4505.19 of the Revised Code, "owner" 47185
includes in addition manufacturers and dealers. 47186

(W) "Manufacturer" and "dealer" include all persons and firms 47187
that are regularly engaged in the business of manufacturing, 47188
selling, displaying, offering for sale, or dealing in motor 47189
vehicles, at an established place of business that is used 47190
exclusively for the purpose of manufacturing, selling, displaying, 47191
offering for sale, or dealing in motor vehicles. A place of 47192
business that is used for manufacturing, selling, displaying, 47193
offering for sale, or dealing in motor vehicles shall be deemed to 47194
be used exclusively for those purposes even though snowmobiles or 47195
all-purpose vehicles are sold or displayed for sale thereat, even 47196
though farm machinery is sold or displayed for sale thereat, or 47197
even though repair, accessory, gasoline and oil, storage, parts, 47198
service, or paint departments are maintained thereat, or, in any 47199

county having a population of less than seventy-five thousand at 47200
the last federal census, even though a department in a place of 47201
business is used to dismantle, salvage, or rebuild motor vehicles 47202
by means of used parts, if such departments are operated for the 47203
purpose of furthering and assisting in the business of 47204
manufacturing, selling, displaying, offering for sale, or dealing 47205
in motor vehicles. Places of business or departments in a place of 47206
business used to dismantle, salvage, or rebuild motor vehicles by 47207
means of using used parts are not considered as being maintained 47208
for the purpose of assisting or furthering the manufacturing, 47209
selling, displaying, and offering for sale or dealing in motor 47210
vehicles. 47211

(X) "Operator" includes any person who drives or operates a 47212
motor vehicle upon the public highways. 47213

(Y) "Chauffeur" means any operator who operates a motor 47214
vehicle, other than a taxicab, as an employee for hire; or any 47215
operator whether or not the owner of a motor vehicle, other than a 47216
taxicab, who operates such vehicle for transporting, for gain, 47217
compensation, or profit, either persons or property owned by 47218
another. Any operator of a motor vehicle who is voluntarily 47219
involved in a ridesharing arrangement is not considered an 47220
employee for hire or operating such vehicle for gain, 47221
compensation, or profit. 47222

(Z) "State" includes the territories and federal districts of 47223
the United States, and the provinces of Canada. 47224

(AA) "Public roads and highways" for vehicles includes all 47225
public thoroughfares, bridges, and culverts. 47226

(BB) "Manufacturer's number" means the manufacturer's 47227
original serial number that is affixed to or imprinted upon the 47228
chassis or other part of the motor vehicle. 47229

(CC) "Motor number" means the manufacturer's original number 47230

that is affixed to or imprinted upon the engine or motor of the vehicle. 47231
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(DD) "Distributor" means any person who is authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed motor vehicle dealers at an established place of business that is used exclusively for the purpose of distributing new motor vehicles to licensed motor vehicle dealers, except when the distributor also is a new motor vehicle dealer, in which case the distributor may distribute at the location of the distributor's licensed dealership. 47233
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(EE) "Ridesharing arrangement" means the transportation of persons in a motor vehicle where the transportation is incidental to another purpose of a volunteer driver and includes ridesharing arrangements known as carpools, vanpools, and buspools. 47241
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(FF) "Apportionable vehicle" means any vehicle that is used or intended for use in two or more international registration plan member jurisdictions that allocate or proportionally register vehicles, that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and that meets any of the following qualifications: 47245
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(1) Is a power unit having a gross vehicle weight in excess of twenty-six thousand pounds; 47251
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(2) Is a power unit having three or more axles, regardless of the gross vehicle weight; 47253
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(3) Is a combination vehicle with a gross vehicle weight in excess of twenty-six thousand pounds. 47255
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"Apportionable vehicle" does not include recreational vehicles, vehicles displaying restricted plates, city pick-up and delivery vehicles, buses used for the transportation of chartered parties, or vehicles owned and operated by the United States, this 47257
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state, or any political subdivisions thereof. 47261

(GG) "Chartered party" means a group of persons who contract 47262
as a group to acquire the exclusive use of a passenger-carrying 47263
motor vehicle at a fixed charge for the vehicle in accordance with 47264
the carrier's tariff, lawfully on file with the United States 47265
department of transportation, for the purpose of group travel to a 47266
specified destination or for a particular itinerary, either agreed 47267
upon in advance or modified by the chartered group after having 47268
left the place of origin. 47269

(HH) "International registration plan" means a reciprocal 47270
agreement of member jurisdictions that is endorsed by the American 47271
association of motor vehicle administrators, and that promotes and 47272
encourages the fullest possible use of the highway system by 47273
authorizing apportioned registration of fleets of vehicles and 47274
recognizing registration of vehicles apportioned in member 47275
jurisdictions. 47276

(II) "Restricted plate" means a license plate that has a 47277
restriction of time, geographic area, mileage, or commodity, and 47278
includes license plates issued to farm trucks under division (J) 47279
of section 4503.04 of the Revised Code. 47280

(JJ) "Gross vehicle weight," with regard to any commercial 47281
car, trailer, semitrailer, or bus that is taxed at the rates 47282
established under section 4503.042 of the Revised Code, means the 47283
unladen weight of the vehicle fully equipped plus the maximum 47284
weight of the load to be carried on the vehicle. 47285

(KK) "Combined gross vehicle weight" with regard to any 47286
combination of a commercial car, trailer, and semitrailer, that is 47287
taxed at the rates established under section 4503.042 of the 47288
Revised Code, means the total unladen weight of the combination of 47289
vehicles fully equipped plus the maximum weight of the load to be 47290
carried on that combination of vehicles. 47291

(LL) "Chauffeured limousine" means a motor vehicle that is 47292
designed to carry nine or fewer passengers and is operated for 47293
hire on an hourly basis pursuant to a prearranged contract for the 47294
transportation of passengers on public roads and highways along a 47295
route under the control of the person hiring the vehicle and not 47296
over a defined and regular route. "Prearranged contract" means an 47297
agreement, made in advance of boarding, to provide transportation 47298
from a specific location in a chauffeured limousine at a fixed 47299
rate per hour or trip. "Chauffeured limousine" does not include 47300
any vehicle that is used exclusively in the business of funeral 47301
directing. 47302

(MM) "Manufactured home" has the same meaning as in division 47303
(C)(4) of section 3781.06 of the Revised Code. 47304

(NN) "Acquired situs," with respect to a manufactured home or 47305
a mobile home, means to become located in this state by the 47306
placement of the home on real property, but does not include the 47307
placement of a manufactured home or a mobile home in the inventory 47308
of a new motor vehicle dealer or the inventory of a manufacturer, 47309
remanufacturer, or distributor of manufactured or mobile homes. 47310

(OO) "Electronic" includes electrical, digital, magnetic, 47311
optical, electromagnetic, or any other form of technology that 47312
entails capabilities similar to these technologies. 47313

(PP) "Electronic record" means a record generated, 47314
communicated, received, or stored by electronic means for use in 47315
an information system or for transmission from one information 47316
system to another. 47317

(QQ) "Electronic signature" means a signature in electronic 47318
form attached to or logically associated with an electronic 47319
record. 47320

(RR) "Financial transaction device" has the same meaning as 47321
in division (A) of section 113.40 of the Revised Code. 47322

(SS) "Electronic motor vehicle dealer" means a motor vehicle dealer licensed under Chapter 4517. of the Revised Code whom the registrar of motor vehicles determines meets the criteria designated in section 4503.035 of the Revised Code for electronic motor vehicle dealers and designates as an electronic motor vehicle dealer under that section.

(TT) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(UU) "Limited driving privileges" means the privilege to operate a motor vehicle that a court grants under section 4510.021 of the Revised Code to a person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended.

(VV) "Utility vehicle" means a self-propelled vehicle designed with a bed, principally for the purpose of transporting material or cargo in connection with construction, agricultural, forestry, grounds maintenance, lawn and garden, materials handling, or similar activities.

Sec. 4501.07. There is hereby created in the state treasury the highway safety building fund. Subject to any applicable provisions of the bond proceedings, all of the proceeds of the sale of highway safety obligations issued pursuant to section 152.09 of the Revised Code shall be credited to the fund. The fund shall be used to pay costs of capital facilities designated by or pursuant to acts of the general assembly. All investment earnings of the fund shall be credited to the fund.

Notwithstanding any provision of law, at any time prior to 47353
the sale of such obligations, the director of budget and 47354
management, upon the request of the director of public safety, may 47355
transfer cash temporarily from the state highway safety fund 47356
created in section 4501.06 of the Revised Code to the highway 47357
safety building fund, where such cash may be used to fund capital 47358
projects for which appropriations have been made from the highway 47359
safety building fund. At such time as the obligations are sold, 47360
the director of budget and management shall transfer from the 47361
highway safety building fund to the highway safety fund any 47362
amounts originally transferred to the highway safety building fund 47363
under this section. 47364

Sec. 4501.37. (A) No court may reverse, suspend, or delay any 47365
order made by the registrar of motor vehicles, or enjoin, 47366
restrain, or interfere with the registrar or a deputy registrar in 47367
the performance of official duties, except as provided in this 47368
chapter and Chapter 4507. or 4510. of the Revised Code. 47369

(B) A court shall not order the bureau of motor vehicles to 47370
delete a record of conviction unless the court finds that deletion 47371
of the record of conviction is necessary to correct an error. The 47372
bureau shall not comply with a court order that directs the 47373
deletion of a record of conviction unless the order states that 47374
the record of conviction is being deleted in order to correct an 47375
error. 47376

Sec. 4503.103. (A)(1)(a) The registrar of motor vehicles may 47377
adopt rules to permit any person or lessee, other than a person 47378
receiving an apportioned license plate under the international 47379
registration plan, who owns or leases one or more motor vehicles 47380
to file a written application for registration for no more than 47381
five succeeding registration years. The rules adopted by the 47382

registrar may designate the classes of motor vehicles that are 47383
eligible for such registration. At the time of application, all 47384
annual taxes and fees shall be paid for each year for which the 47385
person is registering. 47386

(b)(i) Except as provided in division (A)(1)(b)(ii) of this 47387
section, the registrar shall adopt rules to permit any person who 47388
owns a motor vehicle to file an application for registration for 47389
the next two succeeding registration years. At the time of 47390
application, the person shall pay the annual taxes and fees for 47391
each registration year, calculated in accordance with division (C) 47392
of section 4503.11 of the Revised Code. A person who is 47393
registering a vehicle under division (A)(1)(b) of this section 47394
shall pay for each year of registration the additional fee 47395
established under division (C)(1) of section 4503.10 of the 47396
Revised Code. The person shall also pay one and one-half times the 47397
amount of the deputy registrar service fee specified in division 47398
(D) of section 4503.10 of the Revised Code or the bureau of motor 47399
vehicles service fee specified in division (G) of that section, as 47400
applicable. 47401

(ii) Division (A)(1)(b)(i) of this section does not apply to 47402
a person receiving an apportioned license plate under the 47403
international registration plan, or the owner of a commercial car 47404
used solely in intrastate commerce, or the owner of a bus as 47405
defined in section 4513.50 of the Revised Code. 47406

(2) No person applying for a multi-year registration under 47407
division (A)(1) of this section is entitled to a refund of any 47408
taxes or fees paid. 47409

(3) The registrar shall not issue to any applicant who has 47410
been issued a final, nonappealable order under division (B) of 47411
this section a multi-year registration or renewal thereof under 47412
this division or rules adopted under it for any motor vehicle that 47413
is required to be inspected under section 3704.14 of the Revised 47414

Code the district of registration of which, as determined under 47415
section 4503.10 of the Revised Code, is or is located in the 47416
county named in the order. 47417

(B) Upon receipt from the director of environmental 47418
protection of a notice issued under ~~division (J) of~~ rules adopted 47419
under section 3704.14 of the Revised Code indicating that an owner 47420
of a motor vehicle that is required to be inspected under that 47421
section who obtained a multi-year registration for the vehicle 47422
under division (A) of this section or rules adopted under that 47423
division has not obtained ~~an~~ a required inspection certificate for 47424
the vehicle ~~in accordance with that section in a year intervening~~ 47425
~~between the years of issuance and expiration of the multi-year~~ 47426
~~registration in which the owner is required to have the vehicle~~ 47427
~~inspected and obtain an inspection certificate for it under~~ 47428
~~division (F)(1)(a) of that section,~~ the registrar in accordance 47429
with Chapter 119. of the Revised Code shall issue an order to the 47430
owner impounding the certificate of registration and 47431
identification license plates for the vehicle. The order also 47432
shall prohibit the owner from obtaining or renewing a multi-year 47433
registration for any vehicle that is required to be inspected 47434
under that section, the district of registration of which is or is 47435
located in the same county as the county named in the order during 47436
the number of years after expiration of the current multi-year 47437
registration that equals the number of years for which the current 47438
multi-year registration was issued. 47439

An order issued under this division shall require the owner 47440
to surrender to the registrar the certificate of registration and 47441
license plates for the vehicle named in the order within five days 47442
after its issuance. If the owner fails to do so within that time, 47443
the registrar shall certify that fact to the county sheriff or 47444
local police officials who shall recover the certificate of 47445
registration and license plates for the vehicle. 47446

(C) Upon the occurrence of either of the following 47447
circumstances, the registrar in accordance with Chapter 119. of 47448
the Revised Code shall issue to the owner a modified order 47449
rescinding the provisions of the order issued under division (B) 47450
of this section impounding the certificate of registration and 47451
license plates for the vehicle named in that original order: 47452

(1) Receipt from the director of environmental protection of 47453
a subsequent notice under ~~division (J) of~~ rules adopted under 47454
section 3704.14 of the Revised Code that the owner has obtained 47455
the inspection certificate for the vehicle as required under 47456
~~division (F)(1)(a) of that section~~ those rules; 47457

(2) Presentation to the registrar by the owner of the 47458
required inspection certificate for the vehicle. 47459

(D) The owner of a motor vehicle for which the certificate of 47460
registration and license plates have been impounded pursuant to an 47461
order issued under division (B) of this section, upon issuance of 47462
a modified order under division (C) of this section, may apply to 47463
the registrar for their return. A fee of two dollars and fifty 47464
cents shall be charged for the return of the certificate of 47465
registration and license plates for each vehicle named in the 47466
application. 47467

Sec. 4503.471. (A) Any person who is a member in good 47468
standing of the international association of firefighters may 47469
apply to the registrar of motor vehicles for the registration of 47470
any passenger car, noncommercial vehicle, ~~motor home~~ recreational 47471
vehicle, or other vehicle of a class approved by the registrar 47472
that the person owns or leases and the issuance of international 47473
association of firefighters license plates. The application shall 47474
be accompanied by the written evidence that the registrar may 47475
require by rule showing that the person is a member in good 47476
standing of the international association of firefighters. The 47477

application for international association of firefighters license 47478
plates may be combined with a request for a special reserved 47479
license plate under section 4503.40 or 4503.42 of the Revised 47480
Code. 47481

Upon receipt of an application for registration of a vehicle 47482
under this section and presentation of satisfactory evidence 47483
showing that the person is a member in good standing of the 47484
international association of firefighters, the registrar shall 47485
issue to the applicant the appropriate vehicle registrations, sets 47486
of license plates and validation stickers, or validation stickers 47487
alone when required by section 4503.191 of the Revised Code. 47488

In addition to the letters and numbers ordinarily inscribed 47489
on the license plates, international association of firefighters 47490
license plates shall be inscribed with a Maltese cross emblem 47491
designed by the international association of firefighters and 47492
approved by the registrar. International association of 47493
firefighters license plates shall bear county identification 47494
stickers that identify the county of registration by name or 47495
number. 47496

The license plates and validation stickers shall be issued 47497
upon payment of the regular license fee as prescribed under 47498
section 4503.04 of the Revised Code, payment of any local motor 47499
vehicle tax levied under Chapter 4504. of the Revised Code, and 47500
payment of an additional fee of ten dollars for the purpose of 47501
compensating the bureau of motor vehicles for additional services 47502
required in the issuing of license plates under this section. If 47503
the application for international association of firefighters 47504
license plates is combined with a request for a special reserved 47505
license plate under section 4503.40 or 4503.42 of the Revised 47506
Code, the license plate and validation sticker shall be issued 47507
upon payment of the fees and taxes contained in this division and 47508
the additional fee prescribed under section 4503.40 or 4503.42 of 47509

the Revised Code. The registrar shall deposit the additional fee 47510
of ten dollars in the state bureau of motor vehicles fund created 47511
by section 4501.25 of the Revised Code. 47512

Whenever a person no longer is eligible to be issued 47513
international association of firefighters license plates, the 47514
person shall surrender the international association of 47515
firefighters license plates to the bureau in exchange for license 47516
plates without the Maltese cross emblem described in this section. 47517
A fee of five dollars shall be charged for the services required 47518
in the issuing of replacement plates when a person no longer is 47519
eligible to be issued international association of firefighters 47520
license plates. 47521

A person may make application for international association 47522
of firefighters license plates at any time of year, and the 47523
registrar shall issue international association of firefighters 47524
license plates and replacement plates at any time of year. 47525

(B) No person who is not a member in good standing of the 47526
international association of firefighters shall willfully and 47527
falsely represent that the person is a member in good standing of 47528
the international association of firefighters for the purpose of 47529
obtaining international association of firefighters license plates 47530
under this section. No person shall own or lease a vehicle bearing 47531
international association of firefighters license plates unless 47532
the person is eligible to be issued international association of 47533
firefighters license plates. 47534

(C) Whoever violates division (B) of this section is guilty 47535
of a misdemeanor of the fourth degree. 47536

Sec. 4503.48. Any person who is a member of the Ohio national 47537
guard or the reserves of the armed forces of the United States may 47538
apply to the registrar of motor vehicles for the registration of 47539

any passenger car, noncommercial motor vehicle, ~~motor home~~ 47540
recreational vehicle, or other vehicle of a class approved by the 47541
registrar that the person owns or leases. The application shall be 47542
accompanied by such written evidence that the person is a member 47543
of the Ohio national guard or of the reserves as the registrar 47544
requires by rule. 47545

Upon receipt of an application for registration of a motor 47546
vehicle under this section, presentation of satisfactory evidence 47547
of membership in the Ohio national guard or the reserves, and 47548
payment of the regular license fees as prescribed under section 47549
4503.04 of the Revised Code and any local motor vehicle license 47550
tax levied under Chapter 4504. of the Revised Code, the registrar 47551
shall issue to the applicant the appropriate motor vehicle 47552
registration and a set of license plates and a validation sticker, 47553
or a validation sticker alone when required by section 4503.191 of 47554
the Revised Code. In addition to the letters and numbers 47555
ordinarily inscribed thereon, the license plates shall be 47556
inscribed with identifying words or markings designed by the 47557
department of public safety. The license plates shall bear county 47558
identification stickers that identify the county of registration 47559
by name or number. 47560

Sec. 4503.50. (A) The owner or lessee of any passenger car, 47561
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 47562
other vehicle of a class approved by the registrar of motor 47563
vehicles may apply to the registrar for the registration of the 47564
vehicle and issuance of future farmers of America license plates. 47565
The application for future farmers of America license plates may 47566
be combined with a request for a special reserved license plate 47567
under section 4503.40 or 4503.42 of the Revised Code. Upon receipt 47568
of the completed application and compliance with division (B) of 47569
this section, the registrar shall issue to the applicant the 47570
appropriate vehicle registration and a set of future farmers of 47571

America license plates with a validation sticker or a validation
sticker alone when required by section 4503.191 of the Revised
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In addition to the letters and numbers ordinarily inscribed 47575
on the license plates, future farmers of America license plates 47576
shall be inscribed with identifying words or markings representing 47577
the future farmers of America and approved by the registrar. 47578
Future farmers of America license plates shall bear county 47579
identification stickers that identify the county of registration 47580
by name or number. 47581

(B) The future farmers of America license plates and 47582
validation sticker shall be issued upon receipt of a contribution 47583
as provided in division (C) of this section and upon payment of 47584
the regular license tax as prescribed under section 4503.04 of the 47585
Revised Code, a fee of ten dollars for the purpose of compensating 47586
the bureau of motor vehicles for additional services required in 47587
the issuing of the future farmers of America license plates, any 47588
applicable motor vehicle tax levied under Chapter 4504. of the 47589
Revised Code, and compliance with all other applicable laws 47590
relating to the registration of motor vehicles. If the application 47591
for future farmers of America license plates is combined with a 47592
request for a special reserved license plate under section 4503.40 47593
or 4503.42 of the Revised Code, the license plate and validation 47594
sticker shall be issued upon payment of the contribution, fees, 47595
and taxes referred to or established in this division and the 47596
additional fee prescribed under section 4503.40 or 4503.42 of the 47597
Revised Code. 47598

(C) For each application for registration and registration 47599
renewal the registrar receives under this section, the registrar 47600
shall collect a contribution of fifteen dollars. The registrar 47601
shall transmit this contribution to the treasurer of state for 47602
deposit in the license plate contribution fund created in section 47603

4501.21 of the Revised Code. 47604

The registrar shall deposit the additional fee of ten dollars 47605
specified in division (B) of this section that the applicant for 47606
registration pays for the purpose of compensating the bureau for 47607
the additional services required in the issuing of the applicant's 47608
future farmers of America license plates in the state bureau of 47609
motor vehicles fund created in section 4501.25 of the Revised 47610
Code. 47611

Sec. 4503.53. Any person who served in the armed forces of 47612
the United States in Saudi Arabia or Kuwait during Operation 47613
Desert Storm or Operation Desert Shield, in Panama during the 47614
invasion, in Grenada during the invasion, in Lebanon during the 47615
invasion, during the Vietnam conflict, during the Korean conflict, 47616
during World War II, or during World War I, and who is on active 47617
duty or is an honorably discharged veteran may apply to the 47618
registrar of motor vehicles for the registration of any passenger 47619
car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, 47620
or other vehicle of a class approved by the registrar the person 47621
owns or leases. The application shall be accompanied by such 47622
written evidence of the applicant's service as the registrar 47623
requires by rule. In the case of an honorably discharged veteran, 47624
the written evidence shall include a copy of the applicant's 47625
DD-214 form or an equivalent document. 47626

Upon receipt of an application for registration of a motor 47627
vehicle under this section, presentation of satisfactory evidence 47628
of military service in Saudi Arabia or Kuwait during Operation 47629
Desert Storm or Operation Desert Shield, in Panama during the 47630
invasion, in Grenada during the invasion, in Lebanon during the 47631
invasion, during the Vietnam conflict, during the Korean conflict, 47632
during World War II, or during World War I, and payment of the 47633
regular license tax as prescribed under section 4503.04 of the 47634

Revised Code and any applicable local tax levied under Chapter 47635
4504. of the Revised Code, the registrar shall issue to the 47636
applicant the appropriate motor vehicle registration and a set of 47637
license plates and a validation sticker, or a validation sticker 47638
alone when required by section 4503.191 of the Revised Code. In 47639
accordance with rules adopted by the registrar, each license plate 47640
shall be inscribed with identifying letters or numerals and the 47641
word "VETERAN"; in addition, each license plate shall be inscribed 47642
with a design and words indicating service in Saudi Arabia, 47643
Kuwait, Panama, Grenada, or Lebanon, or during the Vietnam 47644
conflict, the Korean conflict, World War II, or World War I. 47645

Sec. 4503.571. Any person who has been awarded the purple 47646
heart may apply to the registrar of motor vehicles for the 47647
registration of any passenger car, noncommercial motor vehicle, 47648
~~motor home~~ recreational vehicle, or other vehicle of a class 47649
approved by the registrar that the person owns or leases. The 47650
application shall be accompanied by such documentary evidence in 47651
support of the award as the registrar may require. The application 47652
may be combined with a request for a special reserved license 47653
plate under section 4503.40 or 4503.42 of the Revised Code. 47654

Upon receipt of an application for registration of a motor 47655
vehicle under this section and the required taxes and fees, and 47656
upon presentation of the required supporting evidence of the award 47657
of the purple heart, the registrar shall issue to the applicant 47658
the appropriate motor vehicle registration and a set of license 47659
plates and a validation sticker, or a validation sticker alone 47660
when required by section 4503.191 of the Revised Code. 47661

In addition to the letters and numbers ordinarily inscribed 47662
on the license plates, the license plates shall be inscribed with 47663
the words "PURPLE HEART." The license plates shall bear county 47664
identification stickers that identify the county of registration 47665

by name or number.

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The license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes referred to in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code.

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No person who is not a recipient of the purple heart shall willfully and falsely represent that the person is a recipient of a purple heart for the purpose of obtaining license plates under this section. No person shall own a motor vehicle bearing license plates under this section unless the person is eligible to be issued those license plates.

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Sec. 4503.59. The owner or lessee of any passenger car, noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is certified by the Pearl Harbor survivors association as having survived the attack on Pearl Harbor may apply to the registrar for the registration of the vehicle and issuance of Pearl Harbor license plates. The application for Pearl Harbor license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of documentation issued by the Pearl Harbor survivors association certifying that the applicant survived the attack on Pearl Harbor, and compliance by the

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applicant with this section, the registrar shall issue to the 47697
applicant the appropriate vehicle registration and a set of Pearl 47698
Harbor license plates with a validation sticker or a validation 47699
sticker alone when required by section 4503.191 of the Revised 47700
Code. 47701

In addition to the letters and numbers ordinarily inscribed 47702
thereon, Pearl Harbor license plates shall be inscribed with the 47703
words "Pearl Harbor" and a symbol or logo designed by the Pearl 47704
Harbor survivors association and approved by the registrar. Pearl 47705
Harbor license plates shall bear county identification stickers 47706
that identify the county of registration by name or number. 47707

Pearl Harbor license plates and validation stickers shall be 47708
issued upon payment of the regular license fee required by section 47709
4503.04 of the Revised Code, payment of any local motor vehicle 47710
license tax levied under Chapter 4504. of the Revised Code, and 47711
compliance with all other applicable laws relating to the 47712
registration of motor vehicles. If the application for Pearl 47713
Harbor license plates is combined with a request for a special 47714
reserved license plate under section 4503.40 or 4503.42 of the 47715
Revised Code, the license plates and validation sticker shall be 47716
issued upon payment of the fees and taxes contained in this 47717
section and the additional fee prescribed under section 4503.40 or 47718
4503.42 of the Revised Code. 47719

Sec. 4503.73. (A) The owner or lessee of any passenger car, 47720
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 47721
other vehicle of a class approved by the registrar of motor 47722
vehicles may apply to the registrar for the registration of the 47723
vehicle and issuance of "the leader in flight" license plates. The 47724
application for "the leader in flight" license plates may be 47725
combined with a request for a special reserved license plate under 47726
section 4503.40 or 4503.42 of the Revised Code. Upon receipt of 47727

the completed application and compliance with division (B) of this 47728
section, the registrar shall issue to the applicant the 47729
appropriate vehicle registration and a set of "the leader in 47730
flight" license plates with a validation sticker or a validation 47731
sticker alone when required by section 4503.191 of the Revised 47732
Code. 47733

In addition to the letters and numbers ordinarily inscribed 47734
thereon, "the leader in flight" license plates shall be inscribed 47735
with the words "the leader in flight" and illustrations of a space 47736
shuttle in a vertical position and the Wright "B" airplane. "The 47737
leader in flight" license plates shall bear county identification 47738
stickers that identify the county of registration by name or 47739
number. 47740

(B) "The leader in flight" license plates and validation 47741
sticker shall be issued upon receipt of a contribution as provided 47742
in division (C) of this section and payment of the regular license 47743
tax as prescribed under section 4503.04 of the Revised Code, a fee 47744
of ten dollars for the purpose of compensating the bureau of motor 47745
vehicles for additional services required in the issuing of "the 47746
leader in flight" license plates, any applicable motor vehicle tax 47747
levied under Chapter 4504. of the Revised Code, and compliance 47748
with all other applicable laws relating to the registration of 47749
motor vehicles. If the application for "the leader in flight" 47750
license plates is combined with a request for a special reserved 47751
license plate under section 4503.40 or 4503.42 of the Revised 47752
Code, the license plate and validation sticker shall be issued 47753
upon payment of the fees and taxes referred to or established in 47754
this division and the additional fee prescribed under section 47755
4503.40 or 4503.42 of the Revised Code. 47756

(C) For each application for registration and registration 47757
renewal received under this section, the registrar shall collect a 47758
contribution of fifteen dollars. The registrar shall transmit this 47759

contribution to the treasurer of state for deposit in the license
plate contribution fund created in section 4501.21 of the Revised
Code. 47760
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The registrar shall deposit the additional fee of ten dollars
specified in division (B) of this section that the applicant for
registration voluntarily pays for the purpose of compensating the
bureau for the additional services required in the issuing of the
applicant's "the leader in flight" license plates in the state
bureau of motor vehicles fund created in section 4501.25 of the
Revised Code. 47763
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Sec. 4503.85. (A) The owner or lessee of any passenger car,
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or
other vehicle of a class approved by the registrar of motor
vehicles may apply to the registrar for the registration of the
vehicle and issuance of "Fish Lake Erie" license plates. The
application for "Fish Lake Erie" license plates may be combined
with a request for a special reserved license plate under section
4503.40 or 4503.42 of the Revised Code. Upon receipt of the
completed application and compliance with division (B) of this
section, the registrar shall issue to the applicant the
appropriate vehicle registration, a set of "Fish Lake Erie"
license plates, and a validation sticker, or a validation sticker
alone when required by section 4503.191 of the Revised Code. 47770
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In addition to the letters and numbers ordinarily inscribed
on the license plates, "Fish Lake Erie" license plates shall be
inscribed with identifying words or markings designed by the Ohio
sea grant college program and approved by the registrar. "Fish
Lake Erie" license plates shall bear county identification
stickers that identify the county of registration by name or
number. 47783
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(B) "Fish Lake Erie" license plates and a validation sticker 47790

or, when applicable, a validation sticker alone shall be issued 47791
upon receipt of an application for registration of a motor vehicle 47792
submitted under this section and a contribution as provided in 47793
division (C) of this section, payment of the regular license tax 47794
as prescribed under section 4503.04 of the Revised Code, any 47795
applicable motor vehicle tax levied under Chapter 4504. of the 47796
Revised Code, and an additional fee of ten dollars, and compliance 47797
with all other applicable laws relating to the registration of 47798
motor vehicles. If the application for "Fish Lake Erie" license 47799
plates is combined with a request for a special reserved license 47800
plate under section 4503.40 or 4503.42 of the Revised Code, the 47801
license plates and validation sticker or validation sticker alone 47802
shall be issued upon payment of the fees and taxes referred to or 47803
established in this division plus the additional fee prescribed in 47804
section 4503.40 or 4503.42 of the Revised Code. 47805

(C) For each application for registration and registration 47806
renewal that the registrar receives under this section, the 47807
registrar shall collect a contribution of fifteen dollars. The 47808
registrar shall deposit this contribution into the state treasury 47809
to the credit of the license plate contribution fund created in 47810
section 4501.21 of the Revised Code. 47811

The additional fee of ten dollars described in division (B) 47812
of this section shall be for the purpose of compensating the 47813
bureau of motor vehicles for additional services required in 47814
issuing license plates under this section. The registrar shall 47815
deposit that fee into the state treasury to the credit of the 47816
state bureau of motor vehicles fund created by section 4501.25 of 47817
the Revised Code. 47818

Sec. 4503.91. (A) The owner or lessee of any passenger car, 47819
noncommercial motor vehicle, ~~motor home~~ recreational vehicle, or 47820
other vehicle of a class approved by the registrar of motor 47821

vehicles may apply to the registrar for the registration of the 47822
vehicle and issuance of "choose life" license plates. The 47823
application for "choose life" license plates may be combined with 47824
a request for a special reserved license plate under section 47825
4503.40 or 4503.42 of the Revised Code. Upon receipt of the 47826
completed application and compliance with divisions (B) and (C) of 47827
this section, the registrar shall issue to the applicant the 47828
appropriate vehicle registration and a set of "choose life" 47829
license plates with a validation sticker or a validation sticker 47830
alone when required by section 4503.191 of the Revised Code. 47831

In addition to the letters and numbers ordinarily inscribed 47832
on license plates, "choose life" license plates shall be inscribed 47833
with the words "choose life" and a marking designed by "choose 47834
life, inc.," a private, nonprofit corporation incorporated in the 47835
state of Florida. The registrar shall review the design and 47836
approve it if the design is feasible. If the design is not 47837
feasible, the registrar shall notify "choose life, inc," and the 47838
organization may resubmit designs until a feasible one is 47839
approved. "Choose life" license plates shall bear county 47840
identification stickers that identify the county of registration 47841
by name or number. 47842

(B) "Choose life" license plates and a validation sticker, or 47843
a validation sticker alone, shall be issued upon receipt of a 47844
contribution as provided in division (C) of this section and upon 47845
payment of the regular license tax prescribed in section 4503.04 47846
of the Revised Code, any applicable motor vehicle tax levied under 47847
Chapter 4504. of the Revised Code, any applicable additional fee 47848
prescribed by section 4503.40 or 4503.42 of the Revised Code, a 47849
fee of ten dollars for the purpose of compensating the bureau of 47850
motor vehicles for additional services required in the issuing of 47851
"choose life" license plates, and compliance with all other 47852
applicable laws relating to the registration of motor vehicles. 47853

(C)(1) For each application for registration and registration 47854
renewal received under this section, the registrar shall collect a 47855
contribution of twenty dollars. The registrar shall transmit this 47856
contribution to the treasurer of state for deposit in the "choose 47857
life" fund created in section 3701.65 of the Revised Code. 47858

(2) The registrar shall deposit the additional fee of ten 47859
dollars specified in division (B) of this section for the purpose 47860
of compensating the bureau for the additional services required in 47861
issuing "choose life" license plates in the state bureau of motor 47862
vehicles fund created in section 4501.25 of the Revised Code. 47863

Sec. 4505.06. (A)(1) Application for a certificate of title 47864
shall be made in a form prescribed by the registrar of motor 47865
vehicles and shall be sworn to before a notary public or other 47866
officer empowered to administer oaths. The application shall be 47867
filed with the clerk of any court of common pleas. An application 47868
for a certificate of title may be filed electronically by any 47869
electronic means approved by the registrar in any county with the 47870
clerk of the court of common pleas of that county. Any payments 47871
required by this chapter shall be considered as accompanying any 47872
electronically transmitted application when payment actually is 47873
received by the clerk. Payment of any fee or taxes may be made by 47874
electronic transfer of funds. 47875

(2) The application for a certificate of title shall be 47876
accompanied by the fee prescribed in section 4505.09 of the 47877
Revised Code. The fee shall be retained by the clerk who issues 47878
the certificate of title and shall be distributed in accordance 47879
with that section. If a clerk of a court of common pleas, other 47880
than the clerk of the court of common pleas of an applicant's 47881
county of residence, issues a certificate of title to the 47882
applicant, the clerk shall transmit data related to the 47883
transaction to the automated title processing system. 47884

(3) If a certificate of title previously has been issued for 47885
a motor vehicle in this state, the application for a certificate 47886
of title also shall be accompanied by that certificate of title 47887
duly assigned, unless otherwise provided in this chapter. If a 47888
certificate of title previously has not been issued for the motor 47889
vehicle in this state, the application, unless otherwise provided 47890
in this chapter, shall be accompanied by a manufacturer's or 47891
importer's certificate or by a certificate of title of another 47892
state from which the motor vehicle was brought into this state. If 47893
the application refers to a motor vehicle last previously 47894
registered in another state, the application also shall be 47895
accompanied by the physical inspection certificate required by 47896
section 4505.061 of the Revised Code. If the application is made 47897
by two persons regarding a motor vehicle in which they wish to 47898
establish joint ownership with right of survivorship, they may do 47899
so as provided in section 2131.12 of the Revised Code. If the 47900
applicant requests a designation of the motor vehicle in 47901
beneficiary form so that upon the death of the owner of the motor 47902
vehicle, ownership of the motor vehicle will pass to a designated 47903
transfer-on-death beneficiary or beneficiaries, the applicant may 47904
do so as provided in section 2131.13 of the Revised Code. A person 47905
who establishes ownership of a motor vehicle that is transferable 47906
on death in accordance with section 2131.13 of the Revised Code 47907
may terminate that type of ownership or change the designation of 47908
the transfer-on-death beneficiary or beneficiaries by applying for 47909
a certificate of title pursuant to this section. The clerk shall 47910
retain the evidence of title presented by the applicant and on 47911
which the certificate of title is issued, except that, if an 47912
application for a certificate of title is filed electronically by 47913
an electronic motor vehicle dealer on behalf of the purchaser of a 47914
motor vehicle, the clerk shall retain the completed electronic 47915
record to which the dealer converted the certificate of title 47916
application and other required documents. The registrar, after 47917

consultation with the attorney general, shall adopt rules that 47918
govern the location at which, and the manner in which, are stored 47919
the actual application and all other documents relating to the 47920
sale of a motor vehicle when an electronic motor vehicle dealer 47921
files the application for a certificate of title electronically on 47922
behalf of the purchaser. 47923

The clerk shall use reasonable diligence in ascertaining 47924
whether or not the facts in the application for a certificate of 47925
title are true by checking the application and documents 47926
accompanying it or the electronic record to which a dealer 47927
converted the application and accompanying documents with the 47928
records of motor vehicles in the clerk's office. If the clerk is 47929
satisfied that the applicant is the owner of the motor vehicle and 47930
that the application is in the proper form, the clerk, within five 47931
business days after the application is filed and except as 47932
provided in section 4505.021 of the Revised Code, shall issue a 47933
physical certificate of title over the clerk's signature and 47934
sealed with the clerk's seal, unless the applicant specifically 47935
requests the clerk not to issue a physical certificate of title 47936
and instead to issue an electronic certificate of title. For 47937
purposes of the transfer of a certificate of title, if the clerk 47938
is satisfied that the secured party has duly discharged a lien 47939
notation but has not canceled the lien notation with a clerk, the 47940
clerk may cancel the lien notation on the automated title 47941
processing system and notify the clerk of the county of origin. 47942

(4) In the case of the sale of a motor vehicle to a general 47943
buyer or user by a dealer, by a motor vehicle leasing dealer 47944
selling the motor vehicle to the lessee or, in a case in which the 47945
leasing dealer subleased the motor vehicle, the sublessee, at the 47946
end of the lease agreement or sublease agreement, or by a 47947
manufactured home broker, the certificate of title shall be 47948
obtained in the name of the buyer by the dealer, leasing dealer, 47949

or manufactured home broker, as the case may be, upon application 47950
signed by the buyer. The certificate of title shall be issued, or 47951
the process of entering the certificate of title application 47952
information into the automated title processing system if a 47953
physical certificate of title is not to be issued shall be 47954
completed, within five business days after the application for 47955
title is filed with the clerk. If the buyer of the motor vehicle 47956
previously leased the motor vehicle and is buying the motor 47957
vehicle at the end of the lease pursuant to that lease, the 47958
certificate of title shall be obtained in the name of the buyer by 47959
the motor vehicle leasing dealer who previously leased the motor 47960
vehicle to the buyer or by the motor vehicle leasing dealer who 47961
subleased the motor vehicle to the buyer under a sublease 47962
agreement. 47963

In all other cases, except as provided in section 4505.032 47964
and division (D)(2) of section 4505.11 of the Revised Code, such 47965
certificates shall be obtained by the buyer. 47966

(5)(a)(i) If the certificate of title is being obtained in 47967
the name of the buyer by a motor vehicle dealer or motor vehicle 47968
leasing dealer and there is a security interest to be noted on the 47969
certificate of title, the dealer or leasing dealer shall submit 47970
the application for the certificate of title and payment of the 47971
applicable tax to a clerk within seven business days after the 47972
later of the delivery of the motor vehicle to the buyer or the 47973
date the dealer or leasing dealer obtains the manufacturer's or 47974
importer's certificate, or certificate of title issued in the name 47975
of the dealer or leasing dealer, for the motor vehicle. Submission 47976
of the application for the certificate of title and payment of the 47977
applicable tax within the required seven business days may be 47978
indicated by postmark or receipt by a clerk within that period. 47979

(ii) Upon receipt of the certificate of title with the 47980
security interest noted on its face, the dealer or leasing dealer 47981

shall forward the certificate of title to the secured party at the 47982
location noted in the financing documents or otherwise specified 47983
by the secured party. 47984

(iii) A motor vehicle dealer or motor vehicle leasing dealer 47985
is liable to a secured party for a late fee of ten dollars per day 47986
for each certificate of title application and payment of the 47987
applicable tax that is submitted to a clerk more than seven 47988
business days but less than twenty-one days after the later of the 47989
delivery of the motor vehicle to the buyer or the date the dealer 47990
or leasing dealer obtains the manufacturer's or importer's 47991
certificate, or certificate of title issued in the name of the 47992
dealer or leasing dealer, for the motor vehicle and, from then on, 47993
twenty-five dollars per day until the application and applicable 47994
tax are submitted to a clerk. 47995

(b) In all cases of transfer of a motor vehicle, the 47996
application for certificate of title shall be filed within thirty 47997
days after the assignment or delivery of the motor vehicle. If an 47998
application for a certificate of title is not filed within the 47999
period specified in division (A)(5)(b) of this section, the clerk 48000
shall collect a fee of five dollars for the issuance of the 48001
certificate, except that no such fee shall be required from a 48002
motor vehicle salvage dealer, as defined in division (A) of 48003
section 4738.01 of the Revised Code, who immediately surrenders 48004
the certificate of title for cancellation. The fee shall be in 48005
addition to all other fees established by this chapter, and shall 48006
be retained by the clerk. The registrar shall provide, on the 48007
certificate of title form prescribed by section 4505.07 of the 48008
Revised Code, language necessary to give evidence of the date on 48009
which the assignment or delivery of the motor vehicle was made. 48010

(6) As used in division (A) of this section, "lease 48011
agreement," "lessee," and "sublease agreement" have the same 48012
meanings as in section 4505.04 of the Revised Code. 48013

(B)(1) The clerk, except as provided in this section, shall 48014
refuse to accept for filing any application for a certificate of 48015
title and shall refuse to issue a certificate of title unless the 48016
dealer or manufactured home broker or the applicant, in cases in 48017
which the certificate shall be obtained by the buyer, submits with 48018
the application payment of the tax levied by or pursuant to 48019
Chapters 5739. and 5741. of the Revised Code based on the 48020
purchaser's county of residence. Upon payment of the tax in 48021
accordance with division (E) of this section, the clerk shall 48022
issue a receipt prescribed by the registrar and agreed upon by the 48023
tax commissioner showing payment of the tax or a receipt issued by 48024
the commissioner showing the payment of the tax. When submitting 48025
payment of the tax to the clerk, a dealer shall retain any 48026
discount to which the dealer is entitled under section 5739.12 of 48027
the Revised Code. 48028

(2) For receiving and disbursing such taxes paid to the clerk 48029
by a resident of the clerk's county, the clerk may retain a 48030
poundage fee of one and one one-hundredth per cent, and the clerk 48031
shall pay the poundage fee into the certificate of title 48032
administration fund created by section 325.33 of the Revised Code. 48033
The clerk shall not retain a poundage fee from payments of taxes 48034
by persons who do not reside in the clerk's county. 48035

A clerk, however, may retain from the taxes paid to the clerk 48036
an amount equal to the poundage fees associated with certificates 48037
of title issued by other clerks of courts of common pleas to 48038
applicants who reside in the first clerk's county. The registrar, 48039
in consultation with the tax commissioner and the clerks of the 48040
courts of common pleas, shall develop a report from the automated 48041
title processing system that informs each clerk of the amount of 48042
the poundage fees that the clerk is permitted to retain from those 48043
taxes because of certificates of title issued by the clerks of 48044
other counties to applicants who reside in the first clerk's 48045

county.

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(3) In the case of casual sales of motor vehicles, as defined in section 4517.01 of the Revised Code, the price for the purpose of determining the tax shall be the purchase price on the assigned certificate of title executed by the seller and filed with the clerk by the buyer on a form to be prescribed by the registrar, which shall be prima-facie evidence of the amount for the determination of the tax.

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(4) Each county clerk shall forward to the treasurer of state all sales and use tax collections resulting from sales of motor vehicles, off-highway motorcycles, and all-purpose vehicles during a calendar week on or before the Friday following the close of that week. If, on any Friday, the offices of the clerk of courts or the state are not open for business, the tax shall be forwarded to the treasurer of state on or before the next day on which the offices are open. Every remittance of tax under division (B)(4) of this section shall be accompanied by a remittance report in such form as the tax commissioner prescribes. Upon receipt of a tax remittance and remittance report, the treasurer of state shall date stamp the report and forward it to the tax commissioner. If the tax due for any week is not remitted by a clerk of courts as required under division (B)(4) of this section, the commissioner may require the clerk to forfeit the poundage fees for the sales made during that week. The treasurer of state may require the clerks of courts to transmit tax collections and remittance reports electronically.

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(C)(1) If the transferor indicates on the certificate of title that the odometer reflects mileage in excess of the designed mechanical limit of the odometer, the clerk shall enter the phrase "exceeds mechanical limits" following the mileage designation. If the transferor indicates on the certificate of title that the odometer reading is not the actual mileage, the clerk shall enter

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the phrase "nonactual: warning - odometer discrepancy" following 48078
the mileage designation. The clerk shall use reasonable care in 48079
transferring the information supplied by the transferor, but is 48080
not liable for any errors or omissions of the clerk or those of 48081
the clerk's deputies in the performance of the clerk's duties 48082
created by this chapter. 48083

The registrar shall prescribe an affidavit in which the 48084
transferor shall swear to the true selling price and, except as 48085
provided in this division, the true odometer reading of the motor 48086
vehicle. The registrar may prescribe an affidavit in which the 48087
seller and buyer provide information pertaining to the odometer 48088
reading of the motor vehicle in addition to that required by this 48089
section, as such information may be required by the United States 48090
secretary of transportation by rule prescribed under authority of 48091
subchapter IV of the "Motor Vehicle Information and Cost Savings 48092
Act," 86 Stat. 961 (1972), 15 U.S.C. 1981. 48093

(2) Division (C)(1) of this section does not require the 48094
giving of information concerning the odometer and odometer reading 48095
of a motor vehicle when ownership of a motor vehicle is being 48096
transferred as a result of a bequest, under the laws of intestate 48097
succession, to a survivor pursuant to section 2106.18, 2131.12, or 48098
4505.10 of the Revised Code, to a transfer-on-death beneficiary or 48099
beneficiaries pursuant to section 2131.13 of the Revised Code, in 48100
connection with the creation of a security interest or for a 48101
vehicle with a gross vehicle weight rating of more than sixteen 48102
thousand pounds. 48103

(D) When the transfer to the applicant was made in some other 48104
state or in interstate commerce, the clerk, except as provided in 48105
this section, shall refuse to issue any certificate of title 48106
unless the tax imposed by or pursuant to Chapter 5741. of the 48107
Revised Code based on the purchaser's county of residence has been 48108
paid as evidenced by a receipt issued by the tax commissioner, or 48109

unless the applicant submits with the application payment of the 48110
tax. Upon payment of the tax in accordance with division (E) of 48111
this section, the clerk shall issue a receipt prescribed by the 48112
registrar and agreed upon by the tax commissioner, showing payment 48113
of the tax. 48114

For receiving and disbursing such taxes paid to the clerk by 48115
a resident of the clerk's county, the clerk may retain a poundage 48116
fee of one and one one-hundredth per cent. The clerk shall not 48117
retain a poundage fee from payments of taxes by persons who do not 48118
reside in the clerk's county. 48119

A clerk, however, may retain from the taxes paid to the clerk 48120
an amount equal to the poundage fees associated with certificates 48121
of title issued by other clerks of courts of common pleas to 48122
applicants who reside in the first clerk's county. The registrar, 48123
in consultation with the tax commissioner and the clerks of the 48124
courts of common pleas, shall develop a report from the automated 48125
title processing system that informs each clerk of the amount of 48126
the poundage fees that the clerk is permitted to retain from those 48127
taxes because of certificates of title issued by the clerks of 48128
other counties to applicants who reside in the first clerk's 48129
county. 48130

When the vendor is not regularly engaged in the business of 48131
selling motor vehicles, the vendor shall not be required to 48132
purchase a vendor's license or make reports concerning those 48133
sales. 48134

(E) The clerk shall accept any payment of a tax in cash, or 48135
by cashier's check, certified check, draft, money order, or teller 48136
check issued by any insured financial institution payable to the 48137
clerk and submitted with an application for a certificate of title 48138
under division (B) or (D) of this section. The clerk also may 48139
accept payment of the tax by corporate, business, or personal 48140

check, credit card, electronic transfer or wire transfer, debit 48141
card, or any other accepted form of payment made payable to the 48142
clerk. The clerk may require bonds, guarantees, or letters of 48143
credit to ensure the collection of corporate, business, or 48144
personal checks. Any service fee charged by a third party to a 48145
clerk for the use of any form of payment may be paid by the clerk 48146
from the certificate of title administration fund created in 48147
section 325.33 of the Revised Code, or may be assessed by the 48148
clerk upon the applicant as an additional fee. Upon collection, 48149
the additional fees shall be paid by the clerk into that 48150
certificate of title administration fund. 48151

The clerk shall make a good faith effort to collect any 48152
payment of taxes due but not made because the payment was returned 48153
or dishonored, but the clerk is not personally liable for the 48154
payment of uncollected taxes or uncollected fees. The clerk shall 48155
notify the tax commissioner of any such payment of taxes that is 48156
due but not made and shall furnish the information to the 48157
commissioner that the commissioner requires. The clerk shall 48158
deduct the amount of taxes due but not paid from the clerk's 48159
periodic remittance of tax payments, in accordance with procedures 48160
agreed upon by the tax commissioner. The commissioner may collect 48161
taxes due by assessment in the manner provided in section 5739.13 48162
of the Revised Code. 48163

Any person who presents payment that is returned or 48164
dishonored for any reason is liable to the clerk for payment of a 48165
penalty over and above the amount of the taxes due. The clerk 48166
shall determine the amount of the penalty, and the penalty shall 48167
be no greater than that amount necessary to compensate the clerk 48168
for banking charges, legal fees, or other expenses incurred by the 48169
clerk in collecting the returned or dishonored payment. The 48170
remedies and procedures provided in this section are in addition 48171
to any other available civil or criminal remedies. Subsequently 48172

collected penalties, poundage fees, and title fees, less any title 48173
fee due the state, from returned or dishonored payments collected 48174
by the clerk shall be paid into the certificate of title 48175
administration fund. Subsequently collected taxes, less poundage 48176
fees, shall be sent by the clerk to the treasurer of state at the 48177
next scheduled periodic remittance of tax payments, with 48178
information as the commissioner may require. The clerk may abate 48179
all or any part of any penalty assessed under this division. 48180

(F) In the following cases, the clerk shall accept for filing 48181
an application and shall issue a certificate of title without 48182
requiring payment or evidence of payment of the tax: 48183

(1) When the purchaser is this state or any of its political 48184
subdivisions, a church, or an organization whose purchases are 48185
exempted by section 5739.02 of the Revised Code; 48186

(2) When the transaction in this state is not a retail sale 48187
as defined by section 5739.01 of the Revised Code; 48188

(3) When the purchase is outside this state or in interstate 48189
commerce and the purpose of the purchaser is not to use, store, or 48190
consume within the meaning of section 5741.01 of the Revised Code; 48191

(4) When the purchaser is the federal government; 48192

(5) When the motor vehicle was purchased outside this state 48193
for use outside this state; 48194

(6) When the motor vehicle is purchased by a nonresident of 48195
this state for immediate removal from this state, and will be 48196
permanently titled and registered in another state, as provided by 48197
division (B)(23) of section 5739.02 of the Revised Code, and upon 48198
presentation of a copy of the affidavit provided by that section, 48199
and a copy of the exemption certificate provided by section 48200
5739.03 of the Revised Code. 48201

~~The clerk shall forward all payments of taxes, less poundage 48202~~

~~fees, to the treasurer of state in a manner to be prescribed by 48203
the tax commissioner and shall furnish information to the 48204
commissioner as the commissioner requires. 48205~~

(G) An application, as prescribed by the registrar and agreed 48206
to by the tax commissioner, shall be filled out and sworn to by 48207
the buyer of a motor vehicle in a casual sale. The application 48208
shall contain the following notice in bold lettering: "WARNING TO 48209
TRANSFEROR AND TRANSFEREE (SELLER AND BUYER): You are required by 48210
law to state the true selling price. A false statement is in 48211
violation of section 2921.13 of the Revised Code and is punishable 48212
by six months' imprisonment or a fine of up to one thousand 48213
dollars, or both. All transfers are audited by the department of 48214
taxation. The seller and buyer must provide any information 48215
requested by the department of taxation. The buyer may be assessed 48216
any additional tax found to be due." 48217

(H) For sales of manufactured homes or mobile homes occurring 48218
on or after January 1, 2000, the clerk shall accept for filing, 48219
pursuant to Chapter 5739. of the Revised Code, an application for 48220
a certificate of title for a manufactured home or mobile home 48221
without requiring payment of any tax pursuant to section 5739.02, 48222
5741.021, 5741.022, or 5741.023 of the Revised Code, or a receipt 48223
issued by the tax commissioner showing payment of the tax. For 48224
sales of manufactured homes or mobile homes occurring on or after 48225
January 1, 2000, the applicant shall pay to the clerk an 48226
additional fee of five dollars for each certificate of title 48227
issued by the clerk for a manufactured or mobile home pursuant to 48228
division (H) of section 4505.11 of the Revised Code and for each 48229
certificate of title issued upon transfer of ownership of the 48230
home. The clerk shall credit the fee to the county certificate of 48231
title administration fund, and the fee shall be used to pay the 48232
expenses of archiving those certificates pursuant to division (A) 48233
of section 4505.08 and division (H)(3) of section 4505.11 of the 48234

Revised Code. The tax commissioner shall administer any tax on a
manufactured or mobile home pursuant to Chapters 5739. and 5741.
of the Revised Code.

(I) Every clerk shall have the capability to transact by
electronic means all procedures and transactions relating to the
issuance of motor vehicle certificates of title that are described
in the Revised Code as being accomplished by electronic means.

Sec. 4506.03. (A) Except as provided in divisions (B) and (C)
of this section, the following shall apply:

(1) No person shall drive a commercial motor vehicle on a
highway in this state unless the person holds, and has in the
person's possession, a valid commercial driver's license with
proper endorsements for the motor vehicle being driven, issued by
the registrar of motor vehicles, a valid examiner's commercial
driving permit issued under section 4506.13 of the Revised Code, a
valid restricted commercial driver's license and waiver for
farm-related service industries issued under section 4506.24 of
the Revised Code, or a valid commercial driver's license temporary
instruction permit issued by the registrar and is accompanied by
an authorized state driver's license examiner or tester or a
person who has been issued and has in the person's immediate
possession a current, valid commercial driver's license with
proper endorsements for the motor vehicle being driven.

(2) No person shall be issued a commercial driver's license
until the person surrenders to the registrar of motor vehicles all
valid licenses issued to the person by another jurisdiction
recognized by this state. The registrar shall report the surrender
of a license to the issuing authority, together with information
that a license is now issued in this state. The registrar shall
destroy any such license that is not returned to the issuing
authority.

(3) No person who has been a resident of this state for 48266
thirty days or longer shall drive a commercial motor vehicle under 48267
the authority of a commercial driver's license issued by another 48268
jurisdiction. 48269

(B) Nothing in division (A) of this section applies to any 48270
qualified person when engaged in the operation of any of the 48271
following: 48272

(1) A farm truck; 48273

(2) Fire equipment for a fire department, volunteer or 48274
nonvolunteer fire company, fire district, or joint fire district; 48275

(3) A public safety vehicle used to provide transportation or 48276
emergency medical service for ill or injured persons; 48277

(4) A recreational vehicle; 48278

(5) A commercial motor vehicle within the boundaries of an 48279
eligible unit of local government, if the person is employed by 48280
the eligible unit of local government and is operating the 48281
commercial motor vehicle for the purpose of removing snow or ice 48282
from a roadway by plowing, sanding, or salting, but only if either 48283
the employee who holds a commercial driver's license issued under 48284
this chapter and ordinarily operates a commercial motor vehicle 48285
for these purposes is unable to operate the vehicle, or the 48286
employing eligible unit of local government determines that a snow 48287
or ice emergency exists that requires additional assistance; 48288

(6) A vehicle operated for military purposes by any member or 48289
uniformed employee of the armed forces of the United States or 48290
their reserve components, including the Ohio national guard. This 48291
exception does not apply to United States reserve technicians. 48292

(7) A commercial motor vehicle that is operated for 48293
nonbusiness purposes. "Operated for nonbusiness purposes" means 48294
that the commercial motor vehicle is not used in commerce as 48295

"commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the public utilities commission pursuant to Chapter 4919., 4921., or 4923. of the Revised Code.

(8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise;

(9) A police SWAT team vehicle, as provided in 49 C.F.R.. 383.3.

(C) Nothing contained in division (B)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this state concerning the safe operation of commercial motor vehicles.

(D) Whoever violates this section is guilty of a misdemeanor of the first degree.

Sec. 4506.07. (A) Every application for a commercial driver's license, restricted commercial driver's license, or a commercial driver's temporary instruction permit, or a duplicate of such a license, shall be made upon a form approved and furnished by the registrar of motor vehicles. Except as provided in section 4506.24 of the Revised Code in regard to a restricted commercial driver's license, the application shall be signed by the applicant and shall contain the following information:

(1) The applicant's name, date of birth, social security account number, sex, general description including height, weight, and color of hair and eyes, current residence, duration of residence in this state, country of citizenship, and occupation;

(2) Whether the applicant previously has been licensed to operate a commercial motor vehicle or any other type of motor

vehicle in another state or a foreign jurisdiction and, if so, 48326
when, by what state, and whether the license or driving privileges 48327
currently are suspended or revoked in any jurisdiction, or the 48328
applicant otherwise has been disqualified from operating a 48329
commercial motor vehicle, or is subject to an out-of-service order 48330
issued under this chapter or any similar law of another state or a 48331
foreign jurisdiction and, if so, the date of, locations involved, 48332
and reason for the suspension, revocation, disqualification, or 48333
out-of-service order; 48334

(3) Whether the applicant is afflicted with or suffering from 48335
any physical or mental disability or disease that prevents the 48336
applicant from exercising reasonable and ordinary control over a 48337
motor vehicle while operating it upon a highway or is or has been 48338
subject to any condition resulting in episodic impairment of 48339
consciousness or loss of muscular control and, if so, the nature 48340
and extent of the disability, disease, or condition, and the names 48341
and addresses of the physicians attending the applicant; 48342

(4) Whether the applicant has obtained a medical examiner's 48343
certificate as required by this chapter; 48344

(5) Whether the applicant has pending a citation for 48345
violation of any motor vehicle law or ordinance except a parking 48346
violation and, if so, a description of the citation, the court 48347
having jurisdiction of the offense, and the date when the offense 48348
occurred; 48349

(6) Whether the applicant wishes to certify willingness to 48350
make an anatomical donation under section 2108.04 of the Revised 48351
Code, which shall be given no consideration in the issuance of a 48352
license; 48353

(7) On and after May 1, 1993, whether the applicant has 48354
executed a valid durable power of attorney for health care 48355
pursuant to sections 1337.11 to 1337.17 of the Revised Code or has 48356

executed a declaration governing the use or continuation, or the
withholding or withdrawal, of life-sustaining treatment pursuant
to sections 2133.01 to 2133.15 of the Revised Code and, if the
applicant has executed either type of instrument, whether the
applicant wishes the license issued to indicate that the applicant
has executed the instrument.

(B) Every applicant shall certify, on a form approved and
furnished by the registrar, all of the following:

(1) That the motor vehicle in which the applicant intends to
take the driving skills test is representative of the type of
motor vehicle that the applicant expects to operate as a driver;

(2) That the applicant is not subject to any disqualification
or out-of-service order, or license suspension, revocation, or
cancellation, under the laws of this state, of another state, or
of a foreign jurisdiction and does not have more than one driver's
license issued by this or another state or a foreign jurisdiction;

(3) Any additional information, certification, or evidence
that the registrar requires by rule in order to ensure that the
issuance of a commercial driver's license to the applicant is in
compliance with the law of this state and with federal law.

(C) Every applicant shall execute a form, approved and
furnished by the registrar, under which the applicant consents to
the release by the registrar of information from the applicant's
driving record.

(D) The registrar or a deputy registrar, in accordance with
section 3503.11 of the Revised Code, shall register as an elector
any applicant for a commercial driver's license or for a renewal
or duplicate of such a license under this chapter, if the
applicant is eligible and wishes to be registered as an elector.
The decision of an applicant whether to register as an elector
shall be given no consideration in the decision of whether to

issue the applicant a license or a renewal or duplicate. 48388

(E) The registrar or a deputy registrar, in accordance with 48389
section 3503.11 of the Revised Code, shall offer the opportunity 48390
of completing a notice of change of residence or change of name to 48391
any applicant for a commercial driver's license or for a renewal 48392
or duplicate of such a license who is a resident of this state, if 48393
the applicant is a registered elector who has changed the 48394
applicant's residence or name and has not filed such a notice. 48395

(F) In considering any application submitted pursuant to this 48396
section, the bureau of motor vehicles may conduct any inquiries 48397
necessary to ensure that issuance or renewal of a commercial 48398
driver's license would not violate any provision of the Revised 48399
Code or federal law. 48400

Sec. 4506.101. Notwithstanding any provision of the Revised 48401
Code, the bureau of motor vehicles shall not issue or renew a 48402
commercial driver's license if issuance or renewal of the license 48403
would violate federal law. 48404

Sec. 4506.161. No court shall issue an order granting limited 48405
driving privileges for operation of a commercial motor vehicle to 48406
any person whose driver's license or commercial driver's license 48407
has been suspended or who has been disqualified from operating a 48408
commercial motor vehicle. 48409

Sec. 4511.191. (A)(1) "Physical control" has the same meaning 48410
as in section 4511.194 of the Revised Code. 48411

(2) Any person who operates a vehicle, streetcar, or 48412
trackless trolley upon a highway or any public or private property 48413
used by the public for vehicular travel or parking within this 48414
state or who is in physical control of a vehicle, streetcar, or 48415
trackless trolley shall be deemed to have given consent to a 48416

chemical test or tests of the person's whole blood, blood serum or 48417
plasma, breath, or urine to determine the alcohol, drug, or 48418
alcohol and drug content of the person's whole blood, blood serum 48419
or plasma, breath, or urine if arrested for a violation of 48420
division (A) or (B) of section 4511.19 of the Revised Code, 48421
section 4511.194 of the Revised Code or a substantially equivalent 48422
municipal ordinance, or a municipal OVI ordinance. 48423

(3) The chemical test or tests under division (A)(2) of this 48424
section shall be administered at the request of a law enforcement 48425
officer having reasonable grounds to believe the person was 48426
operating or in physical control of a vehicle, streetcar, or 48427
trackless trolley in violation of a division, section, or 48428
ordinance identified in division (A)(2) of this section. The law 48429
enforcement agency by which the officer is employed shall 48430
designate which of the tests shall be administered. 48431

(4) Any person who is dead or unconscious, or who otherwise 48432
is in a condition rendering the person incapable of refusal, shall 48433
be deemed to have consented as provided in division (A)(2) of this 48434
section, and the test or tests may be administered, subject to 48435
sections 313.12 to 313.16 of the Revised Code. 48436

(B)(1) Upon receipt of the sworn report of a law enforcement 48437
officer who arrested a person for a violation of division (A) or 48438
(B) of section 4511.19 of the Revised Code, section 4511.194 of 48439
the Revised Code or a substantially equivalent municipal 48440
ordinance, or a municipal OVI ordinance that was completed and 48441
sent to the registrar and a court pursuant to section 4511.192 of 48442
the Revised Code in regard to a person who refused to take the 48443
designated chemical test, the registrar shall enter into the 48444
registrar's records the fact that the person's driver's or 48445
commercial driver's license or permit or nonresident operating 48446
privilege was suspended by the arresting officer under this 48447
division and that section and the period of the suspension, as 48448

determined under this section. The suspension shall be subject to
appeal as provided in section 4511.197 of the Revised Code. The
suspension shall be for whichever of the following periods
applies:

(a) Except when division (B)(1)(b), (c), or (d) of this
section applies and specifies a different class or length of
suspension, the suspension shall be a class C suspension for the
period of time specified in division (B)(3) of section 4510.02 of
the Revised Code.

(b) If the arrested person, within six years of the date on
which the person refused the request to consent to the chemical
test, had refused one previous request to consent to a chemical
test, the suspension shall be a class B suspension imposed for the
period of time specified in division (B)(2) of section 4510.02 of
the Revised Code.

(c) If the arrested person, within six years of the date on
which the person refused the request to consent to the chemical
test, had refused two previous requests to consent to a chemical
test, the suspension shall be a class A suspension imposed for the
period of time specified in division (B)(1) of section 4510.02 of
the Revised Code.

(d) If the arrested person, within six years of the date on
which the person refused the request to consent to the chemical
test, had refused three or more previous requests to consent to a
chemical test, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the
driver's or commercial driver's license or permit of a resident or
of the operating privilege of a nonresident, or a denial of a
driver's or commercial driver's license or permit, imposed
pursuant to division (B)(1) of this section upon receipt of notice
that the person has entered a plea of guilty to, or that the

person has been convicted after entering a plea of no contest to, 48480
operating a vehicle in violation of section 4511.19 of the Revised 48481
Code or in violation of a municipal OVI ordinance, if the offense 48482
for which the conviction is had or the plea is entered arose from 48483
the same incident that led to the suspension or denial. 48484

The registrar shall credit against any judicial suspension of 48485
a person's driver's or commercial driver's license or permit or 48486
nonresident operating privilege imposed pursuant to section 48487
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 48488
Revised Code for a violation of a municipal OVI ordinance, any 48489
time during which the person serves a related suspension imposed 48490
pursuant to division (B)(1) of this section. 48491

(C)(1) Upon receipt of the sworn report of the law 48492
enforcement officer who arrested a person for a violation of 48493
division (A) or (B) of section 4511.19 of the Revised Code or a 48494
municipal OVI ordinance that was completed and sent to the 48495
registrar and a court pursuant to section 4511.192 of the Revised 48496
Code in regard to a person whose test results indicate that the 48497
person's whole blood, blood serum or plasma, breath, or urine 48498
contained at least the concentration of alcohol specified in 48499
division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the 48500
Revised Code, the registrar shall enter into the registrar's 48501
records the fact that the person's driver's or commercial driver's 48502
license or permit or nonresident operating privilege was suspended 48503
by the arresting officer under this division and section 4511.192 48504
of the Revised Code and the period of the suspension, as 48505
determined under divisions (F)(1) to (4) of this section. The 48506
suspension shall be subject to appeal as provided in section 48507
4511.197 of the Revised Code. The suspension described in this 48508
division does not apply to, and shall not be imposed upon, a 48509
person arrested for a violation of section 4511.194 of the Revised 48510
Code or a substantially equivalent municipal ordinance who submits 48511

to a designated chemical test. The suspension shall be for 48512
whichever of the following periods applies: 48513

(a) Except when division (C)(1)(b), (c), or (d) of this 48514
section applies and specifies a different period, the suspension 48515
shall be a class E suspension imposed for the period of time 48516
specified in division (B)(5) of section 4510.02 of the Revised 48517
Code. 48518

(b) The suspension shall be a class C suspension for the 48519
period of time specified in division (B)(3) of section 4510.02 of 48520
the Revised Code if the person has been convicted of or pleaded 48521
guilty to, within six years of the date the test was conducted, 48522
one violation of division (A) or (B) of section 4511.19 of the 48523
Revised Code or one other equivalent offense. 48524

(c) If, within six years of the date the test was conducted, 48525
the person has been convicted of or pleaded guilty to two 48526
violations of a statute or ordinance described in division 48527
(C)(1)(b) of this section, the suspension shall be a class B 48528
suspension imposed for the period of time specified in division 48529
(B)(2) of section 4510.02 of the Revised Code. 48530

(d) If, within six years of the date the test was conducted, 48531
the person has been convicted of or pleaded guilty to more than 48532
two violations of a statute or ordinance described in division 48533
(C)(1)(b) of this section, the suspension shall be a class A 48534
suspension imposed for the period of time specified in division 48535
(B)(1) of section 4510.02 of the Revised Code. 48536

(2) The registrar shall terminate a suspension of the 48537
driver's or commercial driver's license or permit of a resident or 48538
of the operating privilege of a nonresident, or a denial of a 48539
driver's or commercial driver's license or permit, imposed 48540
pursuant to division (C)(1) of this section upon receipt of notice 48541
that the person has entered a plea of guilty to, or that the 48542

person has been convicted after entering a plea of no contest to, 48543
operating a vehicle in violation of section 4511.19 of the Revised 48544
Code or in violation of a municipal OVI ordinance, if the offense 48545
for which the conviction is had or the plea is entered arose from 48546
the same incident that led to the suspension or denial. 48547

The registrar shall credit against any judicial suspension of 48548
a person's driver's or commercial driver's license or permit or 48549
nonresident operating privilege imposed pursuant to section 48550
4511.19 of the Revised Code, or pursuant to section 4510.07 of the 48551
Revised Code for a violation of a municipal OVI ordinance, any 48552
time during which the person serves a related suspension imposed 48553
pursuant to division (C)(1) of this section. 48554

(D)(1) A suspension of a person's driver's or commercial 48555
driver's license or permit or nonresident operating privilege 48556
under this section for the time described in division (B) or (C) 48557
of this section is effective immediately from the time at which 48558
the arresting officer serves the notice of suspension upon the 48559
arrested person. Any subsequent finding that the person is not 48560
guilty of the charge that resulted in the person being requested 48561
to take the chemical test or tests under division (A) of this 48562
section does not affect the suspension. 48563

(2) If a person is arrested for operating a vehicle, 48564
streetcar, or trackless trolley in violation of division (A) or 48565
(B) of section 4511.19 of the Revised Code or a municipal OVI 48566
ordinance, or for being in physical control of a vehicle, 48567
streetcar, or trackless trolley in violation of section 4511.194 48568
of the Revised Code or a substantially equivalent municipal 48569
ordinance, regardless of whether the person's driver's or 48570
commercial driver's license or permit or nonresident operating 48571
privilege is or is not suspended under division (B) or (C) of this 48572
section or Chapter 4510. of the Revised Code, the person's initial 48573
appearance on the charge resulting from the arrest shall be held 48574

within five days of the person's arrest or the issuance of the
citation to the person, subject to any continuance granted by the
court pursuant to section 4511.197 of the Revised Code regarding
the issues specified in that division.

(E) When it finally has been determined under the procedures
of this section and sections 4511.192 ~~through~~ to 4511.197 of the
Revised Code that a nonresident's privilege to operate a vehicle
within this state has been suspended, the registrar shall give
information in writing of the action taken to the motor vehicle
administrator of the state of the person's residence and of any
state in which the person has a license.

(F) At the end of a suspension period under this section,
under section 4511.194, section 4511.196, or division (G) of
section 4511.19 of the Revised Code, or under section 4510.07 of
the Revised Code for a violation of a municipal OVI ordinance and
upon the request of the person whose driver's or commercial
driver's license or permit was suspended and who is not otherwise
subject to suspension, cancellation, or disqualification, the
registrar shall return the driver's or commercial driver's license
or permit to the person upon the occurrence of all of the
conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial
responsibility, a policy of liability insurance in effect that
meets the minimum standards set forth in section 4509.51 of the
Revised Code, or proof, to the satisfaction of the registrar, that
the person is able to respond in damages in an amount at least
equal to the minimum amounts specified in section 4509.51 of the
Revised Code.

(2) Subject to the limitation contained in division (F)(3) of
this section, payment by the person to the bureau of motor
vehicles of a license reinstatement fee of four hundred

twenty-five dollars, which fee shall be deposited in the state 48606
treasury and credited as follows: 48607

(a) One hundred twelve dollars and fifty cents shall be 48608
credited to the statewide treatment and prevention fund created by 48609
section 4301.30 of the Revised Code. The fund shall be used to pay 48610
the costs of driver treatment and intervention programs operated 48611
pursuant to sections 3793.02 and 3793.10 of the Revised Code. The 48612
director of alcohol and drug addiction services shall determine 48613
the share of the fund that is to be allocated to alcohol and drug 48614
addiction programs authorized by section 3793.02 of the Revised 48615
Code, and the share of the fund that is to be allocated to 48616
drivers' intervention programs authorized by section 3793.10 of 48617
the Revised Code. 48618

(b) Seventy-five dollars shall be credited to the reparations 48619
fund created by section 2743.191 of the Revised Code. 48620

(c) Thirty-seven dollars and fifty cents shall be credited to 48621
the indigent drivers alcohol treatment fund, which is hereby 48622
established. Except as otherwise provided in division (F)(2)(c) of 48623
this section, moneys in the fund shall be distributed by the 48624
department of alcohol and drug addiction services to the county 48625
indigent drivers alcohol treatment funds, the county juvenile 48626
indigent drivers alcohol treatment funds, and the municipal 48627
indigent drivers alcohol treatment funds that are required to be 48628
established by counties and municipal corporations pursuant to 48629
this section, and shall be used only to pay the cost of an alcohol 48630
and drug addiction treatment program attended by an offender or 48631
juvenile traffic offender who is ordered to attend an alcohol and 48632
drug addiction treatment program by a county, juvenile, or 48633
municipal court judge and who is determined by the county, 48634
juvenile, or municipal court judge not to have the means to pay 48635
for the person's attendance at the program or to pay the costs 48636
specified in division (H)(4) of this section in accordance with 48637

that division. In addition, a county, juvenile, or municipal court 48638
judge may use moneys in the county indigent drivers alcohol 48639
treatment fund, county juvenile indigent drivers alcohol treatment 48640
fund, or municipal indigent drivers alcohol treatment fund to pay 48641
the cost of electronic continuous alcohol monitoring devices or 48642
the cost of the continued use of such devices as described in 48643
divisions (H)(3) and (4) of this section. Moneys in the fund that 48644
are not distributed to a county indigent drivers alcohol treatment 48645
fund, a county juvenile indigent drivers alcohol treatment fund, 48646
or a municipal indigent drivers alcohol treatment fund under 48647
division (H) of this section because the director of alcohol and 48648
drug addiction services does not have the information necessary to 48649
identify the county or municipal corporation where the offender or 48650
juvenile offender was arrested may be transferred by the director 48651
of budget and management to the statewide treatment and prevention 48652
fund created by section 4301.30 of the Revised Code, upon 48653
certification of the amount by the director of alcohol and drug 48654
addiction services. 48655

(d) Seventy-five dollars shall be credited to the Ohio 48656
rehabilitation services commission established by section 3304.12 48657
of the Revised Code, to the services for rehabilitation fund, 48658
which is hereby established. The fund shall be used to match 48659
available federal matching funds where appropriate, and for any 48660
other purpose or program of the commission to rehabilitate people 48661
with disabilities to help them become employed and independent. 48662

(e) Seventy-five dollars shall be deposited into the state 48663
treasury and credited to the drug abuse resistance education 48664
programs fund, which is hereby established, to be used by the 48665
attorney general for the purposes specified in division ~~(L)~~(F)(4) 48666
of this section. 48667

(f) Thirty dollars shall be credited to the state bureau of 48668
motor vehicles fund created by section 4501.25 of the Revised 48669

Code. 48670

(g) Twenty dollars shall be credited to the trauma and 48671
emergency medical services grants fund created by section 4513.263 48672
of the Revised Code. 48673

(3) If a person's driver's or commercial driver's license or 48674
permit is suspended under this section, under section 4511.196 or 48675
division (G) of section 4511.19 of the Revised Code, under section 48676
4510.07 of the Revised Code for a violation of a municipal OVI 48677
ordinance or under any combination of the suspensions described in 48678
division (F)(3) of this section, and if the suspensions arise from 48679
a single incident or a single set of facts and circumstances, the 48680
person is liable for payment of, and shall be required to pay to 48681
the bureau, only one reinstatement fee of four hundred twenty-five 48682
dollars. The reinstatement fee shall be distributed by the bureau 48683
in accordance with division (F)(2) of this section. 48684

(4) The attorney general shall use amounts in the drug abuse 48685
resistance education programs fund to award grants to law 48686
enforcement agencies to establish and implement drug abuse 48687
resistance education programs in public schools. Grants awarded to 48688
a law enforcement agency under this section shall be used by the 48689
agency to pay for not more than fifty per cent of the amount of 48690
the salaries of law enforcement officers who conduct drug abuse 48691
resistance education programs in public schools. The attorney 48692
general shall not use more than six per cent of the amounts the 48693
attorney general's office receives under division (F)(2)(e) of 48694
this section to pay the costs it incurs in administering the grant 48695
program established by division (F)(2)(e) of this section and in 48696
providing training and materials relating to drug abuse resistance 48697
education programs. 48698

The attorney general shall report to the governor and the 48699
general assembly each fiscal year on the progress made in 48700

establishing and implementing drug abuse resistance education 48701
programs. These reports shall include an evaluation of the 48702
effectiveness of these programs. 48703

(G) Suspension of a commercial driver's license under 48704
division (B) or (C) of this section shall be concurrent with any 48705
period of disqualification under section 3123.611 or 4506.16 of 48706
the Revised Code or any period of suspension under section 3123.58 48707
of the Revised Code. No person who is disqualified for life from 48708
holding a commercial driver's license under section 4506.16 of the 48709
Revised Code shall be issued a driver's license under Chapter 48710
4507. of the Revised Code during the period for which the 48711
commercial driver's license was suspended under division (B) or 48712
(C) of this section. No person whose commercial driver's license 48713
is suspended under division (B) or (C) of this section shall be 48714
issued a driver's license under Chapter 4507. of the Revised Code 48715
during the period of the suspension. 48716

(H)(1) Each county shall establish an indigent drivers 48717
alcohol treatment fund, each county shall establish a juvenile 48718
indigent drivers alcohol treatment fund, and each municipal 48719
corporation in which there is a municipal court shall establish an 48720
indigent drivers alcohol treatment fund. All revenue that the 48721
general assembly appropriates to the indigent drivers alcohol 48722
treatment fund for transfer to a county indigent drivers alcohol 48723
treatment fund, a county juvenile indigent drivers alcohol 48724
treatment fund, or a municipal indigent drivers alcohol treatment 48725
fund, all portions of fees that are paid under division ~~(L)~~(F) of 48726
this section and that are credited under that division to the 48727
indigent drivers alcohol treatment fund in the state treasury for 48728
a county indigent drivers alcohol treatment fund, a county 48729
juvenile indigent drivers alcohol treatment fund, or a municipal 48730
indigent drivers alcohol treatment fund, and all portions of fines 48731
that are specified for deposit into a county or municipal indigent 48732

drivers alcohol treatment fund by section 4511.193 of the Revised 48733
Code shall be deposited into that county indigent drivers alcohol 48734
treatment fund, county juvenile indigent drivers alcohol treatment 48735
fund, or municipal indigent drivers alcohol treatment fund in 48736
accordance with division (H)(2) of this section. Additionally, all 48737
portions of fines that are paid for a violation of section 4511.19 48738
of the Revised Code or of any prohibition contained in Chapter 48739
4510. of the Revised Code, and that are required under section 48740
4511.19 or any provision of Chapter 4510. of the Revised Code to 48741
be deposited into a county indigent drivers alcohol treatment fund 48742
or municipal indigent drivers alcohol treatment fund shall be 48743
deposited into the appropriate fund in accordance with the 48744
applicable division. 48745

(2) That portion of the license reinstatement fee that is 48746
paid under division (F) of this section and that is credited under 48747
that division to the indigent drivers alcohol treatment fund shall 48748
be deposited into a county indigent drivers alcohol treatment 48749
fund, a county juvenile indigent drivers alcohol treatment fund, 48750
or a municipal indigent drivers alcohol treatment fund as follows: 48751

(a) If the suspension in question was imposed under this 48752
section, that portion of the fee shall be deposited as follows: 48753

(i) If the fee is paid by a person who was charged in a 48754
county court with the violation that resulted in the suspension, 48755
the portion shall be deposited into the county indigent drivers 48756
alcohol treatment fund under the control of that court; 48757

(ii) If the fee is paid by a person who was charged in a 48758
juvenile court with the violation that resulted in the suspension, 48759
the portion shall be deposited into the county juvenile indigent 48760
drivers alcohol treatment fund established in the county served by 48761
the court; 48762

(iii) If the fee is paid by a person who was charged in a 48763

municipal court with the violation that resulted in the 48764
suspension, the portion shall be deposited into the municipal 48765
indigent drivers alcohol treatment fund under the control of that 48766
court. 48767

(b) If the suspension in question was imposed under section 48768
4511.19 of the Revised Code or under section 4510.07 of the 48769
Revised Code for a violation of a municipal OVI ordinance, that 48770
portion of the fee shall be deposited as follows: 48771

(i) If the fee is paid by a person whose license or permit 48772
was suspended by a county court, the portion shall be deposited 48773
into the county indigent drivers alcohol treatment fund under the 48774
control of that court; 48775

(ii) If the fee is paid by a person whose license or permit 48776
was suspended by a municipal court, the portion shall be deposited 48777
into the municipal indigent drivers alcohol treatment fund under 48778
the control of that court. 48779

(3) Expenditures from a county indigent drivers alcohol 48780
treatment fund, a county juvenile indigent drivers alcohol 48781
treatment fund, or a municipal indigent drivers alcohol treatment 48782
fund shall be made only upon the order of a county, juvenile, or 48783
municipal court judge and only for payment of the cost of the 48784
attendance at an alcohol and drug addiction treatment program of a 48785
person who is convicted of, or found to be a juvenile traffic 48786
offender by reason of, a violation of division (A) of section 48787
4511.19 of the Revised Code or a substantially similar municipal 48788
ordinance, who is ordered by the court to attend the alcohol and 48789
drug addiction treatment program, and who is determined by the 48790
court to be unable to pay the cost of attendance at the treatment 48791
program or for payment of the costs specified in division (H)(4) 48792
of this section in accordance with that division. The alcohol and 48793
drug addiction services board or the board of alcohol, drug 48794

addiction, and mental health services established pursuant to 48795
section 340.02 or 340.021 of the Revised Code and serving the 48796
alcohol, drug addiction, and mental health service district in 48797
which the court is located shall administer the indigent drivers 48798
alcohol treatment program of the court. When a court orders an 48799
offender or juvenile traffic offender to attend an alcohol and 48800
drug addiction treatment program, the board shall determine which 48801
program is suitable to meet the needs of the offender or juvenile 48802
traffic offender, and when a suitable program is located and space 48803
is available at the program, the offender or juvenile traffic 48804
offender shall attend the program designated by the board. A 48805
reasonable amount not to exceed five per cent of the amounts 48806
credited to and deposited into the county indigent drivers alcohol 48807
treatment fund, the county juvenile indigent drivers alcohol 48808
treatment fund, or the municipal indigent drivers alcohol 48809
treatment fund serving every court whose program is administered 48810
by that board shall be paid to the board to cover the costs it 48811
incurs in administering those indigent drivers alcohol treatment 48812
programs. 48813

In addition, a county, juvenile, or municipal court judge may 48814
use moneys in the county indigent drivers alcohol treatment fund, 48815
county juvenile indigent drivers alcohol treatment fund, or 48816
municipal indigent drivers alcohol treatment fund to pay the cost 48817
of an electronic continuous alcohol monitoring device to be worn 48818
by the offender or juvenile traffic offender, or to pay for the 48819
continued use of such a device by an offender or juvenile traffic 48820
offender, in conjunction with a treatment program approved by the 48821
department of alcohol and drug addiction services, when such use 48822
is determined clinically necessary by the treatment program. 48823

(4) If a county, juvenile, or municipal court determines, in 48824
consultation with the alcohol and drug addiction services board or 48825
the board of alcohol, drug addiction, and mental health services 48826

established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for ~~alcohol~~:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

~~(a)~~(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense with which the person is charged.

~~(b)~~(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing electronic continuous alcohol monitoring devices or all or part of the cost of the daily monitoring of such devices.

(I) In any case in which an offender or juvenile traffic offender is required by the court to wear an electronic continuous alcohol monitoring device, the court may require the offender or juvenile traffic offender to pay for all or part of the cost of the daily monitoring of the device if the court determines that the offender or juvenile traffic offender is able to pay that amount.

Sec. 4511.75. (A) The driver of a vehicle, streetcar, or 48858
trackless trolley upon meeting or overtaking from either direction 48859
any school bus stopped for the purpose of receiving or discharging 48860
any school child, person attending programs offered by community 48861
boards of mental health and county boards of mental retardation 48862
and developmental disabilities, or child attending a program 48863
offered by a head start agency, shall stop at least ten feet from 48864
the front or rear of the school bus and shall not proceed until 48865
such school bus resumes motion, or until signaled by the school 48866
bus driver to proceed. 48867

It is no defense to a charge under this division that the 48868
school bus involved failed to display or be equipped with an 48869
automatically extended stop warning sign as required by division 48870
(B) of this section. 48871

(B) Every school bus shall be equipped with amber and red 48872
visual signals meeting the requirements of section 4511.771 of the 48873
Revised Code, and an automatically extended stop warning sign of a 48874
type approved by the state board of education, which shall be 48875
actuated by the driver of the bus whenever but only whenever the 48876
bus is stopped or stopping on the roadway for the purpose of 48877
receiving or discharging school children, persons attending 48878
programs offered by community boards of mental health and county 48879
boards of mental retardation and developmental disabilities, or 48880
children attending programs offered by head start agencies. A 48881
school bus driver shall not actuate the visual signals or the stop 48882
warning sign in designated school bus loading areas where the bus 48883
is entirely off the roadway or at school buildings when children 48884
or persons attending programs offered by community boards of 48885
mental health and county boards of mental retardation and 48886
developmental disabilities are loading or unloading at curbside or 48887
at buildings when children attending programs offered by head 48888

start agencies are loading or unloading at curbside. The visual 48889
signals and stop warning sign shall be synchronized or otherwise 48890
operated as required by rule of the board. 48891

(C) Where a highway has been divided into four or more 48892
traffic lanes, a driver of a vehicle, streetcar, or trackless 48893
trolley need not stop for a school bus approaching from the 48894
opposite direction which has stopped for the purpose of receiving 48895
or discharging any school child, persons attending programs 48896
offered by community boards of mental health and county boards of 48897
mental retardation and developmental disabilities, or children 48898
attending programs offered by head start agencies. The driver of 48899
any vehicle, streetcar, or trackless trolley overtaking the school 48900
bus shall comply with division (A) of this section. 48901

(D) School buses operating on divided highways or on highways 48902
with four or more traffic lanes shall receive and discharge all 48903
school children, persons attending programs offered by community 48904
boards of mental health and county boards of mental retardation 48905
and developmental disabilities, and children attending programs 48906
offered by head start agencies on their residence side of the 48907
highway. 48908

(E) No school bus driver shall start the driver's bus until 48909
after any child, person attending programs offered by community 48910
boards of mental health and county boards of mental retardation 48911
and developmental disabilities, or child attending a program 48912
offered by a head start agency who may have alighted therefrom has 48913
reached a place of safety on the child's or person's residence 48914
side of the road. 48915

(F)(1) Whoever violates division (A) of this section may be 48916
fined an amount not to exceed five hundred dollars. A person who 48917
is issued a citation for a violation of division (A) of this 48918
section is not permitted to enter a written plea of guilty and 48919

waive the person's right to contest the citation in a trial but
instead must appear in person in the proper court to answer the
charge.

(2) In addition to and independent of any other penalty
provided by law, the court or mayor may impose upon an offender
who violates this section a class seven suspension of the
offender's driver's license, commercial driver's license,
temporary instruction permit, probationary license, or nonresident
operating privilege from the range specified in division (A)(7) of
section 4510.02 of the Revised Code. When a license is suspended
under this section, the court or mayor shall cause the offender to
deliver the license to the court, and the court or clerk of the
court immediately shall forward the license to the registrar of
motor vehicles, together with notice of the court's action.

(G) As used in this section:

(1) "Head start agency" has the same meaning as in section
~~3301.31~~ 3301.32 of the Revised Code.

(2) "School bus," as used in relation to children who attend
a program offered by a head start agency, means a bus that is
owned and operated by a head start agency, is equipped with an
automatically extended stop warning sign of a type approved by the
state board of education, is painted the color and displays the
markings described in section 4511.77 of the Revised Code, and is
equipped with amber and red visual signals meeting the
requirements of section 4511.771 of the Revised Code, irrespective
of whether or not the bus has fifteen or more children aboard at
any time. "School bus" does not include a van owned and operated
by a head start agency, irrespective of its color, lights, or
markings.

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the

Revised Code:	48950
(A) "Persons" includes individuals, firms, partnerships,	48951
associations, joint stock companies, corporations, and any	48952
combinations of individuals.	48953
(B) "Motor vehicle" means motor vehicle as defined in section	48954
4501.01 of the Revised Code and also includes "all-purpose	48955
vehicle" and "off-highway motorcycle" as those terms are defined	48956
in section 4519.01 of the Revised Code and manufactured and mobile	48957
homes. <u>"Motor vehicle" does not include a snowmobile as defined in</u>	48958
<u>section 4519.01 of the Revised Code.</u>	48959
(C) "New motor vehicle" means a motor vehicle, the legal	48960
title to which has never been transferred by a manufacturer,	48961
remanufacturer, distributor, or dealer to an ultimate purchaser.	48962
(D) "Ultimate purchaser" means, with respect to any new motor	48963
vehicle, the first person, other than a dealer purchasing in the	48964
capacity of a dealer, who in good faith purchases such new motor	48965
vehicle for purposes other than resale.	48966
(E) "Business" includes any activities engaged in by any	48967
person for the object of gain, benefit, or advantage either direct	48968
or indirect.	48969
(F) "Engaging in business" means commencing, conducting, or	48970
continuing in business, or liquidating a business when the	48971
liquidator thereof holds self out to be conducting such business;	48972
making a casual sale or otherwise making transfers in the ordinary	48973
course of business when the transfers are made in connection with	48974
the disposition of all or substantially all of the transferor's	48975
assets is not engaging in business.	48976
(G) "Retail sale" or "sale at retail" means the act or	48977
attempted act of selling, bartering, exchanging, or otherwise	48978
disposing of a motor vehicle to an ultimate purchaser for use as a	48979

consumer. 48980

(H) "Retail installment contract" includes any contract in 48981
the form of a note, chattel mortgage, conditional sales contract, 48982
lease, agreement, or other instrument payable in one or more 48983
installments over a period of time and arising out of the retail 48984
sale of a motor vehicle. 48985

(I) "Farm machinery" means all machines and tools used in the 48986
production, harvesting, and care of farm products. 48987

(J) "Dealer" or "motor vehicle dealer" means any new motor 48988
vehicle dealer, any motor vehicle leasing dealer, and any used 48989
motor vehicle dealer. 48990

(K) "New motor vehicle dealer" means any person engaged in 48991
the business of selling at retail, displaying, offering for sale, 48992
or dealing in new motor vehicles pursuant to a contract or 48993
agreement entered into with the manufacturer, remanufacturer, or 48994
distributor of the motor vehicles. 48995

(L) "Used motor vehicle dealer" means any person engaged in 48996
the business of selling, displaying, offering for sale, or dealing 48997
in used motor vehicles, at retail or wholesale, but does not mean 48998
any new motor vehicle dealer selling, displaying, offering for 48999
sale, or dealing in used motor vehicles incidentally to engaging 49000
in the business of selling, displaying, offering for sale, or 49001
dealing in new motor vehicles, any person engaged in the business 49002
of dismantling, salvaging, or rebuilding motor vehicles by means 49003
of using used parts, or any public officer performing official 49004
duties. 49005

(M) "Motor vehicle leasing dealer" means any person engaged 49006
in the business of regularly making available, offering to make 49007
available, or arranging for another person to use a motor vehicle 49008
pursuant to a bailment, lease, sublease, or other contractual 49009
arrangement under which a charge is made for its use at a periodic 49010

rate for a term of thirty days or more, and title to the motor
vehicle is in and remains in the motor vehicle leasing dealer who
originally leases it, irrespective of whether or not the motor
vehicle is the subject of a later sublease, and not in the user,
but does not mean a manufacturer or its affiliate leasing to its
employees or to dealers.

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(N) "Salesperson" means any person employed by a dealer or
manufactured home broker to sell, display, and offer for sale, or
deal in motor vehicles for a commission, compensation, or other
valuable consideration, but does not mean any public officer
performing official duties.

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(O) "Casual sale" means any transfer of a motor vehicle by a
person other than a new motor vehicle dealer, used motor vehicle
dealer, motor vehicle salvage dealer, as defined in division (A)
of section 4738.01 of the Revised Code, salesperson, motor vehicle
auction owner, manufacturer, or distributor acting in the capacity
of a dealer, salesperson, auction owner, manufacturer, or
distributor, to a person who purchases the motor vehicle for use
as a consumer.

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(P) "Motor vehicle show" means a display of current models of
motor vehicles whereby the primary purpose is the exhibition of
competitive makes and models in order to provide the general
public the opportunity to review and inspect various makes and
models of motor vehicles at a single location.

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(Q) "Motor vehicle auction owner" means any person who is
engaged wholly or in part in the business of auctioning motor
vehicles.

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(R) "Manufacturer" means a person who manufactures,
assembles, or imports motor vehicles, including motor homes, but
does not mean a person who only assembles or installs a body,
special equipment unit, finishing trim, or accessories on a motor

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vehicle chassis supplied by a manufacturer or distributor. 49042

(S) "Tent-type fold-out camping trailer" means any vehicle 49043
intended to be used, when stationary, as a temporary shelter with 49044
living and sleeping facilities, and that is subject to the 49045
following properties and limitations: 49046

(1) A minimum of twenty-five per cent of the fold-out portion 49047
of the top and sidewalls combined must be constructed of canvas, 49048
vinyl, or other fabric, and form an integral part of the shelter. 49049

(2) When folded, the unit must not exceed: 49050

(a) Fifteen feet in length, exclusive of bumper and tongue; 49051

(b) Sixty inches in height from the point of contact with the 49052
ground; 49053

(c) Eight feet in width; 49054

(d) One ton gross weight at time of sale. 49055

(T) "Distributor" means any person authorized by a motor 49056
vehicle manufacturer to distribute new motor vehicles to licensed 49057
new motor vehicle dealers, but does not mean a person who only 49058
assembles or installs a body, special equipment unit, finishing 49059
trim, or accessories on a motor vehicle chassis supplied by a 49060
manufacturer or distributor. 49061

(U) "Flea market" means a market place, other than a dealer's 49062
location licensed under this chapter, where a space or location is 49063
provided for a fee or compensation to a seller to exhibit and 49064
offer for sale or trade, motor vehicles to the general public. 49065

(V) "Franchise" means any written agreement, contract, or 49066
understanding between any motor vehicle manufacturer or 49067
remanufacturer engaged in commerce and any motor vehicle dealer 49068
that purports to fix the legal rights and liabilities of the 49069
parties to such agreement, contract, or understanding. 49070

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.

(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in division (S) of section 1301.01 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a manufactured home as defined in division (C)(4) of section 3781.06 of the Revised Code, a mobile home as defined in division (O) and

referred to in division (B) of section 4501.01 of the Revised Code, or a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person modifies by cutting the original chassis, lengthening the wheelbase by ten inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable

federal motor vehicle safety standards. No person shall qualify as
or be deemed to be a remanufacturer who produces hearses unless
the person has a written agreement with the manufacturer of the
chassis the person utilizes to produce the hearses to complete
properly the remanufacture of the chassis into hearses.

(5) For the purposes of division (GG)(1) of this section,
"mobile self-contained facility vehicle" means a mobile classroom
vehicle, mobile laboratory vehicle, bookmobile, bloodmobile,
testing laboratory, and mobile display vehicle, each of which is
designed for purposes other than for passenger transportation and
other than the transportation or displacement of cargo, freight,
materials, or merchandise. A vehicle is remanufactured into a
mobile self-contained facility vehicle in part by the addition of
insulation to the body shell, and installation of all of the
following: a generator, electrical wiring, plumbing, holding
tanks, doors, windows, cabinets, shelving, and heating,
ventilating, and air conditioning systems.

(6) For the purposes of division (GG)(1) of this section,
"tow truck" means both of the following:

(a) An incomplete cab and chassis that are purchased by a
remanufacturer from a new motor vehicle dealer or distributor of
the cab and chassis and on which the remanufacturer then installs
in a permanent manner a wrecker body it purchases from a
manufacturer or distributor of wrecker bodies, installs an
emergency flashing light pylon and emergency lights upon the mast
of the wrecker body or rooftop, and installs such other related
accessories and equipment, including push bumpers, front grille
guards with pads and other custom-ordered items such as painting,
special lettering, and safety striping so as to create a complete
motor vehicle capable of lifting and towing another motor vehicle.

(b) An incomplete cab and chassis that are purchased by a

remanufacturer from a new motor vehicle dealer or distributor of 49194
the cab and chassis and on which the remanufacturer then installs 49195
in a permanent manner a car carrier body it purchases from a 49196
manufacturer or distributor of car carrier bodies, installs an 49197
emergency flashing light pylon and emergency lights upon the 49198
rooftop, and installs such other related accessories and 49199
equipment, including push bumpers, front grille guards with pads 49200
and other custom-ordered items such as painting, special 49201
lettering, and safety striping. 49202

As used in division (GG)(6)(b) of this section, "car carrier 49203
body" means a mechanical or hydraulic apparatus capable of lifting 49204
and holding a motor vehicle on a flat level surface so that one or 49205
more motor vehicles can be transported, once the car carrier is 49206
permanently installed upon an incomplete cab and chassis. 49207

(HH) "Operating as a new motor vehicle dealership" means 49208
engaging in activities such as displaying, offering for sale, and 49209
selling new motor vehicles at retail, operating a service facility 49210
to perform repairs and maintenance on motor vehicles, offering for 49211
sale and selling motor vehicle parts at retail, and conducting all 49212
other acts that are usual and customary to the operation of a new 49213
motor vehicle dealership. For the purposes of this chapter only, 49214
possession of either a valid new motor vehicle dealer franchise 49215
agreement or a new motor vehicle dealers license, or both of these 49216
items, is not evidence that a person is operating as a new motor 49217
vehicle dealership. 49218

(II) "Manufactured home broker" means any person acting as a 49219
selling agent on behalf of an owner of a manufactured or mobile 49220
home that is subject to taxation under section 4503.06 of the 49221
Revised Code. 49222

(JJ) "Outdoor power equipment" means garden and small utility 49223
tractors, walk-behind and riding mowers, chainsaws, and tillers. 49224

(KK) "Remote service facility" means premises that are 49225
separate from a licensed new motor vehicle dealer's sales facility 49226
by not more than one mile and that are used by the dealer to 49227
perform repairs, warranty work, recall work, and maintenance on 49228
motor vehicles pursuant to a franchise agreement entered into with 49229
a manufacturer of motor vehicles. A remote service facility shall 49230
be deemed to be part of the franchise agreement and is subject to 49231
all the rights, duties, obligations, and requirements of Chapter 49232
4517. of the Revised Code that relate to the performance of motor 49233
vehicle repairs, warranty work, recall work, and maintenance work 49234
by new motor vehicle dealers. 49235

Sec. 4519.01. As used in this chapter: 49236

(A) "Snowmobile" means any self-propelled vehicle designed 49237
primarily for use on snow or ice, and steered by skis, runners, or 49238
caterpillar treads. 49239

(B) "All-purpose vehicle" means any self-propelled vehicle 49240
designed primarily for cross-country travel on land and water, or 49241
on more than one type of terrain, and steered by wheels or 49242
caterpillar treads, or any combination thereof, including vehicles 49243
that operate on a cushion of air, vehicles commonly known as 49244
all-terrain vehicles, all-season vehicles, mini-bikes, and trail 49245
bikes, ~~but excluding any self-propelled vehicle not principally~~ 49246
~~used for purposes of personal transportation.~~ "All-purpose 49247
vehicle" does not include a utility vehicle as defined in section 49248
4501.01 of the Revised Code or any vehicle principally used in 49249
playing golf, any motor vehicle or aircraft required to be 49250
registered under Chapter 4503. or 4561. of the Revised Code, and 49251
any vehicle excepted from definition as a motor vehicle by 49252
division (B) of section 4501.01 of the Revised Code. 49253

(C) "Owner" means any person or firm, other than a lienholder 49254
or dealer, having title to a snowmobile, off-highway motorcycle, 49255

or all-purpose vehicle, or other right to the possession thereof. 49256

(D) "Operator" means any person who operates or is in actual 49257
physical control of a snowmobile, off-highway motorcycle, or 49258
all-purpose vehicle. 49259

(E) "Dealer" means any person or firm engaged in the business 49260
of manufacturing or selling snowmobiles, off-highway motorcycles, 49261
or all-purpose vehicles at wholesale or retail, or who rents, 49262
leases, or otherwise furnishes snowmobiles, off-highway 49263
motorcycles, or all-purpose vehicles for hire. 49264

(F) "Street or highway" has the same meaning as in section 49265
4511.01 of the Revised Code. 49266

(G) "Limited access highway" and "freeway" have the same 49267
meanings as in section 5511.02 of the Revised Code. 49268

(H) "Interstate highway" means any part of the interstate 49269
system of highways as defined in subsection (e), 90 Stat. 431 49270
(1976), 23 U.S.C.A. 103, as amended. 49271

(I) "Off-highway motorcycle" means every motorcycle, as 49272
defined in section 4511.01 of the Revised Code, that is designed 49273
to be operated primarily on lands other than a street or highway. 49274

(J) "Electronic" and "electronic record" have the same 49275
meanings as in section 4501.01 of the Revised Code. 49276

(K) "Electronic dealer" means a dealer whom the registrar of 49277
motor vehicles designates under section 4519.511 of the Revised 49278
Code. 49279

Sec. 4519.02. (A) Except as provided in divisions (B), (C), 49280
and (D) of this section, no person shall operate any snowmobile, 49281
off-highway motorcycle, or all-purpose vehicle within this state 49282
unless the snowmobile, off-highway motorcycle, or all-purpose 49283
vehicle is registered and numbered in accordance with sections 49284

4519.03 and 4519.04 of the Revised Code. 49285

(B) No registration is required for a snowmobile, off-highway 49286
motorcycle, or all-purpose vehicle that is operated exclusively 49287
upon lands owned by the owner of the snowmobile, off-highway 49288
motorcycle, or all-purpose vehicle, or on lands to which the owner 49289
has a contractual right. 49290

(C) ~~No registration is required for a snowmobile, off-highway 49291
motorcycle, or all purpose vehicle owned and used in this state by 49292
a resident of another state whenever that state has in effect a 49293
registration law similar to this chapter and the snowmobile, 49294
off highway motorcycle, or all purpose vehicle is properly 49295
registered thereunder.~~ Any snowmobile, off-highway motorcycle, or 49296
all-purpose vehicle owned and used in this state by a person who 49297
is not a resident of ~~another~~ this state ~~not having such a~~ 49298
~~registration requirement~~ shall comply with section 4519.09 of the 49299
Revised Code. 49300

(D) No registration is required for a snowmobile, off-highway 49301
motorcycle, or all-purpose vehicle owned and used in this state by 49302
the United States, another state, or a political subdivision 49303
thereof, but the snowmobile, off-highway motorcycle, or 49304
all-purpose vehicle shall display the name of the owner thereon. 49305

(E) The owner or operator of any all-purpose vehicle operated 49306
or used upon the waters in this state shall comply with Chapters 49307
1547. and 1548. of the Revised Code relative to the operation of 49308
watercraft. 49309

(F) Except as otherwise provided in this division, whoever 49310
violates division (A) of this section shall be fined not more than 49311
twenty-five dollars. If the offender previously has been convicted 49312
of or pleaded guilty to a violation of division (A) of this 49313
section, whoever violates division (A) of this section shall be 49314
fined not less than twenty-five nor more than fifty dollars. 49315

Sec. 4519.09. Every owner or operator of a snowmobile, 49316
off-highway motorcycle, or all-purpose vehicle who is not a 49317
resident of a this state ~~not having a registration law similar to~~ 49318
~~this chapter~~, and who expects to use the snowmobile, off-highway 49319
motorcycle, or all-purpose vehicle in Ohio, shall apply to the 49320
registrar of motor vehicles or a deputy registrar for a temporary 49321
operating permit. The temporary operating permit shall be issued 49322
for a period not to exceed fifteen days from the date of issuance, 49323
shall be in such form as the registrar determines, shall include 49324
the name and address of the owner and operator of the snowmobile, 49325
off-highway motorcycle, or all-purpose vehicle, and any other 49326
information as the registrar considers necessary, and shall be 49327
issued upon payment of a fee of five dollars. Every owner or 49328
operator receiving a temporary operating permit shall display it 49329
upon the reasonable request of any law enforcement officer or 49330
other person as authorized by sections 4519.42 and 4519.43 of the 49331
Revised Code. 49332

Sec. 4561.17. For the purpose of providing revenue for paying 49333
the expenses of administering sections 4561.17 to 4561.22 of the 49334
Revised Code relative to the registration of aircraft, for the 49335
surveying of and the establishment, checking, maintenance, and 49336
repair of aviation air marking and of air navigation facilities, 49337
for airport capital improvements, for the acquiring, maintaining, 49338
and repairing of equipment necessary therefor, and for the cost of 49339
the creation and distribution of Ohio aeronautical charts and Ohio 49340
airport and landing field directories, an annual license tax is 49341
hereby levied upon all aircraft based in this state for which an 49342
aircraft worthiness certificate issued by the federal aviation 49343
administration is in effect except the following: 49344

(A) Aircraft owned by the United States or any territory 49345
thereof; 49346

(B) Aircraft owned by any foreign government;	49347
(C) Aircraft owned by any state or any political subdivision thereof;	49348 49349
(D) Aircraft operated under a certificate of convenience and necessity issued by the civil aeronautics board or any successor thereto;	49350 49351 49352
(E) Aircraft owned by any nonresident of this state whether such owner is an individual, partnership, or corporation, provided such owner has complied with all the laws in regard to the licensing of aircraft in the state of his <u>the owner's</u> residence;	49353 49354 49355 49356
(F) Aircraft owned by aircraft manufacturers or aircraft engine manufacturers and operated only for purposes of testing, delivery, or demonstration;	49357 49358 49359
(G) Aircraft operated for hire over regularly scheduled routes within the state.	49360 49361
Such license tax shall be at the rates specified in section 4561.18 of the Revised Code, and shall be paid to and collected by the director of transportation at the time of making application as provided in such section.	49362 49363 49364 49365
Sec. 4561.18. Applications for the licensing and registration of aircraft shall be made and signed by the owner thereof upon forms prepared by the department of transportation and shall contain a description of the aircraft, including its federal registration number, and such other information as is required by the department.	49366 49367 49368 49369 49370 49371
Applications shall be filed with the director of transportation during the month of January annually and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. Application for registration of any aircraft not previously registered in this	49372 49373 49374 49375 49376

state, if such aircraft is acquired or becomes subject to such
license tax subsequent to the last day of January in any year,
shall be made for the balance of the year in which the same is
acquired, within forty-eight hours after such acquisition or after
becoming subject to such license tax. Each such application shall
be accompanied by the proper license tax, which, for all aircraft
other than gliders and balloons, shall be at the annual rate of
~~one hundred~~ fifteen dollars per ~~aircraft~~ seat, based on the
manufacturer's maximum listed seating capacity. The license tax
for gliders and balloons shall be ~~three~~ fifteen dollars annually.

Such taxes are in lieu of all other taxes on or with respect
to ownership of such aircraft.

Sec. 4561.21. (A) The director of transportation shall
deposit all aircraft transfer fees in the state treasury to the
credit of the general fund.

(B) The director shall deposit all aircraft license taxes in
the state treasury to the credit of the ~~county~~ airport ~~maintenance~~
assistance fund, which is hereby created. Money in the fund shall
be used ~~to assist counties in maintaining the~~ for maintenance and
capital improvements to publicly owned airports ~~they own~~, and the
director shall distribute the money to ~~counties~~ eligible
recipients in accordance with such procedures, guidelines, and
criteria as the director shall establish.

Sec. 4703.15. (A) The state board of examiners of architects
may by three concurring votes deny renewal of, revoke, or suspend
any certificate of qualification to practice architecture, issued
or renewed under sections 4703.10, 4703.13, and 4703.14 of the
Revised Code, or any certificate of authorization, issued or
renewed under sections 4703.13 and 4703.18 of the Revised Code, if
proof satisfactory to the board is presented in any of the

following cases: 49407

~~(A)~~(1) In case it is shown that the certificate was obtained 49408
by fraud; 49409

~~(B)~~(2) In case the holder of the certificate has been found 49410
guilty by the board or by a court of justice of any fraud or 49411
deceit in ~~his~~ the holder's professional practice, or has been 49412
convicted of a felony by a court of justice; 49413

~~(C)~~(3) In case the holder has been found guilty by the board 49414
of gross negligence, incompetency, or misconduct in the 49415
performance of ~~his~~ the holder's services as an architect or in the 49416
practice of architecture; 49417

~~(D)~~(4) In case the holder of the certificate has been found 49418
guilty by the board of signing plans for the construction of a 49419
building as a "registered architect" where ~~he~~ the holder is not 49420
the actual architect of such building and where ~~he~~ the holder is 49421
without prior written consent of the architect originating the 49422
design or other documents used in the plans; 49423

~~(E)~~(5) In case the holder of the certificate has been found 49424
guilty by the board of aiding and abetting another person or 49425
persons not properly registered as required by sections 4703.01 to 49426
4703.19 of the Revised Code, in the performance of activities that 49427
in any manner or extent constitute the practice of architecture. 49428

At any time after the expiration of six months from the date 49429
of the revocation or suspension of a certificate, the individual, 49430
firm, partnership, association, or corporation may apply for 49431
reinstatement of the certificate. Upon showing that all loss 49432
caused by the individual, firm, partnership, association, or 49433
corporation whose certificate has been revoked or suspended has 49434
been fully satisfied and that all conditions imposed by the 49435
revocation or suspension decision have been complied with, and 49436
upon the payment of all costs incurred by the board as a result of 49437

the case at issue, the board, at its discretion and upon evidence 49438
that in its opinion would so warrant, may restore the certificate. 49439

(B) In addition to disciplinary action the board may take 49440
against a certificate holder under division (A) of this section or 49441
section 4703.151 of the Revised Code, the board may impose a fine 49442
against a certificate holder who obtained a certificate by fraud 49443
or who is found guilty of any act specified in divisions (A)(2) to 49444
(A)(5) of this section or who violates any rule governing the 49445
standards of service, conduct, and practice adopted pursuant to 49446
section 4703.02 of the Revised Code. The fine imposed shall be not 49447
more than one thousand dollars for each offense but shall not 49448
exceed five thousand dollars regardless of the number of offenses 49449
the certificate holder has committed between the time the fine is 49450
imposed and the time any previous fine was imposed. 49451

Sec. 4705.09. (A)(1) Any person admitted to the practice of 49452
law in this state by order of the supreme court in accordance with 49453
its prescribed and published rules, or any law firm or legal 49454
professional association, may establish and maintain an 49455
interest-bearing trust account, for purposes of depositing client 49456
funds held by the attorney, firm, or association that are nominal 49457
in amount or are to be held by the attorney, firm, or association 49458
for a short period of time, with any bank or savings and loan 49459
association that is authorized to do business in this state and is 49460
insured by the federal deposit insurance corporation or the 49461
successor to that corporation, or any credit union insured by the 49462
national credit union administration operating under the "Federal 49463
Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751. Each 49464
account established under this division shall be in the name of 49465
the attorney, firm, or association that established and is 49466
maintaining it and shall be identified as an IOLTA or an interest 49467
on lawyer's trust account. The name of the account may contain 49468

additional identifying features to distinguish it from other trust 49469
accounts established and maintained by the attorney, firm, or 49470
association. 49471

(2) Each attorney who receives funds belonging to a client 49472
shall do one of the following: 49473

(a) Establish and maintain one or more interest-bearing trust 49474
accounts in accordance with division (A)(1) of this section or 49475
maintain one or more interest-bearing trust accounts previously 49476
established in accordance with that division, and deposit all 49477
client funds held that are nominal in amount or are to be held by 49478
the attorney for a short period of time in the account or 49479
accounts; 49480

(b) If the attorney is affiliated with a law firm or legal 49481
professional association, comply with division (A)(2)(a) of this 49482
section or deposit all client funds held that are nominal in 49483
amount or are to be held by the attorney for a short period of 49484
time in one or more interest-bearing trust accounts established 49485
and maintained by the firm or association in accordance with 49486
division (A)(1) of this section. 49487

(3) No funds belonging to any attorney, firm, or legal 49488
professional association shall be deposited in any 49489
interest-bearing ~~IOTA~~ IOLTA account established under division 49490
(A)(1) or (2) of this section, except that funds sufficient to pay 49491
or enable a waiver of depository institution service charges on 49492
the account shall be deposited in the account and other funds 49493
belonging to the attorney, firm, or association may be deposited 49494
as authorized by the Code of Professional Responsibility adopted 49495
by the supreme court. The determinations of whether funds held are 49496
nominal or more than nominal in amount and of whether funds are to 49497
be held for a short period or longer than a short period of time 49498
rests in the sound judgment of the particular attorney. No 49499
imputation of professional misconduct shall arise from the 49500

attorney's exercise of judgment in these matters. 49501

(B) All interest earned on funds deposited in an 49502
interest-bearing trust account established under division (A)(1) 49503
or (2) of this section shall be transmitted to the treasurer of 49504
state for deposit in the legal aid fund established under section 49505
120.52 of the Revised Code. No part of the interest earned on 49506
funds deposited in an interest-bearing trust account established 49507
under division (A)(1) or (2) of this section shall be paid to, or 49508
inure to the benefit of, the attorney, the attorney's law firm or 49509
legal professional association, the client or other person who 49510
owns or has a beneficial ownership of the funds deposited, or any 49511
other person other than in accordance with this section, section 49512
4705.10, and sections 120.51 to 120.55 of the Revised Code. 49513

(C) No liability arising out of any act or omission by any 49514
attorney, law firm, or legal professional association with respect 49515
to any interest-bearing trust account established under division 49516
(A)(1) or (2) of this section shall be imputed to the depository 49517
institution. 49518

(D) The supreme court may adopt and enforce rules of 49519
professional conduct that pertain to the use, by attorneys, law 49520
firms, or legal professional associations, of interest-bearing 49521
trust accounts established under division (A)(1) or (2) of this 49522
section, and that pertain to the enforcement of division (A)(2) of 49523
this section. Any rules adopted by the supreme court under this 49524
authority shall conform to the provisions of this section, section 49525
4705.10, and sections 120.51 to 120.55 of the Revised Code. 49526

Sec. 4709.05. In addition to any other duty imposed on the 49527
barber board under this chapter, the board shall do all of the 49528
following: 49529

(A) Organize by electing a chairperson from its members to 49530
serve a one-year term; 49531

(B) Hold regular meetings, at the times and places as it 49532
determines for the purpose of conducting the examinations required 49533
under this chapter, and hold additional meetings for the 49534
transaction of necessary business; 49535

(C) Provide for suitable quarters, in the city of Columbus, 49536
for the conduct of its business and the maintenance of its 49537
records; 49538

(D) Adopt a common seal for the authentication of its orders, 49539
communications, and records; 49540

(E) Maintain a record of its proceedings and a register of 49541
persons licensed as barbers. The register shall include each 49542
licensee's name, place of business, residence, and licensure date 49543
and number, and a record of all licenses issued, refused, renewed, 49544
suspended, or revoked. The records are open to public inspection 49545
at all reasonable times. 49546

(F) Annually, on or before the first day of January, make a 49547
report to the governor of all its official acts during the 49548
preceding year, its receipts and disbursements, recommendations it 49549
determines appropriate, and an evaluation of board activities 49550
intended to aid or protect consumers of barber services; 49551

(G) Employ an executive director who shall do all things 49552
requested by the board for the administration and enforcement of 49553
this chapter. The executive director shall employ inspectors, 49554
clerks, and other assistants as ~~he~~ the executive director 49555
determines necessary. 49556

(H) Ensure that the practice of barbering is conducted only 49557
in a licensed barber shop, except when the practice of barbering 49558
is performed on a person whose physical or mental disability 49559
prevents that person from going to a licensed barber shop; 49560

(I) Conduct or have conducted the examination for applicants 49561

to practice as licensed barbers at least four times per year at 49562
the times and places the board determines; 49563

(J) Adopt rules, in accordance with Chapter 119. of the 49564
Revised Code, to administer and enforce this chapter and which 49565
cover all of the following: 49566

(1) Sanitary standards for the operation of barber shops and 49567
barber schools that conform to guidelines established by the 49568
department of health; 49569

(2) The content of the examination required of an applicant 49570
for a barber license. The examination shall include a practical 49571
demonstration and a written test, shall relate only to the 49572
practice of barbering, and shall require the applicant to 49573
demonstrate that the applicant has a thorough knowledge of and 49574
competence in the proper techniques in the safe use of chemicals 49575
used in the practice of barbering. 49576

(3) Continuing education requirements for persons licensed 49577
pursuant to this chapter. The board may impose continuing 49578
education requirements upon a licensee for a violation of this 49579
chapter or the rules adopted pursuant thereto or if the board 49580
determines that the requirements are necessary to preserve the 49581
health, safety, or welfare of the public. 49582

(4) Requirements for the licensure of barber schools, barber 49583
teachers, and assistant barber teachers; 49584

(5) Requirements for students of barber schools; 49585

(6) Any other area the board determines appropriate to 49586
administer or enforce this chapter. 49587

(K) Annually review the rules adopted pursuant to division 49588
(J) of this section in order to compare those rules with the rules 49589
adopted by the state board of cosmetology pursuant to section 49590
4713.08 of the Revised Code. If the barber board determines that 49591

the rules adopted by the state board of cosmetology, including, 49592
but not limited to, rules concerning using career technical 49593
schools, would be beneficial to the barbering profession, the 49594
barber board shall adopt rules similar to those it determines 49595
would be beneficial for barbers. 49596

(L) Prior to adopting any rule under this chapter, indicate 49597
at a formal hearing the reasons why the rule is necessary as a 49598
protection of the persons who use barber services or as an 49599
improvement of the professional standing of barbers in this state; 49600

~~(L)~~(M) Furnish each owner or manager of a barber shop and 49601
barber school with a copy of all sanitary rules adopted pursuant 49602
to division (J) of this section; 49603

~~(M)~~(N) Conduct such investigations and inspections of persons 49604
and establishments licensed or unlicensed pursuant to this chapter 49605
and for that purpose, any member of the board or any of its 49606
authorized agents may enter and inspect any place of business of a 49607
licensee or a person suspected of violating this chapter or the 49608
rules adopted pursuant thereto, during normal business hours; 49609

~~(N)~~(O) Upon the written request of an applicant and the 49610
payment of the appropriate fee, provide to the applicant licensure 49611
information concerning the applicant; 49612

~~(O)~~(P) Do all things necessary for the proper administration 49613
and enforcement of this chapter. 49614

Sec. 4713.02. (A) There is hereby created the state board of 49615
cosmetology, consisting of all of the following members appointed 49616
by the governor, with the advice and consent of the senate: 49617

(1) One person holding a current, valid cosmetologist, 49618
managing cosmetologist, or cosmetology instructor license at the 49619
time of appointment; 49620

(2) Two persons holding current, valid managing cosmetologist 49621

licenses and actively engaged in managing beauty salons at the	49622
time of appointment;	49623
(3) One person who holds a current, valid independent	49624
contractor license at the time of appointment or the owner or	49625
manager of a licensed salon in which at least one person holding a	49626
current, valid independent contractor license practices a branch	49627
of cosmetology;	49628
(4) One person who represents individuals who teach the	49629
theory and practice of a branch of cosmetology at a vocational	49630
school;	49631
(5) One owner of a licensed school of cosmetology;	49632
(6) One owner of at least five licensed salons;	49633
(7) One person who is either a certified nurse practitioner	49634
or clinical nurse specialist holding a certificate of authority	49635
issued under Chapter 4723. of the Revised Code, or a physician	49636
authorized under Chapter 4731. of the Revised Code to practice	49637
medicine and surgery or osteopathic medicine and surgery;	49638
(8) One person representing the general public.	49639
(B) The superintendent of public instruction shall nominate	49640
three persons for the governor to choose from when making an	49641
appointment under division (A)(4) of this section.	49642
(C) All members shall be at least twenty-five years of age,	49643
residents of the state, and citizens of the United States. No more	49644
than two members, at any time, shall be graduates of the same	49645
school of cosmetology.	49646
Except for the initial members appointed under divisions	49647
(A)(3) and (4) of this section, terms of office are for five	49648
years. The term of the initial member appointed under division	49649
(A)(3) of this section shall be three years. The term of the	49650
initial member appointed under division (A)(4) of this section	49651

shall be four years. Terms shall commence on the first day of
November and end on the thirty-first day of October. Each member
shall hold office from the date of appointment until the end of
the term for which appointed. In case of a vacancy occurring on
the board, the governor shall, in the same manner prescribed for
the regular appointment to the board, fill the vacancy by
appointing a member. Any member appointed to fill a vacancy
occurring prior to the expiration of the term for which the
member's predecessor was appointed shall hold office for the
remainder of such term. Any member shall continue in office
subsequent to the expiration date of the member's term until the
member's successor takes office, or until a period of sixty days
has elapsed, whichever occurs first. Before entering upon the
discharge of the duties of the office of member, each member shall
take, and file with the secretary of state, the oath of office
required by Section 7 of Article XV, Ohio Constitution.

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The members of the board shall receive an amount fixed
pursuant to Chapter 124. of the Revised Code per diem for every
meeting of the board which they attend, together with their
necessary expenses, and mileage for each mile necessarily
traveled.

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The members of the board shall annually elect, from among
their number, a chairperson.

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The board shall prescribe the duties of its officers and
establish an office ~~at Columbus, Ohio~~ within Franklin County. The
board shall keep all records and files at the office and have the
records and files at all reasonable hours open to public
inspection. The board also shall adopt a seal.

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Sec. 4713.441. Notwithstanding divisions (A) and (B) of
section 4743.03 of the Revised Code, no city, local, exempted
village, or joint vocational school district shall offer

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postsecondary education in any course regulated by the state board of cosmetology under this chapter, except for a continuing education course, if the school where that course is offered is located within the same county or a county contiguous to the county as is located a proprietary school of cosmetology that holds a license issued by the state board of cosmetology pursuant to section 4713.44 of the Revised Code, unless the board of education of the school district enters into a written agreement with each licensed proprietary school located in the same county or a contiguous county permitting the offering of a specific postsecondary education course regulated by the state board of cosmetology.

If there is no licensed proprietary school of cosmetology within the same county or a contiguous county, the board of education of the school district shall first obtain approval from the state board of cosmetology and the department of education before enrolling any postsecondary student in a cosmetology education program.

The general assembly declares that this measure is necessary in order to protect the public health, safety, and welfare.

Sec. 4717.05. (A) Any person who desires to be licensed as an embalmer shall apply to the board of embalmers and funeral directors on a form provided by the board. The applicant shall include with the application an initial license fee as set forth in section 4717.07 of the Revised Code and evidence, verified by oath and satisfactory to the board, that the applicant meets all of the following requirements:

(1) The applicant is at least eighteen years of age and of good moral character.

(2) If the applicant has pleaded guilty to, has been found by

a judge or jury to be guilty of, or has had a judicial finding of
eligibility for treatment in lieu of conviction entered against
the applicant in this state for aggravated murder, murder,
voluntary manslaughter, felonious assault, kidnapping, rape,
sexual battery, gross sexual imposition, aggravated arson,
aggravated robbery, or aggravated burglary, or has pleaded guilty
to, has been found by a judge or jury to be guilty of, or has had
a judicial finding of eligibility for treatment in lieu of
conviction entered against the applicant in another jurisdiction
for a substantially equivalent offense, at least five years has
elapsed since the applicant was released from incarceration, a
community control sanction, a post-release control sanction,
parole, or treatment in connection with the offense.

(3) The applicant holds at least a bachelor's degree from a
college or university authorized to confer degrees by the Ohio
board of regents or the comparable legal agency of another state
in which the college or university is located and submits an
official transcript from that college or university with the
application.

(4) The applicant has satisfactorily completed at least
twelve months of instruction in a prescribed course in mortuary
science as approved by the board and has presented to the board a
certificate showing successful completion of the course. The
course of mortuary science college training may be completed
either before or after the completion of the educational standard
set forth in division (A)(3) of this section.

(5) The applicant has registered with the board prior to
beginning an embalmer apprenticeship.

(6) The applicant has satisfactorily completed at least one
year of apprenticeship under an embalmer licensed in this state
and has assisted that person in embalming at least twenty-five

dead human bodies. 49744

(7) The applicant, upon meeting the educational standards 49745
provided for in divisions (A)(3) and (4) of this section and 49746
completing the apprenticeship required in division (A)(6) of this 49747
section, has completed the examination for an embalmer's license 49748
required by the board. 49749

(B) Upon receiving satisfactory evidence verified by oath 49750
that the applicant meets all the requirements of division (A) of 49751
this section, the board shall issue the applicant an embalmer's 49752
license. 49753

(C) Any person who desires to be licensed as a funeral 49754
director shall apply to the board on a form provided by the board. 49755
The application shall include an initial license fee as set forth 49756
in section 4717.07 of the Revised Code and evidence, verified by 49757
oath and satisfactory to the board, that the applicant meets all 49758
of the following requirements: 49759

(1) Except as otherwise provided in division (D) of this 49760
section, the applicant has satisfactorily met all the requirements 49761
for an embalmer's license as described in divisions (A)(1) to (4) 49762
of this section. 49763

(2) The applicant has registered with the board prior to 49764
beginning a funeral director apprenticeship. 49765

(3) The applicant, following mortuary science college 49766
training described in division (A)(4) of this section, has ~~served~~ 49767
satisfactorily completed a one-year apprenticeship under a 49768
licensed funeral director in this state and has assisted that 49769
person in directing at least twenty-five funerals. 49770

(4) The applicant has satisfactorily completed the 49771
examination for a funeral director's license as required by the 49772
board. 49773

(D) In lieu of mortuary science college training required for a funeral director's license under division (C)(1) of this section, the applicant may substitute a satisfactorily completed two-year apprenticeship under a licensed funeral director in this state assisting that person in directing at least fifty funerals.

(E) Upon receiving satisfactory evidence that the applicant meets all the requirements of division (C) of this section, the board shall issue to the applicant a funeral director's license.

(F) As used in this section:

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

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

Sec. 4723.32. This chapter does not prohibit any of the following:

(A) The practice of nursing by a student currently enrolled in and actively pursuing completion of a prelicensure nursing education program approved by the board of nursing, if the student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor;

(B) The rendering of medical assistance to a licensed physician, licensed dentist, or licensed podiatrist by a person under the direction, supervision, and control of such licensed physician, dentist, or podiatrist;

(C) The activities of persons employed as nursing aides, attendants, orderlies, or other auxiliary workers in patient homes, nurseries, nursing homes, hospitals, home health agencies, or other similar institutions;

(D) The provision of nursing services to family members or in emergency situations; 49804
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(E) The care of the sick when done in connection with the practice of religious tenets of any church and by or for its members; 49806
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(F) The practice of nursing as a certified registered nurse anesthetist, clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner by a student currently enrolled in and actively pursuing completion of a program of study leading to initial authorization by the board to practice nursing in the specialty, if both of the following are the case: 49809
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(1) The program qualifies the student to sit for the examination of a national certifying organization listed in division (A)(3) of section 4723.41 of the Revised Code or approved by the board under section 4723.46 of the Revised Code or the program prepares the student to receive a master's degree in accordance with division (A)(2) of section 4723.41 of the Revised Code; 49815
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(2) The student's practice is under the auspices of the program and the student acts under the supervision of a registered nurse serving for the program as a faculty member, teaching assistant, or preceptor. 49822
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(G) The activities of an individual who currently holds a license to practice nursing in another jurisdiction, if the individual's license has not been revoked, the individual is not currently under suspension or on probation, the individual does not represent the individual as being licensed under this chapter, and one of the following is the case: 49826
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(1) The individual is engaging in the practice of nursing by discharging official duties while employed by or under contract with the United States government or any agency thereof; 49832
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(2) The individual is engaging in the practice of nursing as an employee of an individual, agency, or corporation located in the other jurisdiction in a position with employment responsibilities that include transporting patients into, out of, or through this state, as long as each trip in this state does not exceed seventy-two hours;

(3) The individual is consulting with an individual licensed in this state to practice any health-related profession;

(4) The individual is engaging in activities associated with teaching in this state as a guest lecturer at or for a nursing education program, continuing nursing education program, or in-service presentation;

(5) The individual is conducting evaluations of nursing care that are undertaken on behalf of an accrediting organization, including the national league for nursing accrediting committee, the joint commission on accreditation of healthcare organizations, or any other nationally recognized accrediting organization;

(6) The individual is providing nursing care to an individual who is in this state on a temporary basis, not to exceed six months in any one calendar year, if the nurse is directly employed by or under contract with the individual or a guardian or other person acting on the individual's behalf;

(7) The individual is providing nursing care during any disaster, natural or otherwise, that has been officially declared to be a disaster by a public announcement issued by an appropriate federal, state, county, or municipal official.

(H) The administration of medication by an individual who holds a valid medication aide certificate issued under this chapter, if the medication is administered to a resident of a nursing home or residential care facility authorized by section 4723.63 or 4723.64 of the Revised Code to use a certified

medication aide and the medication is administered in accordance 49866
with section 4723.67 of the Revised Code. 49867

Sec. 4723.61. As used in this section and in sections 4723.62 49868
to 4723.69 of the Revised Code: 49869

(A) "Medication" means a drug, as defined in section 4729.01 49870
of the Revised Code. 49871

(B) "Medication error" means a failure to follow the 49872
prescriber's instructions when administering a prescription 49873
medication. 49874

(C) "Nursing home" and "residential care facility" have the 49875
same meanings as in section 3721.01 of the Revised Code. 49876

(D) "Prescription medication" means a medication that may be 49877
dispensed only pursuant to a prescription. 49878

(E) "Prescriber" and "prescription" have the same meanings as 49879
in section 4729.01 of the Revised Code. 49880

Sec. 4723.62. (A) There is hereby created the medication aide 49881
advisory council. The council shall consist of the following 49882
members: 49883

(1) A registered nurse working in long-term care, appointed 49884
by the governing body of the Ohio nurses association; 49885

(2) A licensed practical nurse working in long-term care, 49886
appointed by the governing body of the licensed practical nurse 49887
association of Ohio; 49888

(3) A registered nurse with experience in researching 49889
gerontology issues, appointed by the governing body of the Ohio 49890
nurses association; 49891

(4) An advanced practice nurse with experience in 49892
gerontology, appointed by the governing body of the Ohio 49893

<u>association of advanced practice nurses;</u>	49894
<u>(5) A representative of the Ohio health care association,</u>	49895
<u>appointed by the governing body of the association;</u>	49896
<u>(6) A representative of the association of Ohio philanthropic</u>	49897
<u>homes, housing, and services for the aging, appointed by the</u>	49898
<u>governing body of the association;</u>	49899
<u>(7) A representative of the Ohio academy of nursing homes,</u>	49900
<u>appointed by the governing body of the academy;</u>	49901
<u>(8) A representative of the Ohio assisted living association,</u>	49902
<u>appointed by the governing body of the association;</u>	49903
<u>(9) A representative of the Ohio association of long-term</u>	49904
<u>care ombudsmen, appointed by the governing body of the</u>	49905
<u>association;</u>	49906
<u>(10) A representative of the American association of retired</u>	49907
<u>persons, appointed by the governing body of the association;</u>	49908
<u>(11) A representative of facility residents and families of</u>	49909
<u>facility residents, appointed by the board of nursing;</u>	49910
<u>(12) A representative of the senior care pharmacy alliance,</u>	49911
<u>appointed by the governing body of the alliance;</u>	49912
<u>(13) A representative of nurse aides, as defined in section</u>	49913
<u>3721.21 of the Revised Code, appointed by the director of health;</u>	49914
<u>(14) A representative of the department of health with</u>	49915
<u>expertise in competency evaluation programs, as defined in section</u>	49916
<u>3721.21 of the Revised Code, appointed by the director of health;</u>	49917
<u>(15) A representative of the office of the state long-term</u>	49918
<u>care ombudsperson program, appointed by the state long-term care</u>	49919
<u>ombudsperson;</u>	49920
<u>(16) A representative of the department of job and family</u>	49921
<u>services, appointed by the director of job and family services.</u>	49922

(B) Members of the council shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner provided for original appointments. 49923
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(C) Members shall receive no compensation for their service on the council, except to the extent that serving on the council is part of their regular duties of employment. 49926
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(D) The board of nursing shall appoint one of its members or a representative of the board to serve as the council's chairperson. 49929
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Sec. 4723.621. The medication aide advisory council created under section 4723.62 of the Revised Code shall make recommendations to the board of nursing with respect to all of the following: 49932
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(A) The design and operation of the medication aide pilot program conducted under section 4723.63 of the Revised Code, including a method of collecting data through reports submitted by participating nursing homes and residential care facilities; 49936
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(B) The content of the course of instruction required to obtain certification as a medication aide, including the examination to be used to evaluate the ability to administer prescription medications safely and the score that must be attained to pass the examination; 49940
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(C) Whether medication aides may administer prescription medications through a gastrostomy or jejunostomy tube and the amount and type of training a medication aide needs to be adequately prepared to administer prescription medications through a gastrostomy or jejunostomy tube; 49945
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(D) Protection of the health and welfare of the residents of nursing homes and residential care facilities participating in the pilot program and using medication aides pursuant to section 49950
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<u>4723.64 of the Revised Code on or after July 1, 2007;</u>	49953
<u>(E) The board's adoption of rules under section 4723.69 of the Revised Code;</u>	49954
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<u>(F) Any other issue the council considers relevant to the use of medication aides in nursing homes and residential care facilities.</u>	49956
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<u>Sec. 4723.63. (A) In consultation with the medication aide advisory council established under section 4723.62 of the Revised Code, the board of nursing shall conduct a pilot program for the use of medication aides in nursing homes and residential care facilities. The board shall conduct the pilot program in a manner consistent with human protection and other ethical concerns typically associated with research studies involving live subjects. The pilot program shall be commenced not later than May 1, 2006, and shall be conducted until July 1, 2007.</u>	49959
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<u>During the period the pilot program is conducted, a nursing home or residential care facility participating in the pilot program may use one or more medication aides to administer prescription medications to its residents, subject to both of the following conditions:</u>	49968
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<u>(1) Each individual used as a medication aide must hold a current, valid certificate issued by the board of nursing under section 4723.65 of the Revised Code.</u>	49973
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<u>(2) The nursing home or residential care facility shall ensure that the requirements of section 4723.67 of the Revised Code are met.</u>	49976
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<u>(B) The board, in consultation with the medication aide advisory council, shall do all of the following not later than February 1, 2006:</u>	49979
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<u>(1) Design the pilot program;</u>	49982

(2) Establish standards to govern medication aides and the nursing homes and residential care facilities participating in the pilot program, including standards for the training of medication aides and the staff of participating nursing homes and residential care facilities; 49983
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(3) Establish standards to protect the health and safety of the residents of the nursing homes and residential care facilities participating in the program; 49988
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(4) Implement a process for selecting the nursing homes and residential care facilities to participate in the program. 49991
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(C)(1) A nursing home or residential care facility may volunteer to participate in the pilot program by submitting an application to the board on a form prescribed and provided by the board. From among the applicants, the board shall select eighty nursing homes and forty residential care facilities to participate in the pilot program. 49993
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(2) To be eligible to participate, a nursing home or residential care facility shall agree to observe the standards established by the board for the use of medication aides. A nursing home is eligible to participate only if the department of health has found in the two most recent surveys or inspections of the home that the home is free from deficiencies related to the administration of medication. A residential care facility is eligible to participate only if the department has found that the facility is free from deficiencies related to the provision of skilled nursing care or the administration of medication. 49999
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(D) As a condition of participation in the pilot program, a nursing home and residential care facility selected by the board shall pay the participation fee established in rules adopted under section 4723.69 of the Revised Code. The participation fee is not reimbursable under the medicaid program established under Chapter 50009
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5111. of the Revised Code. 50014

(E) On receipt of evidence found credible by the board that 50015
continued participation by a nursing home or residential care 50016
facility poses an imminent danger, risk of serious harm, or 50017
jeopardy to a resident of the home or facility, the board may 50018
terminate the authority of the home or facility to participate in 50019
the pilot program. 50020

(F)(1) With the assistance of the medication aide advisory 50021
council, the board shall conduct an evaluation of the pilot 50022
program. In conducting the evaluation, the board shall do all of 50023
the following: 50024

(a) Assess whether medication aides are able to administer 50025
prescription medications safely to nursing home and residential 50026
care facility residents; 50027

(b) Determine the financial implications of using medication 50028
aides in nursing homes and residential care facilities; 50029

(c) Consider any other issue the board or council considers 50030
relevant to the evaluation. 50031

(2) Not later than March 1, 2007, the board shall prepare a 50032
report of its findings and recommendations derived from the 50033
evaluation of the pilot program. The board shall submit the report 50034
to the governor, president and minority leader of the senate, 50035
speaker and minority leader of the house of representatives, and 50036
director of health. 50037

Sec. 4723.64. On and after July 1, 2007, any nursing home or 50038
residential care facility may use one or more medication aides to 50039
administer prescription medications to its residents, subject to 50040
both of the following conditions: 50041

(A) Each individual used as a medication aide must hold a 50042
current, valid certificate issued by the board of nursing under 50043

<u>section 4723.65 of the Revised Code.</u>	50044
<u>(B) The nursing home or residential care facility shall</u>	50045
<u>ensure that the requirements of section 4723.67 of the Revised</u>	50046
<u>Code are met.</u>	50047
<u>Sec. 4723.65.</u> (A) <u>An individual seeking certification as a</u>	50048
<u>medication aide shall apply to the board of nursing on a form</u>	50049
<u>prescribed and provided by the board. If the application is</u>	50050
<u>submitted on or after July 1, 2007, the application shall be</u>	50051
<u>accompanied by the certification fee established in rules adopted</u>	50052
<u>under section 4723.69 of the Revised Code.</u>	50053
<u>(B) The board shall issue a medication aide certificate to an</u>	50054
<u>applicant if the applicant satisfies all of the following</u>	50055
<u>requirements:</u>	50056
<u>(1) Is at least eighteen years of age;</u>	50057
<u>(2) Has a high school diploma or a high school equivalence</u>	50058
<u>diploma as defined in section 5107.40 of the Revised Code;</u>	50059
<u>(3) If the applicant is to practice as a medication aide in a</u>	50060
<u>nursing home, is a nurse aide who satisfies the requirements of</u>	50061
<u>division (A)(1), (2), (3), (4), (5), (6), or (8) of section</u>	50062
<u>3721.32 of the Revised Code;</u>	50063
<u>(4) If the applicant is to practice as a medication aide in a</u>	50064
<u>residential care facility, is a nurse aide who satisfies the</u>	50065
<u>requirements of division (A)(1), (2), (3), (4), (5), (6), or (8)</u>	50066
<u>of section 3721.32 of the Revised Code or an individual who has at</u>	50067
<u>least one year of direct care experience in a residential care</u>	50068
<u>facility;</u>	50069
<u>(5) Successfully completes the course of instruction provided</u>	50070
<u>by a training program approved by the board under section 4723.66</u>	50071
<u>of the Revised Code;</u>	50072

(6) Satisfies all other requirements for a medication aide certificate established in rules adopted under section 4723.69 of the Revised Code. 50073
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(C) If a medication aide certificate is issued to an individual on the basis of having at least one year of direct care experience working in a residential care facility, as provided in division (B)(4) of this section, the certificate is valid for use only in a residential care facility. The board shall state the limitation on the certificate issued to the individual. 50076
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(D) A medication aide certificate is valid for two years, unless earlier suspended or revoked. The certificate may be renewed in accordance with procedures specified by the board in rules adopted under section 4723.69 of the Revised Code. To be eligible for renewal, an applicant shall pay the renewal fee established in the rules and meet all renewal qualifications specified in the rules. 50082
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(E) The board may deny, suspend, or revoke a medication aide certificate for reasons specified in rules adopted under section 4723.69 of the Revised Code. All actions taken by the board to deny, suspend, or revoke a certificate shall be taken in accordance with Chapter 119. of the Revised Code. 50089
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Sec. 4723.66. (A) A person or government entity seeking approval to provide a medication aide training program shall apply to the board of nursing on a form prescribed and provided by the board. If the application is submitted on or after July 1, 2007, the application shall be accompanied by the fee established in rules adopted under section 4723.69 of the Revised Code. 50094
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(B) The board shall approve the applicant to provide a medication aide training program if the content of the course of instruction to be provided by the program meets the standards 50100
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specified by the board in rules adopted under section 4723.69 of 50103
the Revised Code and includes all of the following: 50104

(1) At least seventy clock-hours of instruction, including 50105
both classroom instruction on medication administration and at 50106
least twenty clock-hours of supervised clinical practice in 50107
medication administration; 50108

(2) A mechanism for evaluating whether an individual's 50109
reading, writing, and mathematical skills are sufficient for the 50110
individual to be able to administer prescription medications 50111
safely; 50112

(3) An examination that tests the ability to administer 50113
prescription medications safely and that meets the requirements 50114
established by the board in rules adopted under section 4723.69 of 50115
the Revised Code. 50116

(C) The board may deny, suspend, or revoke the approval 50117
granted to the provider of a medication aide training program for 50118
reasons specified in rules adopted under section 4723.69 of the 50119
Revised Code. All actions taken by the board to deny, suspend, or 50120
revoke the approval of a training program shall be taken in 50121
accordance with Chapter 119. of the Revised Code. 50122

Sec. 4723.67. (A) Except for the prescription medications 50123
specified in division (C) of this section and the methods of 50124
medication administration specified in division (D) of this 50125
section, a medication aide who holds a certificate issued under 50126
section 4723.65 of the Revised Code may administer prescription 50127
medications to the residents of nursing homes and residential care 50128
facilities that use medication aides pursuant to section 4723.63 50129
or 4723.64 of the Revised Code. A medication aide shall administer 50130
prescription medications only pursuant to the delegation of a 50131
registered nurse or a licensed practical nurse acting at the 50132

<u>direction of a registered nurse.</u>	50133
<u>Delegation of medication administration to a medication aide</u>	50134
<u>shall be carried out in accordance with the rules for nursing</u>	50135
<u>delegation adopted under this chapter by the board of nursing. A</u>	50136
<u>nurse who has delegated to a medication aide responsibility for</u>	50137
<u>the administration of prescription medications to the residents of</u>	50138
<u>a nursing home or residential care facility shall not withdraw the</u>	50139
<u>delegation on an arbitrary basis or for any purpose other than</u>	50140
<u>patient safety.</u>	50141
<u>(B) In exercising the authority to administer prescription</u>	50142
<u>medications pursuant to nursing delegation, a medication aide may</u>	50143
<u>administer prescription medications in any of the following</u>	50144
<u>categories:</u>	50145
<u>(1) Oral medications;</u>	50146
<u>(2) Topical medications;</u>	50147
<u>(3) Medications administered as drops to the eye, ear, or</u>	50148
<u>nose;</u>	50149
<u>(4) Rectal and vaginal medications;</u>	50150
<u>(5) Medications prescribed with a designation authorizing or</u>	50151
<u>requiring administration on an as-needed basis, but only if a</u>	50152
<u>nursing assessment of the patient is completed before the</u>	50153
<u>medication is administered.</u>	50154
<u>(C) A medication aide shall not administer prescription</u>	50155
<u>medications in either of the following categories:</u>	50156
<u>(1) Medications containing a schedule II controlled</u>	50157
<u>substance, as defined in section 3719.01 of the Revised Code;</u>	50158
<u>(2) Medications requiring dosage calculations.</u>	50159
<u>(D) A medication aide shall not administer prescription</u>	50160
<u>medications by any of the following methods:</u>	50161

<u>(1) Injection;</u>	50162
<u>(2) Intravenous therapy procedures;</u>	50163
<u>(3) Splitting pills for purposes of changing the dose being given.</u>	50164 50165
<u>(E) A nursing home or residential care facility that uses medication aides shall ensure that medication aides do not have access to any schedule II controlled substances within the home or facility for use by its residents.</u>	50166 50167 50168 50169
<u>Sec. 4723.68.</u> (A) <u>A registered nurse, or licensed practical nurse acting at the direction of a registered nurse, who delegates medication administration to a medication aide certified under section 4723.65 of the Revised Code is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly arises from an action or omission of the medication aide in performing the medication administration, if the delegating nurse delegates the medication administration in accordance with this chapter and the rules adopted under this chapter.</u>	50170 50171 50172 50173 50174 50175 50176 50177 50178 50179
<u>(B) A person employed by a nursing home or residential care facility that uses medication aides certified under section 4723.65 of the Revised Code who reports in good faith a medication error at the nursing home or residential care facility is not subject to disciplinary action by the board of nursing or any other government entity regulating that person's professional practice and is not liable in damages to any person or government entity in a civil action for injury, death, or loss to person or property that allegedly results from reporting the medication error.</u>	50180 50181 50182 50183 50184 50185 50186 50187 50188 50189
<u>Sec. 4723.69.</u> (A) <u>In consultation with the medication aide advisory council created under section 4723.62 of the Revised</u>	50190 50191

Code, the board of nursing shall adopt rules to implement sections 50192
4723.61 to 4723.68 of the Revised Code. Initial rules shall be 50193
adopted not later than February 1, 2006. All rules adopted under 50194
this section shall be adopted in accordance with Chapter 119. of 50195
the Revised Code. 50196

(B) The rules adopted under this section shall establish or 50197
specify all of the following: 50198

(1) Fees, in an amount sufficient to cover the costs the 50199
board incurs in implementing sections 4723.61 to 4723.68 of the 50200
Revised Code, for participation in the medication aide pilot 50201
program, certification as a medication aide, and approval of a 50202
medication aide training program; 50203

(2) Requirements to obtain a medication aide certificate that 50204
are not otherwise specified in section 4723.65 of the Revised 50205
Code; 50206

(3) Procedures for renewal of medication aide certificates; 50207

(4) Standards for medication aide training programs, 50208
including the examination to be administered by the training 50209
program to test an individual's ability to administer prescription 50210
medications safely; 50211

(5) Reasons for denying, revoking, or suspending a medication 50212
aide certificate or approval of a medication aide training 50213
program; 50214

(6) Other standards and procedures the board considers 50215
necessary to implement sections 4723.61 to 4723.68 of the Revised 50216
Code. 50217

Sec. ~~4723.63~~ 4723.91. On receipt of a notice pursuant to 50218
section 3123.43 of the Revised Code, the board of nursing shall 50219
comply with sections 3123.41 to 3123.50 of the Revised Code and 50220

any applicable rules adopted under section 3123.63 of the Revised Code with respect to a nursing license, medication aide certificate, dialysis technician certificate, or community health worker certificate issued pursuant to this chapter.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

(1) Clinical laboratory services;

(2) Home health care services;

(3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would

attribute to the proximity or convenience to the lessor if the 50249
lessor is a potential source of referrals to the lessee. 50250

(D) "Governmental health care program" means any program 50251
providing health care benefits that is administered by the federal 50252
government, this state, or a political subdivision of this state, 50253
including the medicare program established under Title XVIII of 50254
the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, 50255
as amended, health care coverage for public employees, health care 50256
benefits administered by the bureau of workers' compensation, or 50257
the medical assistance program established under Chapter 5111. of 50258
the Revised Code, ~~and the disability medical assistance program~~ 50259
~~established under Chapter 5115. of the Revised Code.~~ 50260

(E)(1) "Group practice" means a group of two or more holders 50261
of certificates under this chapter legally organized as a 50262
partnership, professional corporation or association, limited 50263
liability company, foundation, nonprofit corporation, faculty 50264
practice plan, or similar group practice entity, including an 50265
organization comprised of a nonprofit medical clinic that 50266
contracts with a professional corporation or association of 50267
physicians to provide medical services exclusively to patients of 50268
the clinic in order to comply with section 1701.03 of the Revised 50269
Code and including a corporation, limited liability company, 50270
partnership, or professional association described in division (B) 50271
of section 4731.226 of the Revised Code formed for the purpose of 50272
providing a combination of the professional services of 50273
optometrists who are licensed, certificated, or otherwise legally 50274
authorized to practice optometry under Chapter 4725. of the 50275
Revised Code, chiropractors who are licensed, certificated, or 50276
otherwise legally authorized to practice chiropractic under 50277
Chapter 4734. of the Revised Code, psychologists who are licensed, 50278
certificated, or otherwise legally authorized to practice 50279
psychology under Chapter 4732. of the Revised Code, registered or 50280

licensed practical nurses who are licensed, certificated, or 50281
otherwise legally authorized to practice nursing under Chapter 50282
4723. of the Revised Code, pharmacists who are licensed, 50283
certificated, or otherwise legally authorized to practice pharmacy 50284
under Chapter 4729. of the Revised Code, physical therapists who 50285
are licensed, certificated, or otherwise legally authorized to 50286
practice physical therapy under sections 4755.40 to 4755.53 of the 50287
Revised Code, mechanotherapists who are licensed, certificated, or 50288
otherwise legally authorized to practice mechanotherapy under 50289
section 4731.151 of the Revised Code, and doctors of medicine and 50290
surgery, osteopathic medicine and surgery, or podiatric medicine 50291
and surgery who are licensed, certificated, or otherwise legally 50292
authorized for their respective practices under this chapter, to 50293
which all of the following apply: 50294

(a) Each physician who is a member of the group practice 50295
provides substantially the full range of services that the 50296
physician routinely provides, including medical care, 50297
consultation, diagnosis, or treatment, through the joint use of 50298
shared office space, facilities, equipment, and personnel. 50299

(b) Substantially all of the services of the members of the 50300
group are provided through the group and are billed in the name of 50301
the group and amounts so received are treated as receipts of the 50302
group. 50303

(c) The overhead expenses of and the income from the practice 50304
are distributed in accordance with methods previously determined 50305
by members of the group. 50306

(d) The group practice meets any other requirements that the 50307
state medical board applies in rules adopted under section 4731.70 50308
of the Revised Code. 50309

(2) In the case of a faculty practice plan associated with a 50310
hospital with a medical residency training program in which 50311

physician members may provide a variety of specialty services and
provide professional services both within and outside the group,
as well as perform other tasks such as research, the criteria in
division (E)(1) of this section apply only with respect to
services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have
the same meanings as in the rules adopted under section 4731.70 of
the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of
the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter
for an item or service, including a request for a consultation
with another physician and any test or procedure ordered by or to
be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a
certificate holder that includes the provision of designated
health services.

(I) "Third-party payer" has the same meaning as in section
3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures
to detect violations of section 4731.66 or 4731.69 of the Revised
Code within governmental health care programs administered by the
state. The auditor of state shall report any violation of either
section to the state medical board and shall certify to the
attorney general in accordance with section 131.02 of the Revised
Code the amount of any refund owed to a state-administered
governmental health care program under section 4731.69 of the
Revised Code as a result of a violation. If a refund is owed to
the medical assistance program established under Chapter 5111. of

the Revised Code ~~or the disability medical assistance program~~ 50342
~~established under Chapter 5115. of the Revised Code,~~ the auditor 50343
of state also shall report the amount to the department of 50344
commerce. 50345

The state medical board also may implement procedures to 50346
detect violations of section 4731.66 or 4731.69 of the Revised 50347
Code. 50348

Sec. 4736.11. The state board of sanitarian registration 50349
shall issue a certificate of registration to any applicant whom it 50350
registers as a sanitarian or a sanitarian-in-training. Such 50351
certificate shall bear: 50352

(A) The name of the person; 50353

(B) The date of issue; 50354

(C) A serial number, designated by the board; 50355

(D) The seal of the board and signature of the ~~chairman~~ 50356
chairperson of the board; 50357

(E) The designation "registered sanitarian" or 50358
"sanitarian-in-training." 50359

Certificates of registration shall expire annually on the 50360
date fixed by the board and become invalid on that date unless 50361
renewed pursuant to this section. All registered sanitarians shall 50362
be required annually to complete a continuing education program in 50363
subjects relating to practices of the profession as a sanitarian 50364
to the end that the utilization and application of new techniques, 50365
scientific advancements, and research findings will assure 50366
comprehensive service to the public. The board shall prescribe by 50367
rule a continuing education program for registered sanitarians to 50368
meet this requirement. The length of study for this program shall 50369
be determined by the board but shall be not less than six nor more 50370
than twenty-five hours during the calendar year. At least once 50371

annually the board shall ~~mail~~ provide to each registered 50372
sanitarian a list of courses approved by the board as satisfying 50373
the program prescribed by rule. Upon the request of a registered 50374
sanitarian, the secretary shall supply a list of ~~any additional~~ 50375
applicable courses that the board has approved ~~since the most~~ 50376
~~recent mailing~~. A certificate may be renewed for a period of one 50377
year at any time prior to the date of expiration upon payment of 50378
the renewal fee prescribed by section 4736.12 of the Revised Code 50379
and upon showing proof of having complied with the continuing 50380
education requirements of this section. The state board of 50381
sanitarian registration may waive the continuing education 50382
requirement in cases of certified illness or disability which 50383
prevents the attendance at any qualified educational seminars 50384
during the twelve months immediately preceding the annual 50385
certificate of registration renewal date. Certificates which 50386
expire may be reinstated under rules adopted by the board. 50387

Sec. 4736.12. (A) The state board of sanitarian registration 50388
shall charge the following fees: 50389

(1) To apply as a sanitarian-in-training, ~~seventy-five~~ eighty 50390
dollars; 50391

(2) For sanitarians-in-training to apply for registration as 50392
sanitarians, ~~seventy-five~~ eighty dollars. The applicant shall pay 50393
this fee only once regardless of the number of times the applicant 50394
takes an examination required under section 4736.08 of the Revised 50395
Code. 50396

(3) For persons other than sanitarians-in-training to apply 50397
for registration as sanitarians, including persons meeting the 50398
requirements of section 4736.16 of the Revised Code, one hundred 50399
~~fifty~~ sixty dollars. The applicant shall pay this fee only once 50400
regardless of the number of times the applicant takes an 50401
examination required under section 4736.08 of the Revised Code. 50402

(4) The renewal fee for registered sanitarians shall be 50403
~~sixty-nine~~ seventy-four dollars. 50404

(5) The renewal fee for sanitarians-in-training shall be 50405
~~sixty-nine~~ seventy-four dollars. 50406

(6) For late application for renewal, ~~twenty-five~~ 50407
twenty-seven dollars. 50408

The board of sanitarian registration, with the approval of 50409
the controlling board, may establish fees in excess of the amounts 50410
provided in this section, provided that such fees do not exceed 50411
the amounts permitted by this section by more than fifty per cent. 50412

(B) The board of sanitarian registration shall charge 50413
separate fees for examinations as required by section 4736.08 of 50414
the Revised Code, provided that the fees are not in excess of the 50415
actual cost to the board of conducting the examinations. 50416

(C) The board of sanitarian registration may adopt rules 50417
establishing fees for all of the following: 50418

(1) Application for the registration of a training agency 50419
approved under rules adopted by the board pursuant to section 50420
4736.11 of the Revised Code and for the annual registration 50421
renewal of an approved training agency. 50422

(2) Application for the review of continuing education hours 50423
submitted for the board's approval by approved training agencies 50424
or by registered sanitarians or sanitarians-in-training. 50425

Sec. 4740.14. (A) There is hereby created within the 50426
department of commerce the residential construction advisory 50427
committee consisting of ~~eight~~ nine persons the director of 50428
commerce appoints. Of the advisory committee's members, three 50429
shall be general contractors who have recognized ability and 50430
experience in the construction of residential buildings, two shall 50431
be building officials who have experience administering and 50432

enforcing a residential building code, one, chosen from a list of 50433
three names the Ohio fire chief's association submits, shall be 50434
from the fire service certified as a fire safety inspector who has 50435
at least ten years of experience enforcing fire or building codes, 50436
one shall be a residential contractor who has recognized ability 50437
and experience in the remodeling and construction of residential 50438
buildings, ~~and~~ one shall be an architect registered pursuant to 50439
Chapter 4703. of the Revised Code, with recognized ability and 50440
experience in the architecture of residential buildings, and one, 50441
chosen from a list of three names the Ohio municipal league 50442
submits to the director, shall be a mayor of a municipal 50443
corporation in which the Ohio residential building code is being 50444
enforced in the municipal corporation by a certified building 50445
department. 50446

(B) The director shall make appointments to the advisory 50447
committee within ninety days after ~~the effective date of this~~ 50448
~~section~~ May 27, 2005. Terms of office shall be for three years, 50449
with each term ending on the date three years after the date of 50450
appointment. Each member shall hold office from the date of 50451
appointment until the end of the term for which the member was 50452
appointed. The director shall fill a vacancy in the manner 50453
provided for initial appointments. Any member appointed to fill a 50454
vacancy in an unexpired term shall hold office for the remainder 50455
of that term. 50456

(C) The advisory committee shall do all of the following: 50457

(1) Recommend to the board of building standards a building 50458
code for residential buildings. The committee shall recommend a 50459
code that it models on a residential building code a national 50460
model code organization issues, with adaptations necessary to 50461
implement the code in this state. If the board of building 50462
standards decides not to adopt a code the committee recommends, 50463

the committee shall revise the code and resubmit it until the
board adopts a code the committee recommends as the state
residential building code;

(2) Advise the board regarding the establishment of standards
for certification of building officials who enforce the state
residential building code;

(3) Assist the board in providing information and guidance to
residential contractors and building officials who enforce the
state residential building code;

(4) Advise the board regarding the interpretation of the
state residential building code;

(5) Provide other assistance the committee considers
necessary.

(D) In making its recommendation to the board pursuant to
division (C)(1) of this section, the advisory committee shall
consider all of the following:

(1) The impact that the state residential building code may
have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building
code;

(3) The technical feasibility of the residential building
code;

(4) The financial impact that the residential building code
may have on the public's ability to purchase affordable housing.

(E) Members of the advisory committee shall receive no salary
for the performance of their duties as members, but shall receive
their actual and necessary expenses incurred in the performance of
their duties as members of the advisory committee and shall
receive a per diem for each day in attendance at an official
meeting of the committee, to be paid from the industrial

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compliance operating fund in the state treasury, using fees 50494
collected in connection with residential buildings pursuant to 50495
division (F)(2) of section 3781.102 of the Revised Code and 50496
deposited in that fund. 50497

(F) The advisory committee is not subject to divisions (A) 50498
and (B) of section 101.84 of the Revised Code. 50499

Sec. 4753.03. There is hereby created the board of 50500
speech-language pathology and audiology consisting of eight 50501
residents of this state to be appointed by the governor with the 50502
advice and consent of the senate. Three members of the board shall 50503
be licensed speech-language pathologists, and three members shall 50504
be licensed audiologists, who have been licensed and engaged in 50505
the practice, teaching, administration, or research in the area of 50506
appointment for at least five years prior to the dates of their 50507
appointment. Beginning with the first appointment of an 50508
audiologist to the board after ~~the effective date of this~~ 50509
~~amendment~~ November 5, 1992, at all times one of the audiologists 50510
serving on the board must be an audiologist engaged in the 50511
practice of fitting and dispensing hearing aids. At all times, two 50512
members shall be representatives of the general public, and 50513
neither shall be a speech-language pathologist or audiologist or a 50514
person licensed under this chapter. At least one of the members 50515
representing the general public shall be at least sixty years of 50516
age. ~~Any speech language pathologists and audiologists among the~~ 50517
~~initial appointees shall have at least a bachelor's degree in~~ 50518
~~speech language pathology or audiology and shall meet the~~ 50519
~~standards for licensure, other than examination, established by~~ 50520
~~section 4753.06 or 4753.08 of the Revised Code. Any~~ 50521
~~speech language pathologist or audiologist appointed to the board~~ 50522
~~after the effective date of this amendment, must hold a master's~~ 50523
~~or doctorate degree.~~ 50524

Terms of office shall be for three years, each term 50525
commencing on the twenty-seventh day of September and ending on 50526
the twenty-sixth day of September. Each member shall hold office 50527
from the date of ~~his~~ appointment until the end of the term for 50528
which ~~he was~~ appointed. Any member appointed to fill a vacancy 50529
occurring prior to the expiration of the term for which ~~his~~ the 50530
member's predecessor was appointed shall hold office for the 50531
remainder of such term. Any member shall continue in office 50532
subsequent to the expiration date of ~~his~~ the member's term until 50533
~~his~~ the member's successor takes office, or until a period of 50534
sixty days has elapsed, whichever occurs first. No person shall be 50535
appointed to serve consecutively more than two full terms. The 50536
executive council of the Ohio speech and hearing association may 50537
recommend, within forty-five days after any vacancy or expiration 50538
of a member's term occurs, no more than three persons to fill each 50539
position or vacancy on the board, and the governor may make ~~his~~ 50540
the appointment from the persons so recommended. If the council 50541
fails to make recommendations within the required time, the 50542
governor shall make the appointment without its recommendations. 50543

The terms of all speech-language pathology members shall not 50544
end in the same year; the terms of all audiology members shall not 50545
end in the same year. Upon the first appointment following ~~the~~ 50546
~~effective date of this amendment~~ November 5, 1992, the governor 50547
shall appoint speech-language pathology members and audiology 50548
members to one-, two-, or three-year terms to prevent the terms of 50549
all speech-language pathology members or all audiology members 50550
from ending in the same year. Thereafter, all terms shall be for 50551
three years. 50552

Sec. 4753.06. No person is eligible for licensure as a 50553
speech-language pathologist or audiologist unless: 50554

(A) ~~He~~ The person has obtained a broad general education to 50555

serve as a background for ~~his~~ the person's specialized academic 50556
training and preparatory professional experience. Such background 50557
may include study from among the areas of human psychology, 50558
sociology, psychological and physical development, the physical 50559
sciences, especially those that pertain to acoustic and biological 50560
phenomena, and human anatomy and physiology, including 50561
neuroanatomy and neurophysiology. 50562

(B) ~~He~~ If the person seeks licensure as a speech-language 50563
pathologist, the person submits to the board of speech-language 50564
pathology and audiology an official transcript demonstrating that 50565
~~he~~ the person has at least a master's degree in ~~the area in which~~ 50566
~~licensure is sought~~ speech-language pathology or the equivalent as 50567
determined by the board. ~~His~~ The person's academic credit must 50568
include course work accumulated in the completion of a 50569
well-integrated course of study approved by the board and 50570
delineated by rule dealing with the normal aspects of human 50571
communication, development and disorders thereof, and clinical 50572
techniques for the evaluation and the improvement or eradication 50573
of such disorders. The course work must have been completed at 50574
colleges or universities accredited by regional or national 50575
accrediting organizations recognized by the board. 50576

(C) ~~He~~ If the person seeks licensure as an audiologist, the 50577
person submits to the board an official transcript demonstrating 50578
that the person has at least a doctor of audiology degree or the 50579
equivalent as determined by the board. The person's academic 50580
credit must include course work accumulated in the completion of a 50581
well-integrated course of study approved by the board and 50582
delineated by rules dealing with the normal aspects of human 50583
hearing, balance, and related development and clinical evaluation, 50584
audiologic diagnosis, and treatment of disorders of human hearing, 50585
balance, and related development. The course work must have been 50586
completed in an audiology program that is accredited by an 50587

organization recognized by the United States department of 50588
education and operated by a college or university accredited by a 50589
regional or national accrediting organization recognized by the 50590
board. 50591

(D) The person submits to the board evidence of the 50592
completion of appropriate, supervised clinical experience in the 50593
professional area, speech-language pathology or audiology, for 50594
which licensure is requested, dealing with a variety of 50595
communication disorders. The appropriateness of the experience 50596
shall be determined under rules of the board. This experience 50597
shall have been obtained in an accredited college or university, 50598
in a cooperating program of an accredited college or university, 50599
or in another program approved by the board. 50600

~~(D) He~~ (E) The person submits to the board evidence that the 50601
person has passed the examination for licensure to practice 50602
speech-language pathology or audiology pursuant to division (B) of 50603
section 4753.05 of the Revised Code. 50604

(F) If the person submits to the board an application for 50605
licensure as an audiologist before January 1, 2006, and meets the 50606
requirements of division (B) of this section regarding a master's 50607
degree in audiology as that division existed on December 31, 2005, 50608
but not the requirements of division (C) of this section regarding 50609
a doctor of audiology degree or if the person seeks licensure as a 50610
speech-language pathologist, the person presents to the board 50611
written evidence that ~~he~~ the person has obtained professional 50612
experience. The professional experience shall be appropriately 50613
supervised as determined by board rule. The amount of professional 50614
experience shall be determined by board rule and shall be bona 50615
fide clinical work that has been accomplished in the major 50616
professional area, speech-language pathology or audiology, in 50617
which licensure is being sought. ~~This~~ If the person seeks 50618
licensure as a speech-language pathologist, this experience shall 50619

not begin until the requirements of divisions (B) and ~~(C), (D),~~ 50620
~~and (E)~~ of this section have been completed unless approved by the 50621
board. If the person seeks licensure as an audiologist, this 50622
experience shall not begin until the requirements of division (B) 50623
of this section, as that division existed on December 31, 2005, 50624
and divisions (D) and (E) of this section have been completed 50625
unless approved by the board. Before beginning the supervised 50626
professional experience pursuant to this section, ~~any~~ the 50627
applicant for licensure to practice speech-language pathology or 50628
audiology shall ~~meet the requirements for~~ obtain a conditional 50629
license pursuant to section 4753.071 of the Revised Code. 50630

~~(E) He submits to the board evidence that he has passed the~~ 50631
~~examination for licensure to practice speech language pathology or~~ 50632
~~audiology pursuant to division (B) of section 4753.05 of the~~ 50633
~~Revised Code.~~ 50634

Sec. 4753.071. A person who is required to meet the 50635
supervised professional experience requirement of division (F) of 50636
section 4753.06 of the Revised Code shall submit to the board of 50637
speech-language pathology and audiology an application for a 50638
conditional license. The application shall include a plan for the 50639
content of the supervised professional experience on a form the 50640
board shall prescribe. The board of ~~speech language pathology and~~ 50641
~~audiology~~ shall issue a the conditional license to ~~an~~ the 50642
applicant ~~who, except for the supervised professional experience:~~ 50643

~~(A) Meets~~ if the applicant meets the academic, ~~practicum, and~~ 50644
~~examination~~ requirements of divisions ~~(B), (C), and (E)~~ of section 50645
4753.06 of the Revised Code. 50646

~~(B) Submits an application to the board, including a plan for~~ 50647
~~the content of the supervised professional experience on a form~~ 50648
~~prescribed by the board,~~ other than the requirement to have 50649
obtained the supervised professional experience, and pays to the 50650

board the appropriate fee for a conditional license. An applicant 50651
may not begin employment until the conditional license has been 50652
~~approved~~ issued. 50653

A conditional license authorizes an individual to practice 50654
speech-language pathology or audiology while completing the 50655
supervised professional experience as required by division ~~(D)~~(F) 50656
of section 4753.06 of the Revised Code. A person holding a 50657
conditional license may practice speech-language pathology or 50658
audiology while working under the supervision of a person fully 50659
licensed in accordance with this chapter. A conditional license is 50660
valid for eighteen months unless suspended or revoked pursuant to 50661
section 3123.47 or 4753.10 of the Revised Code. 50662

A person holding a conditional license may perform services 50663
for which reimbursement will be sought under the medicare program 50664
established under Title XVIII of the "Social Security Act," ~~49~~ 79 50665
Stat. ~~620~~ 286 (~~1935~~ 1965), 42 U.S.C. ~~301~~ 1395, as amended, or the 50666
~~medical assistance~~ medicaid program established under Chapter 50667
5111. of the Revised Code ~~and Title XIX of the "Social Security~~ 50668
~~Act"~~ but all requests for reimbursement for such services shall be 50669
made by the person who supervises the person performing the 50670
services. 50671

Sec. 4753.08. The board of speech-language pathology and 50672
audiology shall waive the examination, educational, and 50673
professional experience requirements for any applicant who meets 50674
any of the following requirements: 50675

(A) On September 26, 1975, has at least a bachelor's degree 50676
with a major in speech-language pathology or audiology from an 50677
accredited college or university, or who has been employed as a 50678
speech-language pathologist or audiologist for at least nine 50679
months at any time within the three years prior to September 26, 50680
1975, if an application providing bona fide proof of such degree 50681

or employment is filed with the board within one year after 50682
September 26, 1975, and is accompanied by the application fee as 50683
prescribed in division (A) of section 4753.11 of the Revised Code; 50684

(B) Presents proof of current certification or licensure in 50685
good standing in the area in which licensure is sought in a state 50686
~~which that~~ that has standards at least equal to ~~those the standards~~ for 50687
licensure that are in effect in this state at the time the 50688
applicant applies for the license; 50689

(C) Presents proof of both of the following: 50690

(1) Having current certification or licensure in good 50691
standing in audiology in a state that has standards at least equal 50692
to the standards for licensure as an audiologist that were in 50693
effect in this state on December 31, 2005; 50694

(2) Having first obtained that certification or licensure not 50695
later than December 31, 2007. 50696

(D) Presents proof of a current certificate of clinical 50697
competence in speech-language pathology or audiology that is in 50698
good standing and received from the American 50699
speech-language-hearing association in the area in which licensure 50700
is sought. 50701

Sec. 4753.09. Except as provided in this section and in 50702
section 4753.10 of the Revised Code, a license issued by the board 50703
of speech-language pathology and audiology shall be renewed 50704
biennially in accordance with the standard renewal procedure 50705
contained in Chapter 4745. of the Revised Code. If the application 50706
for renewal is made ~~after~~ one year or longer after the renewal 50707
application is due, the person shall apply for licensure as 50708
provided in section 4753.06 or division (B) ~~or,~~ (C), or (D) of 50709
section 4753.08 of the Revised Code. The board shall not renew a 50710
conditional license; however, the board may grant an applicant a 50711

second conditional license. 50712

The board shall establish by rule adopted pursuant to Chapter 50713
119. of the Revised Code the qualifications for license renewal. 50714
Applicants shall demonstrate continued competence, which may 50715
include continuing education, examination, self-evaluation, peer 50716
review, performance appraisal, or practical simulation. The board 50717
may establish other requirements as a condition for license 50718
renewal as considered appropriate by the board. 50719

The board may renew a license which expires while the license 50720
is suspended, but the renewal shall not affect the suspension. The 50721
board shall not renew a license which has been revoked. If a 50722
revoked license is reinstated under section 4753.10 of the Revised 50723
Code after it has expired, the licensee, as a condition of 50724
reinstatement, shall pay a reinstatement fee in the amount equal 50725
to the renewal fee in effect on the last preceding regular renewal 50726
date on which it is reinstated, plus any delinquent fees accrued 50727
from the time of the revocation, if such a fee is prescribed by 50728
the board by rule. ~~A license shall not be renewed six years after~~ 50729
~~the initial date on which the license was granted for a person~~ 50730
~~initially licensed by exemption until that person presents to the~~ 50731
~~board proof of completion of the following requirements:~~ 50732

~~(A) Upon presentation of proof of a bachelor's degree with a~~ 50733
~~major in the area of licensure or successful completion of at~~ 50734
~~least eighteen semester hours of academic credit, or its~~ 50735
~~equivalent as determined by the board by rule for colleges and~~ 50736
~~universities not using semesters, accumulated from accredited~~ 50737
~~colleges and universities. These eighteen semester hours shall be~~ 50738
~~in a variety of courses that provide instruction related to the~~ 50739
~~nature of communication disorders and present information~~ 50740
~~pertaining to and training in the evaluation and management of~~ 50741
~~speech, language, and hearing disorders and shall be in the~~ 50742
~~professional area, speech language pathology or audiology, for~~ 50743

~~which licensure is requested.~~

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~~(B) Successful completion of at least one hundred fifty clock
hours of appropriately supervised, as determined by board rule,
clinical experience in the professional area, speech language
pathology or audiology, for which licensure is requested, with
individuals who present a variety of communication disorders, and
the experience shall have been obtained under the supervision of a
licensed speech language pathologist or audiologist, or within
another program approved by the board.~~

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Sec. 4755.03. There is hereby created the Ohio occupational
therapy, physical therapy, and athletic trainers board consisting
of sixteen residents of this state, who shall be appointed by the
governor with the advice and consent of the senate. The board
shall be composed of a physical therapy section, an occupational
therapy section, and an athletic trainers section.

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Five members of the board shall be physical therapists who
are licensed to practice physical therapy and who have been
engaged in or actively associated with the practice of physical
therapy in this state for at least five years immediately
preceding appointment. Such members of the board shall sit on the
physical therapy section. The physical therapy section also shall
consist of four additional members, appointed by the governor with
the advice and consent of the senate, who satisfy the same
qualifications as the members of the board sitting on the physical
therapy section, but who are not members of the board. Such
additional members of the physical therapy section are vested with
only such powers and shall perform only such duties as relate to
the affairs of that section, shall serve for the same terms as do
members of the board sitting on the physical therapy section, and
shall subscribe to and file with the secretary of state the
constitutional oath of office.

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~~Five~~ Four members of the board shall be occupational therapists ~~who~~ and one member shall be a licensed occupational therapy assistant, all of whom have been engaged in or actively associated with the practice of occupational therapy or practice as an occupational therapy assistant in this state for at least five years immediately preceding appointment. Such members of the board shall sit on the occupational therapy section.

Four members of the board shall be athletic trainers who have been engaged in the practice of athletic training in Ohio for at least five years immediately preceding appointment. One member of the board shall be a physician licensed to practice medicine and surgery in this state. Such members of the board shall sit on the athletic trainers section.

One member of the board shall represent the public and shall be at least sixty years of age. This member shall sit on the board.

Terms of office are for three years, each term commencing on the twenty-eighth day of August and ending on the twenty-seventh day of August. Each member shall serve subsequent to the expiration of ~~his~~ the member's term until ~~his~~ the member's successor is appointed and qualifies, or until a period of sixty days has elapsed, whichever occurs first. Each member, before entering upon ~~the~~ official duties ~~of his office~~, shall subscribe to and file with the secretary of state the constitutional oath of office. All vacancies shall be filled in the manner prescribed for the regular appointments to the board and are limited to the unexpired terms.

Annually, upon the qualification of the member or members appointed in that year, the board shall organize by selecting from its members a president and secretary. Each section of the board shall organize by selecting from its members a ~~chairman~~

chairperson and secretary. 50806

The majority of the members of the board constitutes a quorum 50807
to transact and vote on the business of the board. A majority of 50808
the members of each section constitutes a quorum to transact and 50809
vote on the affairs of that section. 50810

Each member of the board and each additional member of the 50811
physical therapy section shall receive an amount fixed pursuant to 50812
division (J) of section 124.15 of the Revised Code for each day 50813
employed in the discharge of ~~his~~ official duties. In addition, 50814
each member of the board and each additional member of the 50815
physical therapy section shall receive ~~his~~ the member's actual and 50816
necessary expenses incurred in the performance of ~~his~~ official 50817
duties. 50818

The board of trustees of the Ohio occupational therapy 50819
association, inc., may recommend, after any term expires or 50820
vacancy occurs in an occupational therapy position, at least three 50821
persons to fill each such position or vacancy on the board, and 50822
the governor may make ~~his~~ the appointment from the persons so 50823
recommended. The executive board of the Ohio chapter, inc., of the 50824
American physical therapy association may recommend, after any 50825
term expires or vacancy occurs in a physical therapy position, at 50826
least three persons to fill each such vacancy on the board, and 50827
the governor may make ~~his~~ appointments from the persons so 50828
recommended. The Ohio athletic trainers association shall 50829
recommend to the governor at least three persons for each of the 50830
initial appointments to an athletic trainer's position. The Ohio 50831
athletic trainers association shall also recommend to the governor 50832
at least three persons when any term expires or any vacancy occurs 50833
in such a position. The governor may select one of the 50834
association's recommendations in making such an appointment. 50835

The board shall meet as a whole to determine all 50836
administrative, personnel, and budgetary matters. The executive 50837

director of the board appointed by the board shall not be a
physical therapist, an occupational therapist, or an athletic
trainer who has been licensed to practice physical therapy,
occupational therapy, or as an athletic trainer in this state
within three years immediately preceding appointment. The
executive director shall serve at the pleasure of the board.

The occupational therapy section of the board shall have the
full authority to act on behalf of the board on all matters
concerning the practice of occupational therapy and, in
particular, the examination, licensure, and suspension or
revocation of licensure of applicants, occupational therapists,
and occupational therapy assistants. The physical therapy section
of the board shall have the full authority to act on behalf of the
board on all matters concerning the practice of physical therapy
and, in particular, the examination, licensure, and suspension or
revocation of licensure of applicants, physical therapists, and
physical therapist assistants. The athletic trainers section of
the board shall have the full authority to act on behalf of the
board on all matters concerning the practice of athletic training
and, in particular, the examination, licensure, and suspension or
revocation of licensure of applicants and athletic trainers. All
actions taken by any section of the board under this paragraph
shall be in accordance with Chapter 119. of the Revised Code.

Sec. 4755.48. (A) No person shall employ fraud or deception
in applying for or securing a license to practice physical therapy
or to be a physical therapist assistant.

(B) No person shall practice or in any way claim to the
public to be able to practice physical therapy, including practice
as a physical therapist assistant, unless the person holds a valid
license under sections 4755.40 to 4755.56 of the Revised Code or
except as provided in section 4755.56 of the Revised Code.

(C) No person shall use the words or letters, physical 50869
therapist, physical therapy, physiotherapist, licensed physical 50870
therapist, P.T., Ph.T., P.T.T., R.P.T., L.P.T., M.P.T., D.P.T., 50871
M.S.P.T., P.T.A., physical therapy assistant, physical therapist 50872
assistant, physical therapy technician, licensed physical 50873
therapist assistant, L.P.T.A., R.P.T.A., or any other letters, 50874
words, abbreviations, or insignia, indicating or implying that the 50875
person is a physical therapist or physical therapist assistant 50876
without a valid license under sections 4755.40 to 4755.56 of the 50877
Revised Code. 50878

(D) No person who practices physical therapy or assists in 50879
the provision of physical therapy treatments under the supervision 50880
of a physical therapist shall fail to display the person's current 50881
license granted under sections 4755.40 to 4755.56 of the Revised 50882
Code in a conspicuous location in the place where the person 50883
spends the major part of the person's time so engaged. 50884

(E) Nothing in sections 4755.40 to 4755.56 of the Revised 50885
Code shall affect or interfere with the performance of the duties 50886
of any physical therapist or physical therapist assistant in 50887
active service in the army, navy, coast guard, marine corps, air 50888
force, public health service, or marine hospital service of the 50889
United States, while so serving. 50890

(F) No person shall practice physical therapy other than on 50891
the prescription of, or the referral of a patient by, a person who 50892
is licensed in this or another state to practice medicine and 50893
surgery, chiropractic, dentistry, osteopathic medicine and 50894
surgery, podiatric medicine and surgery, or to practice nursing as 50895
a certified registered nurse anesthetist, clinical nurse 50896
specialist, certified nurse-midwife, or certified nurse 50897
practitioner, within the scope of such practices, and whose 50898
license is in good standing, unless either of the following 50899
conditions is met: 50900

(1) The person holds a master's or doctorate degree from a professional physical therapy program that is accredited by a national accreditation agency recognized by the United States department of education and by the Ohio occupational therapy, physical therapy, and athletic trainers board.

(2) On or before December 31, ~~2003~~ 2004, the person has completed at least two years of practical experience as a licensed physical therapist.

(G) In the prosecution of any person for violation of division (B) or (C) of this section, it is not necessary to allege or prove want of a valid license to practice physical therapy or to practice as a physical therapist assistant, but such matters shall be a matter of defense to be established by the accused.

Sec. 4766.09. (A) This chapter does not apply to any of the following:

~~(A)~~(1) A person rendering services with an ambulance in the event of a disaster situation when licensees' vehicles based in the locality of the disaster situation are incapacitated or insufficient in number to render the services needed;

~~(B)~~(2) Any person operating an ambulance, ambulette, rotorcraft air ambulance, or fixed wing air ambulance outside this state unless receiving a person within this state for transport to a location within this state;

~~(C)~~(3) A publicly owned or operated emergency medical service organization and the vehicles it owns or leases and operates, except as provided in section 307.051, division (G) of section 307.055, division (F) of section 505.37, division (B) of section 505.375, and division (B)(3) of section 505.72 of the Revised Code;

~~(D)~~(4) An ambulance, ambulette, rotorcraft air ambulance,

fixed wing air ambulance, or nontransport vehicle owned or leased	50931
and operated by the federal government;	50932
(E) (5) A publicly owned and operated fire department vehicle;	50933
(F) (6) Emergency vehicles owned by a corporation and	50934
operating only on the corporation's premises, for the sole use by	50935
that corporation;	50936
(G) (7) An ambulance, nontransport vehicle, or other emergency	50937
medical service organization vehicle owned and operated by a	50938
municipal corporation;	50939
(H) (8) A motor vehicle titled in the name of a volunteer	50940
rescue service organization, as defined in section 4503.172 of the	50941
Revised Code;	50942
(I) (9) A public emergency medical service organization;	50943
(J) (10) A fire department, rescue squad, or life squad	50944
comprised of volunteers who provide services without expectation	50945
of remuneration and do not receive payment for services other than	50946
reimbursement for expenses;	50947
(K) (11) A private, nonprofit emergency medical service	50948
organization when fifty per cent or more of its personnel are	50949
volunteers, as defined in section 4765.01 of the Revised Code;	50950
(L) (12) Emergency medical service personnel who are regulated	50951
by the state board of emergency medical services under Chapter	50952
4765. of the Revised Code;	50953
(M) (13) A public nonemergency medical service organization.	50954
<u>(B) Except for the requirements specified in section 4766.14</u>	50955
<u>of the Revised Code, this chapter does not apply to an ambulette</u>	50956
<u>service provider operating under standards adopted by rule by the</u>	50957
<u>department of aging, but only during the period of time on any day</u>	50958
<u>that the provider is solely serving the department or the</u>	50959
<u>department's designee. This chapter applies to an ambulette</u>	50960

service provider at any time that the ambulette service provider 50961
is not solely serving the department or the department's designee. 50962

Sec. 4766.14. (A) An ambulette service provider described in 50963
division (B) of section 4766.09 of the Revised Code shall do all 50964
of the following: 50965

(1) Make available to all its ambulette drivers while 50966
operating ambulette vehicles a means of two-way communication 50967
using either ambulette vehicle radios or cellular telephones; 50968

(2) Equip every ambulette vehicle with one isolation and 50969
biohazard disposal kit that is permanently installed or secured in 50970
the vehicle's cabin; 50971

(3) Before hiring an applicant for employment as an ambulette 50972
driver, obtain all of the following: 50973

(a) A valid copy of a signed statement from a licensed 50974
physician acting within the scope of the physician's practice 50975
declaring that the applicant does not have a medical condition or 50976
physical condition, including vision impairment that cannot be 50977
corrected, that could interfere with safe driving, passenger 50978
assistance, and emergency treatment activity or could jeopardize 50979
the health and welfare of a client or the general public; 50980

(b) All of the certificates and results required under 50981
divisions (A)(2), (3), and (4) of section 4766.15 of the Revised 50982
Code. 50983

(B) No ambulette service provider described in division (B) 50984
of section 4766.09 of the Revised Code shall employ an applicant 50985
as an ambulette driver if the applicant has six or more points on 50986
the applicant's driving record pursuant to section 4510.036 of the 50987
Revised Code. 50988

(C) The department of aging shall administer and enforce this 50989
section. 50990

Sec. 4905.10. (A) For the sole purpose of maintaining and 50991
administering the public utilities commission and exercising its 50992
supervision and jurisdiction over the railroads and public 50993
utilities of this state, an amount equivalent to the appropriation 50994
from the public utilities fund created under division (B) of this 50995
section to the public utilities commission for railroad and public 50996
utilities regulation in each fiscal year shall be apportioned 50997
among and assessed against each railroad and public utility within 50998
this state by the commission by first computing an assessment as 50999
though it were to be made in proportion to the intrastate gross 51000
earnings or receipts, excluding earnings or receipts from sales to 51001
other public utilities for resale, of the railroad or public 51002
utility for the calendar year next preceding that in which the 51003
assessment is made. The commission may include in that first 51004
computation any amount of a railroad's or public utility's 51005
intrastate gross earnings or receipts that were underreported in a 51006
prior year. In addition to whatever penalties apply under the 51007
Revised Code to such underreporting, the commission shall assess 51008
the railroad or public utility interest at the rate stated in 51009
division (A) of section 1343.01 of the Revised Code. The 51010
commission shall deposit any interest so collected into the public 51011
utilities fund. The commission may exclude from that first 51012
computation any such amounts that were overreported in a prior 51013
year. 51014

The final computation of the assessment shall consist of 51015
imposing upon each railroad and public utility whose assessment 51016
under the first computation would have been ~~fifty~~ one hundred 51017
dollars or less an assessment of ~~fifty~~ one hundred dollars and 51018
recomputing the assessments of the remaining railroads and public 51019
utilities by apportioning an amount equal to the appropriation to 51020
the public utilities commission for administration of the 51021
utilities division in each fiscal year less the total amount to be 51022

recovered from those paying the minimum assessment, in proportion 51023
to the intrastate gross earnings or receipts of the remaining 51024
railroads and public utilities for the calendar year next 51025
preceding that in which the assessments are made. 51026

In the case of an assessment based on intrastate gross 51027
receipts under this section against a public utility that is an 51028
electric utility as defined in section 4928.01 of the Revised 51029
Code, or an electric services company, electric cooperative, or 51030
governmental aggregator subject to certification under section 51031
4928.08 of the Revised Code, such receipts shall be those 51032
specified in the utility's, company's, cooperative's, or 51033
aggregator's most recent report of intrastate gross receipts and 51034
sales of kilowatt hours of electricity, filed with the commission 51035
pursuant to division (F) of section 4928.06 of the Revised Code, 51036
and verified by the commission. 51037

In the case of an assessment based on intrastate gross 51038
receipts under this section against a retail natural gas supplier 51039
or governmental aggregator subject to certification under section 51040
4929.20 of the Revised Code, such receipts shall be those 51041
specified in the supplier's or aggregator's most recent report of 51042
intrastate gross receipts and sales of hundred cubic feet of 51043
natural gas, filed with the commission pursuant to division (B) of 51044
section 4929.23 of the Revised Code, and verified by the 51045
commission. However, no such retail natural gas supplier or such 51046
governmental aggregator serving or proposing to serve customers of 51047
a particular natural gas company, as defined in section 4929.01 of 51048
the Revised Code, shall be assessed under this section until after 51049
the commission, pursuant to section 4905.26 or 4909.18 of the 51050
Revised Code, has removed from the base rates of the natural gas 51051
company the amount of assessment under this section that is 51052
attributable to the value of commodity sales service, as defined 51053
in section 4929.01 of the Revised Code, in the base rates paid by 51054

those customers of the company that do not purchase that service 51055
from the natural gas company. 51056

(B) ~~On~~ Through calendar year 2005, on or before the first day 51057
of October in each year, the commission shall notify each such 51058
railroad and public utility of the sum assessed against it, 51059
whereupon payment shall be made to the commission, which shall 51060
deposit it into the state treasury to the credit of the public 51061
utilities fund, which is hereby created. Beginning in calendar 51062
year 2006, on or before the fifteenth day of May in each year, the 51063
commission shall notify each railroad and public utility that had 51064
a sum assessed against it for the current fiscal year of more than 51065
one thousand dollars that fifty per cent of that amount shall be 51066
paid to the commission by the twentieth day of June of that year 51067
as an initial payment of the assessment against the company for 51068
the next fiscal year. On or before the first day of October in 51069
each year, the commission shall make a final determination of the 51070
sum of the assessment against each railroad and public utility and 51071
shall notify each railroad and public utility of the sum assessed 51072
against it. The commission shall deduct from the assessment for 51073
each railroad or public utility any initial payment received. 51074
Payment of the assessment shall be made to the commission by the 51075
first day of November of that year. The commission shall deposit 51076
the payments received into the state treasury to the credit of the 51077
public utilities fund. Any such amounts paid into the fund but not 51078
expended by the commission shall be credited ratably, after first 51079
deducting any deficits accumulated from prior years, by the 51080
commission to railroads and public utilities that pay more than 51081
the minimum assessment, according to the respective portions of 51082
such sum assessable against them for the ensuing ~~calendar~~ fiscal 51083
year. The assessments for such ~~calendar~~ fiscal year shall be 51084
reduced correspondingly. 51085

(C) Within five days after the beginning of each fiscal year 51086

through fiscal year 2006, the director of budget and management 51087
shall transfer from the general revenue fund to the public 51088
utilities fund an amount sufficient for maintaining and 51089
administering the public utilities commission and exercising its 51090
supervision and jurisdiction over the railroads and public 51091
utilities of the state during the first four months of the fiscal 51092
year. The director shall transfer the same amount back to the 51093
general revenue fund from the public utilities fund at such time 51094
as the director determines that the balance of the public 51095
utilities fund is sufficient to support the appropriations from 51096
the fund for the fiscal year. The director may transfer less than 51097
that amount if the director determines that the revenues of the 51098
public utilities fund during the fiscal year will be insufficient 51099
to support the appropriations from the fund for the fiscal year, 51100
in which case the amount not paid back to the general revenue fund 51101
shall be payable to the general revenue fund in future fiscal 51102
years. 51103

(D) For the purpose of this section only, "public utility" 51104
includes: 51105

(1) In addition to an electric utility as defined in section 51106
4928.01 of the Revised Code, an electric services company, an 51107
electric cooperative, or a governmental aggregator subject to 51108
certification under section 4928.08 of the Revised Code, to the 51109
extent of the company's, cooperative's, or aggregator's engagement 51110
in the business of supplying or arranging for the supply in this 51111
state of any retail electric service for which it must be so 51112
certified; 51113

(2) In addition to a natural gas company as defined in 51114
section 4929.01 of the Revised Code, a retail natural gas supplier 51115
or governmental aggregator subject to certification under section 51116
4929.20 of the Revised Code, to the extent of the supplier's or 51117
aggregator's engagement in the business of supplying or arranging 51118

for the supply in this state of any competitive retail natural gas 51119
service for which it must be certified. 51120

(E) Each public utilities commissioner shall receive a salary 51121
fixed at the level set by pay range 49 under schedule E-2 of 51122
section 124.152 of the Revised Code. 51123

Sec. 4905.54. Every public utility or railroad and every 51124
officer of a public utility or railroad shall comply with every 51125
order, direction, and requirement of the public utilities 51126
commission made under authority of this chapter and Chapters 51127
4901., 4903., 4907., 4909., 4921., and 4923. of the Revised Code, 51128
so long as they remain in force. Except as otherwise specifically 51129
provided in sections 4905.83, 4905.95, 4919.99, 4921.99, and 51130
4923.99 of the Revised Code, the public utilities commission may 51131
assess a forfeiture of not more than ten thousand dollars for each 51132
violation or failure against a public utility or railroad that 51133
violates a provision of those chapters or that after due notice 51134
fails to comply with an order, direction, or requirement of the 51135
commission that was officially promulgated ~~shall forfeit to the~~ 51136
~~state not more than one thousand dollars for each such violation~~ 51137
~~or failure.~~ Each day's continuance of the violation or failure is 51138
a separate offense. All forfeitures collected under this section 51139
shall be credited to the general revenue fund. 51140

Sec. 4905.95. (A) Except as otherwise provided in division 51141
(C) of this section: 51142

(1) The public utilities commission, regarding any proceeding 51143
under this section, shall provide reasonable notice and the 51144
opportunity for a hearing in accordance with rules adopted under 51145
section 4901.13 of the Revised Code. 51146

(2) Sections 4903.02 to 4903.082, 4903.09 to 4903.16, and 51147
4903.20 to 4903.23 of the Revised Code apply to all proceedings 51148

and orders of the commission under this section and to all operators subject to those proceedings and orders. 51149
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(B) If, pursuant to a proceeding it specially initiates or to any other proceeding and after the hearing provided for under division (A) of this section, the commission finds that: 51151
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(1) An operator has violated or failed to comply with, or is violating or failing to comply with, sections 4905.90 to 4905.96 of the Revised Code or the pipe-line safety code, the commission by order: 51154
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(a) Shall require the operator to comply and to undertake corrective action necessary to protect the public safety; 51158
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(b) May assess upon the operator forfeitures of not more than ~~ten~~ one hundred thousand dollars for each day of each violation or noncompliance, except that the aggregate of such forfeitures shall not exceed five hundred thousand dollars for any related series of violations or noncompliances. In determining the amount of any such forfeiture, the commission shall consider all of the following: 51160
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(i) The gravity of the violation or noncompliance; 51167

(ii) The operator's history of prior violations or noncompliances; 51168
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(iii) The operator's good faith efforts to comply and undertake corrective action; 51170
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(iv) The operator's ability to pay the forfeiture; 51172

(v) The effect of the forfeiture on the operator's ability to continue as an operator; 51173
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(vi) Such other matters as justice may require. 51175

All forfeitures collected under this division or section 4905.96 of the Revised Code shall be deposited in the state treasury to 51176
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the credit of the general revenue fund. 51178

(c) May direct the attorney general to seek the remedies 51179
provided in section 4905.96 of the Revised Code. 51180

(2) An intrastate pipe-line transportation facility is 51181
hazardous to life or property, the commission by order: 51182

(a) Shall require the operator of the facility to take 51183
corrective action to remove the hazard. Such corrective action may 51184
include suspended or restricted use of the facility, physical 51185
inspection, testing, repair, replacement, or other action. 51186

(b) May direct the attorney general to seek the remedies 51187
provided in section 4905.96 of the Revised Code. 51188

(C) If, pursuant to a proceeding it specially initiates or to 51189
any other proceeding, the commission finds that an emergency 51190
exists due to a condition on an intrastate pipe-line 51191
transportation facility posing a clear and immediate danger to 51192
life or health or threatening a significant loss of property and 51193
requiring immediate corrective action to protect the public 51194
safety, the commission may issue, without notice or prior hearing, 51195
an order reciting its finding and may direct the attorney general 51196
to seek the remedies provided in section 4905.96 of the Revised 51197
Code. The order shall remain in effect for not more than forty 51198
days after the date of its issuance. The order shall provide for a 51199
hearing as soon as possible, but not later than thirty days after 51200
the date of its issuance. After the hearing the commission shall 51201
continue, revoke, or modify the order and may make findings under 51202
and seek appropriate remedies as provided in division (B) of this 51203
section. 51204

Sec. 4911.18. (A) For the sole purpose of maintaining and 51205
administering the office of the consumers' counsel and exercising 51206
the powers of the consumers' counsel under this chapter, an amount 51207

equal to the appropriation to the office of the consumers' counsel 51208
in each fiscal year shall be apportioned among and assessed 51209
against each public utility within this state, as defined in 51210
section 4911.01 of the Revised Code, by first computing an 51211
assessment as though it were to be made in proportion to the 51212
intrastate gross earnings or receipts of the public utility for 51213
the calendar year next preceding that in which the assessment is 51214
made, excluding earnings or receipts from sales to other public 51215
utilities for resale. The office may include in that first 51216
computation any amount of a public utility's intrastate gross 51217
earnings or receipts underreported in a prior year. In addition to 51218
whatever penalties apply under the Revised Code to such 51219
underreporting, the office shall assess the public utility 51220
interest at the rate stated in division (A) of section 1343.01 of 51221
the Revised Code. The office shall deposit any interest so 51222
collected into the consumers' counsel operating fund. The office 51223
may exclude from that first computation any such amounts that were 51224
over-reported in a prior year. 51225

The final computation of the assessment shall consist of 51226
imposing upon each public utility whose assessment under the first 51227
computation would have been ~~fifty one hundred~~ dollars or less an 51228
assessment of ~~fifty one hundred~~ dollars and recomputing the 51229
assessment of the remaining companies by apportioning an amount 51230
equal to the appropriation to the office of consumers' counsel in 51231
each fiscal year less the total amount to be recovered from those 51232
paying the minimum assessment, in proportion to the intrastate 51233
gross earnings or receipts of the remaining companies for the 51234
calendar year next preceding that in which the assessments are 51235
made, excluding earnings or receipts from sales to other public 51236
utilities for resale. 51237

In the case of an assessment based on intrastate gross 51238
receipts under this section against a public utility that is an 51239

electric utility as defined in section 4928.01 of the Revised
Code, or an electric services company, electric cooperative, or
governmental aggregator subject to certification under section
4928.08 of the Revised Code, such receipts shall be those
specified in the utility's, company's, cooperative's, or
aggregator's most recent report of intrastate gross receipts and
sales of kilowatt hours of electricity, filed with the public
utilities commission pursuant to division (F) of section 4928.06
of the Revised Code, and verified by the commission.

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In the case of an assessment based on intrastate gross
receipts under this section against a retail natural gas supplier
or governmental aggregator subject to certification under section
4929.20 of the Revised Code, such receipts shall be those
specified in the supplier's or aggregator's most recent report of
intrastate gross receipts and sales of hundred cubic feet of
natural gas, filed with the commission pursuant to division (B) of
section 4929.23 of the Revised Code, and verified by the
commission. However, no such retail natural gas supplier or such
governmental aggregator serving or proposing to serve customers of
a particular natural gas company, as defined in section 4929.01 of
the Revised Code, shall be assessed under this section until after
the commission, pursuant to section 4905.26 or 4909.18 of the
Revised Code, has removed from the base rates of the natural gas
company the amount of assessment under this section that is
attributable to the value of commodity sales service, as defined
in section 4929.01 of the Revised Code, in the base rates paid by
those customers of the company that do not purchase that service
from the natural gas company.

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(B) ~~On~~ Through calendar year 2005, on or before the first day
of October in each year, the office of consumers' counsel shall
notify each public utility of the sum assessed against it,
whereupon payment shall be made to the counsel, who shall deposit

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it into the state treasury to the credit of the consumers' counsel 51272
operating fund, which is hereby created. Beginning in calendar 51273
year 2006, on or before the fifteenth day of May in each year, the 51274
consumers' counsel shall notify each public utility that had a sum 51275
assessed against it for the current fiscal year of more than one 51276
thousand dollars that fifty per cent of that amount shall be paid 51277
to the consumers' counsel by the twentieth day of June of that 51278
year as an initial payment of the assessment against the company 51279
for the next fiscal year. On or before the first day of October in 51280
each year, the consumers' counsel shall make a final determination 51281
of the sum of the assessment against each public utility and shall 51282
notify each public utility of the sum assessed against it. The 51283
consumers' counsel shall deduct from the assessment for each 51284
public utility any initial payment received. Payment of the 51285
assessment shall be made to the consumers' counsel by the first 51286
day of November of that year. The consumers' counsel shall deposit 51287
the payments received into the state treasury to the credit of the 51288
consumers' counsel operating fund. Any such amounts paid into the 51289
fund but not expended by the office shall be credited ratably by 51290
the office to the public utilities that pay more than the minimum 51291
assessment, according to the respective portions of such sum 51292
assessable against them for the ensuing ~~calendar~~ fiscal year, 51293
after first deducting any deficits accumulated from prior years. 51294
The assessments for such ~~calendar~~ fiscal year shall be reduced 51295
correspondingly. 51296

(C) Within five days after the beginning of each fiscal year 51297
through fiscal year 2006, the director of budget and management 51298
shall transfer from the general revenue fund to the consumers' 51299
counsel operating fund an amount sufficient for maintaining and 51300
administering the office of the consumers' counsel and exercising 51301
the powers of the consumers' counsel under this chapter during the 51302
first four months of the fiscal year. Not later than the 51303
thirty-first day of December of the fiscal year, the same amount 51304

shall be transferred back to the general revenue fund from the 51305
consumers' counsel operating fund. 51306

(D) As used in this section, "public utility" includes: 51307

(1) In addition to an electric utility as defined in section 51308
4928.01 of the Revised Code, an electric services company, an 51309
electric cooperative, or a governmental aggregator subject to 51310
certification under section 4928.08 of the Revised Code, to the 51311
extent of the company's, cooperative's, or aggregator's engagement 51312
in the business of supplying or arranging for the supply in this 51313
state of any retail electric service for which it must be so 51314
certified; 51315

(2) In addition to a natural gas company as defined in 51316
section 4929.01 of the Revised Code, a retail natural gas supplier 51317
or governmental aggregator subject to certification under section 51318
4929.20 of the Revised Code, to the extent of the supplier's or 51319
aggregator's engagement in the business of supplying or arranging 51320
for the supply in this state of any competitive retail natural gas 51321
service for which it must be certified. 51322

Sec. 4912.01. (A) The public utilities commission and 51323
consumers' counsel jointly shall operate a single, efficient, 51324
statewide, toll-free call service to enable and respond to 51325
incoming calls from the general public seeking information and 51326
assistance regarding utility services. The service shall be 51327
automated to provide the routing of all residential calls 51328
concerning retail electric, natural gas, telephone, or water 51329
public utility service to the office of the consumers' counsel and 51330
the routing of all other calls to the public utilities commission. 51331
The costs of establishing and operating the toll-free call service 51332
shall be borne equally by the two agencies, payable, respectively, 51333
from the public utilities fund under section 4905.10 of the 51334
Revised Code and the consumers' counsel operating fund under 51335

section 4911.18 of the Revised Code. 51336

(B) Except as authorized in division (A) of this section, 51337
neither agency shall operate or cause the operation of any utility 51338
consumer call center, any costs of which are payable from revenue 51339
available to the agency. 51340

Sec. 4973.171. (A) As used in this section, "felony" has the 51341
same meaning as in section 109.511 of the Revised Code. 51342

(B)(1) The ~~governor~~ secretary of state shall not appoint or 51343
commission a person as a police officer for a railroad company 51344
under division (B) of section 4973.17 of the Revised Code and 51345
shall not appoint or commission a person as a police officer for a 51346
hospital under division (D) of section 4973.17 of the Revised Code 51347
on a permanent basis, on a temporary basis, for a probationary 51348
term, or on other than a permanent basis if the person previously 51349
has been convicted of or has pleaded guilty to a felony. 51350

(2)(a) The ~~governor~~ secretary of state shall revoke the 51351
appointment or commission of a person appointed or commissioned as 51352
a police officer for a railroad company or as a police officer for 51353
a hospital under division (B) or (D) of section 4973.17 of the 51354
Revised Code if that person does either of the following: 51355

(i) Pleads guilty to a felony; 51356

(ii) Pleads guilty to a misdemeanor pursuant to a negotiated 51357
plea agreement as provided in division (D) of section 2929.43 of 51358
the Revised Code in which the person agrees to surrender the 51359
certificate awarded to that person under section 109.77 of the 51360
Revised Code. 51361

(b) The ~~governor~~ secretary of state shall suspend the 51362
appointment or commission of a person appointed or commissioned as 51363
a police officer for a railroad company or as a police officer for 51364

a hospital under division (B) or (D) of section 4973.17 of the Revised Code if that person is convicted, after trial, of a felony. If the person files an appeal from that conviction and the conviction is upheld by the highest court to which the appeal is taken or if the person does not file a timely appeal, the ~~governor~~ secretary of state shall revoke the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. If the person files an appeal that results in that person's acquittal of the felony or conviction of a misdemeanor, or in the dismissal of the felony charge against that person, the ~~governor~~ secretary of state shall reinstate the appointment or commission of that person as a police officer for a railroad company or as a police officer for a hospital. A person whose appointment or commission is reinstated under division (B)(2)(b) of this section shall not receive any back pay unless that person's conviction of the felony was reversed on appeal, or the felony charge was dismissed, because the court found insufficient evidence to convict the person of the felony.

(3) Division (B) of this section does not apply regarding an offense that was committed prior to January 1, 1997.

(4) The suspension or revocation of the appointment or commission of a person as a police officer for a railroad company or as a police officer for a hospital under division (B)(2) of this section shall be in accordance with Chapter 119. of the Revised Code.

Sec. 5101.07. There is hereby created in the state treasury the support services federal operating fund. The fund shall consist of federal funds the department of job and family services receives and that the director of job and family services determines are appropriate for deposit into the fund. Money in the fund shall be used to pay the federal share of both of the

<u>following:</u>	51396
<u>(A) The department's costs for computer projects;</u>	51397
<u>(B) The operating costs of the parts of the department that</u>	51398
<u>provide general support services for the department's work units</u>	51399
<u>established under section 5101.06 of the Revised Code.</u>	51400
<u>Sec. 5101.071. There is hereby created in the state treasury</u>	51401
<u>the support services state operating fund. The fund shall consist</u>	51402
<u>of payments made to the fund from other appropriation items by</u>	51403
<u>intrastate transfer voucher. Money in the fund shall be used to</u>	51404
<u>pay for both of the following:</u>	51405
<u>(A) The department of job and family services' costs for</u>	51406
<u>computer projects;</u>	51407
<u>(B) The operating costs of the parts of the department that</u>	51408
<u>provide general support services for the department's work units</u>	51409
<u>established under section 5101.06 of the Revised Code.</u>	51410
<u>Sec. 5101.16. (A) As used in this section and sections</u>	51411
<u>5101.161 and 5101.162 of the Revised Code:</u>	51412
(1) "Disability financial assistance" means the financial	51413
assistance program established under Chapter 5115. of the Revised	51414
Code.	51415
(2) "Disability medical assistance" means the medical	51416
assistance program established under Chapter 5115. of the Revised	51417
Code.	51418
(3) "Food stamps" means the program administered by the	51419
department of job and family services pursuant to section 5101.54	51420
of the Revised Code.	51421
(4) "Medicaid" means the medical assistance program	51422
established by Chapter 5111. of the Revised Code, excluding	51423

transportation services provided under that chapter.	51424
(5) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.	51425 51426
(6) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.	51427 51428
(7) "Public assistance expenditures" means expenditures for all of the following:	51429 51430
(a) Ohio works first;	51431
(b) County administration of Ohio works first;	51432
(c) Prevention, retention, and contingency;	51433
(d) County administration of prevention, retention, and contingency;	51434 51435
(e) Disability financial assistance;	51436
(f) Disability medical assistance;	51437
(g) County administration of disability financial assistance;	51438
(h) County administration of disability medical assistance;	51439
(i) County administration of food stamps;	51440
(j) County administration of medicaid.	51441
(8) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.	51442 51443
(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:	51444 51445 51446 51447 51448 51449
(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and	51450 51451

disability medical assistance and county administration of those 51452
programs during the state fiscal year ending in the previous 51453
calendar year that the department of job and family services 51454
determines are allowable. 51455

(2) The amount that is ten per cent, or other percentage 51456
determined under division (D) of this section, of the county's 51457
total expenditures for county administration of food stamps and 51458
medicaid during the state fiscal year ending in the previous 51459
calendar year that the department determines are allowable, less 51460
the amount of federal reimbursement credited to the county under 51461
division (E) of this section for the state fiscal year ending in 51462
the previous calendar year; 51463

(3) A percentage of the actual amount of the county share of 51464
program and administrative expenditures during federal fiscal year 51465
1994 for assistance and services, other than child care, provided 51466
under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 51467
620 (1935), 42 U.S.C. 301, as those titles existed prior to the 51468
enactment of the "Personal Responsibility and Work Opportunity 51469
Reconciliation Act of 1996," 110 Stat. 2105. The department of job 51470
and family services shall determine the actual amount of the 51471
county share from expenditure reports submitted to the United 51472
States department of health and human services. The percentage 51473
shall be the percentage established in rules adopted under 51474
division (F) of this section. 51475

(C)(1) If a county's share of public assistance expenditures 51476
determined under division (B) of this section for a state fiscal 51477
year exceeds one hundred ten per cent of the county's share for 51478
those expenditures for the immediately preceding state fiscal 51479
year, the department of job and family services shall reduce the 51480
county's share for expenditures under divisions (B)(1) and (2) of 51481
this section so that the total of the county's share for 51482
expenditures under division (B) of this section equals one hundred 51483

ten per cent of the county's share of those expenditures for the 51484
immediately preceding state fiscal year. 51485

(2) A county's share of public assistance expenditures 51486
determined under division (B) of this section may be increased 51487
pursuant to section 5101.163 of the Revised Code and a sanction 51488
under section 5101.24 of the Revised Code. An increase made 51489
pursuant to section 5101.163 of the Revised Code may cause the 51490
county's share to exceed the limit established by division (C)(1) 51491
of this section. 51492

(D)(1) If the per capita tax duplicate of a county is less 51493
than the per capita tax duplicate of the state as a whole and 51494
division (D)(2) of this section does not apply to the county, the 51495
percentage to be used for the purpose of division (B)(2) of this 51496
section is the product of ten multiplied by a fraction of which 51497
the numerator is the per capita tax duplicate of the county and 51498
the denominator is the per capita tax duplicate of the state as a 51499
whole. The department of job and family services shall compute the 51500
per capita tax duplicate for the state and for each county by 51501
dividing the tax duplicate for the most recent available year by 51502
the current estimate of population prepared by the department of 51503
development. 51504

(2) If the percentage of families in a county with an annual 51505
income of less than three thousand dollars is greater than the 51506
percentage of such families in the state and division (D)(1) of 51507
this section does not apply to the county, the percentage to be 51508
used for the purpose of division (B)(2) of this section is the 51509
product of ten multiplied by a fraction of which the numerator is 51510
the percentage of families in the state with an annual income of 51511
less than three thousand dollars a year and the denominator is the 51512
percentage of such families in the county. The department of job 51513
and family services shall compute the percentage of families with 51514
an annual income of less than three thousand dollars for the state 51515

and for each county by multiplying the most recent estimate of
such families published by the department of development, by a
fraction, the numerator of which is the estimate of average annual
personal income published by the bureau of economic analysis of
the United States department of commerce for the year on which the
census estimate is based and the denominator of which is the most
recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than
the per capita tax duplicate of the state as a whole and the
percentage of families in the county with an annual income of less
than three thousand dollars is greater than the percentage of such
families in the state, the percentage to be used for the purpose
of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division
(D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a)
of this section by the fraction determined under division (D)(2)
of this section.

(4) The department of job and family services shall
determine, for each county, the percentage to be used for the
purpose of division (B)(2) of this section not later than the
first day of July of the year preceding the state fiscal year for
which the percentage is used.

(E) The department of job and family services shall credit to
a county the amount of federal reimbursement the department
receives from the United States departments of agriculture and
health and human services for the county's expenditures for
administration of food stamps and medicaid that the department
determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt
rules in accordance with section 111.15 of the Revised Code to

establish all of the following: 51547

(a) The method the department is to use to change a county's 51548
share of public assistance expenditures determined under division 51549
(B) of this section as provided in division (C) of this section; 51550

(b) The allocation methodology and formula the department 51551
will use to determine the amount of funds to credit to a county 51552
under this section; 51553

(c) The method the department will use to change the payment 51554
of the county share of public assistance expenditures from a 51555
calendar-year basis to a state fiscal year basis; 51556

(d) The percentage to be used for the purpose of division 51557
(B)(3) of this section, which shall, except as provided in section 51558
5101.163 of the Revised Code, meet both of the following 51559
requirements: 51560

(i) The percentage shall not be less than seventy-five per 51561
cent nor more than eighty-two per cent; 51562

(ii) The percentage shall not exceed the percentage that the 51563
state's qualified state expenditures is of the state's historic 51564
state expenditures as those terms are defined in 42 U.S.C. 51565
609(a)(7). 51566

(e) Other procedures and requirements necessary to implement 51567
this section. 51568

(2) The director of job and family services may amend the 51569
rule adopted under division (F)(1)(d) of this section to modify 51570
the percentage on determination that the amount the general 51571
assembly appropriates for Title IV-A programs makes the 51572
modification necessary. The rule shall be adopted and amended as 51573
if an internal management rule and in consultation with the 51574
director of budget and management. 51575

Sec. 5101.163. As used in this section, "maintenance of effort" means qualified state expenditures as defined in 42 U.S.C. 609(a)(7)(B)(i). 51576
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The department of job and family services may increase a county's share of public assistance expenditures determined under division (B) of section 5101.16 of the Revised Code if the United States secretary of health and human services requires an increase in the state's maintenance of effort because of one or more failures, resulting from the actions or inactions of one or more county family services agencies, to meet a requirement under Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. The department may so increase a county's share of public assistance expenditures only to the amount the county's county family services agencies are responsible for the increase in the state's maintenance of effort as determined pursuant to rules the director of job and family services shall adopt under section 111.15 of the Revised Code. The department is not required to make the increase in accordance with section 5101.24 of the Revised Code. 51579
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Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "public assistance" includes, in addition to Ohio works first, all of the following: 51595
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(1) Prevention, retention, and contingency; 51598

(2) Medicaid; 51599

(3) Disability financial assistance; 51600

(4) Disability medical assistance provided before October 1, 2005, under former Chapter 5115. of the Revised Code; 51601
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(5) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code. 51603
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(B) As part of the procedure for the determination of 51605
overpayment to a recipient of public assistance under Chapter 51606
5107., 5108., 5111., or 5115. of the Revised Code, the director of 51607
job and family services shall furnish quarterly the name and 51608
social security number of each individual who receives public 51609
assistance to the director of administrative services, the 51610
administrator of the bureau of workers' compensation, and each of 51611
the state's retirement boards. Within fourteen days after 51612
receiving the name and social security number of an individual who 51613
receives public assistance, the director of administrative 51614
services, administrator, or board shall inform the auditor of 51615
state as to whether such individual is receiving wages or 51616
benefits, the amount of any wages or benefits being received, the 51617
social security number, and the address of the individual. The 51618
director of administrative services, administrator, boards, and 51619
any agent or employee of those officials and boards shall comply 51620
with the rules of the director of job and family services 51621
restricting the disclosure of information regarding recipients of 51622
public assistance. Any person who violates this provision shall 51623
thereafter be disqualified from acting as an agent or employee or 51624
in any other capacity under appointment or employment of any state 51625
board, commission, or agency. 51626

(C) The auditor of state may enter into a reciprocal 51627
agreement with the director of job and family services or 51628
comparable officer of any other state for the exchange of names, 51629
current or most recent addresses, or social security numbers of 51630
persons receiving public assistance under Title IV-A or under 51631
Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 51632
U.S.C. 301, as amended. 51633

(D)(1) The auditor of state shall retain, for not less than 51634
two years, at least one copy of all information received under 51635
this section and sections 145.27, 742.41, 3307.20, 3309.22, 51636

4123.27, 5101.182, and 5505.04 of the Revised Code. The auditor shall review the information to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., 5111., and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

(2) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(3) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this division shall be borne by the auditor of state.

Sec. 5101.21. (A) As used in this section, "county signer"

means all of the following: 51668

(1) A board of county commissioners; 51669

(2) A county children services board appointed under section 51670
5153.03 of the Revised Code if required by division (B) of this 51671
section to enter into a fiscal agreement; 51672

(3) A county elected official that is a child support 51673
enforcement agency if required by division (B) of this section to 51674
enter into a fiscal agreement. 51675

(B) The director of job and family services may enter into 51676
one or more written fiscal agreements with boards of county 51677
commissioners under which financial assistance is awarded for 51678
family services duties included in the agreements. Boards of 51679
county commissioners shall select which family services duties to 51680
include in a fiscal agreement. If a board of county commissioners 51681
elects to include family services duties of a public children 51682
services agency and a county children services board appointed 51683
under section 5153.03 of the Revised Code serves as the county's 51684
public children services agency, the board of county commissioners 51685
and county children services board shall jointly enter into the 51686
fiscal agreement with the director. If a board of county 51687
commissioners elects to include family services duties of a child 51688
support enforcement agency and the entity designated under former 51689
section 2301.35 of the Revised Code prior to October 1, 1997, or 51690
designated under section 307.981 of the Revised Code as the 51691
county's child support enforcement agency is an elected official 51692
of the county, the board of county commissioners and county 51693
elected official shall jointly enter into the fiscal agreement 51694
with the director. A fiscal agreement shall do all of the 51695
following: 51696

(1) Specify the family services duties included in the 51697
agreement and the private and government entities designated under 51698

section 307.981 of the Revised Code to serve as the county family services agencies performing the family services duties; 51699
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(2) Provide for the department of job and family services to award financial assistance for the family services duties included in the agreement in accordance with a methodology for determining the amount of the award established by rules adopted under division (D) of this section; 51701
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(3) Specify the form of the award of financial assistance which may be an allocation, cash draw, reimbursement, property, or, to the extent authorized by an appropriation made by the general assembly and to the extent practicable and not in conflict with a federal or state law, a consolidated funding allocation for two or more family services duties included in the agreement; 51706
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(4) Provide that the award of financial assistance is subject to the availability of federal funds and appropriations made by the general assembly; 51712
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(5) Specify annual financial, administrative, or other incentive awards, if any, to be provided in accordance with section 5101.23 of the Revised Code; 51715
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(6) Include the assurance of each county signer that the county signer will do all of the following: 51718
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(a) Ensure that the financial assistance awarded under the agreement is used, and the family services duties included in the agreement are performed, in accordance with requirements for the duties established by the department, a federal or state law, or any of the following that concern the family services duties included in the fiscal agreement and are published under section 5101.212 of the Revised Code: state plans for receipt of federal financial participation, grant agreements between the department and a federal agency, and executive orders issued by the governor; 51720
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(b) Ensure that the board and county family services agencies 51729
utilize a financial management system and other accountability 51730
mechanisms for the financial assistance awarded under the 51731
agreement that meet requirements the department establishes; 51732

(c) Require the county family services agencies to do both of 51733
the following: 51734

(i) Monitor all private and government entities that receive 51735
a payment from financial assistance awarded under the agreement to 51736
ensure that each entity uses the payment in accordance with 51737
requirements for the family services duties included in the 51738
agreement; 51739

(ii) Take action to recover payments that are not used in 51740
accordance with the requirements for the family services duties 51741
included in the agreement. 51742

(d) Require county family services agencies to promptly 51743
reimburse the department the amount that represents the amount an 51744
agency is responsible for, pursuant to action the department takes 51745
under division (C) of section 5101.24 of the Revised Code, of 51746
funds the department pays to any entity because of an adverse 51747
audit finding, adverse quality control finding, final disallowance 51748
of federal financial participation, or other sanction or penalty; 51749

(e) Require county family services agencies to take prompt 51750
corrective action, including paying amounts resulting from an 51751
adverse finding, sanction, or penalty, if the department, auditor 51752
of state, federal agency, or other entity authorized by federal or 51753
state law to determine compliance with requirements for a family 51754
services duty included in the agreement determines compliance has 51755
not been achieved; 51756

~~(f) If the department establishes a consolidated funding 51757
allocation for two or more family services duties included in the 51758
agreement, require the county family services agencies to use 51759~~

funds available in the consolidated funding allocation only for	51760
the purpose for which the funds are appropriated.	51761
(7) Provide for the department taking action pursuant to	51762
division (C) of section 5101.24 of the Revised Code if authorized	51763
by division (B)(1), (2), (3), or (4) of that section;	51764
(8) Provide for timely audits required by federal and state	51765
law and require prompt release of audit findings and prompt action	51766
to correct problems identified in an audit;	51767
(9) Comply with all of the requirements for the family	51768
services duties that are included in the agreement and have been	51769
established by the department, federal or state law, or any of the	51770
following that concern the family services duties included in the	51771
fiscal agreement and are published under section 5101.212 of the	51772
Revised Code: state plans for receipt of federal financial	51773
participation, grant agreements between the department and a	51774
federal agency, and executive orders issued by the governor;	51775
(10) Provide for dispute resolution procedures in accordance	51776
with section 5101.24 of the Revised Code;	51777
(11) Establish the method of amending or terminating the	51778
agreement and an expedited process for correcting terms or	51779
conditions of the agreement that the director and each county	51780
signer agree are erroneous;	51781
(12) Except as provided in rules adopted under division (D)	51782
of this section, begin on the first day of July of an odd-numbered	51783
year and end on the last day of June of the next odd-numbered	51784
year.	51785
(C) The department shall make payments authorized by a fiscal	51786
agreement on vouchers it prepares and may include any funds	51787
appropriated or allocated to it for carrying out family services	51788
duties included in the agreement, including funds for personal	51789

services and maintenance. 51790

(D)(1) The director shall adopt rules in accordance with 51791
section 111.15 of the Revised Code governing fiscal agreements. 51792
The director shall adopt the rules as if they were internal 51793
management rules. Before adopting the rules, the director shall 51794
give the public an opportunity to review and comment on the 51795
proposed rules. The rules shall establish methodologies to be used 51796
to determine the amount of financial assistance to be awarded 51797
under the agreements. The rules also shall establish terms and 51798
conditions under which an agreement may be entered into after the 51799
first day of July of an odd-numbered year. The rules may do any or 51800
all of the following: 51801

~~(a) Govern the establishment of consolidated funding 51802
allocations and specify the time period for which a consolidated 51803
funding allocation is to be provided if the effective date of the 51804
agreement is after the first day of July of an odd numbered year, 51805
which may include a time period before the effective date of the 51806
agreement;~~ 51807

~~(b)~~ Govern the establishment of ~~other~~ allocations; 51808

~~(c)~~(b) Specify allowable uses of financial assistance awarded 51809
under the agreements; 51810

~~(d)~~(c) Establish reporting, cash management, audit, and other 51811
requirements the director determines are necessary to provide 51812
accountability for the use of financial assistance awarded under 51813
the agreements and determine compliance with requirements 51814
established by the department, a federal or state law, or any of 51815
the following that concern the family services duties included in 51816
the agreements and are published under section 5101.212 of the 51817
Revised Code: state plans for receipt of federal financial 51818
participation, grant agreements between the department and a 51819
federal entity, and executive orders issued by the governor. 51820

(2) A requirement of a fiscal agreement established by a rule 51821
adopted under this division is applicable to a fiscal agreement 51822
without having to be restated in the fiscal agreement. 51823

Sec. 5101.241. (A) As used in this section: 51824

(1) "Local area" and "chief elected official" have the same 51825
meaning as in section 5101.20 of the Revised Code. 51826

(2) "Responsible entity" means the chief elected officials of 51827
a local area. 51828

(B) The department of job and family services may take action 51829
under division (C) of this section against the responsible entity, 51830
regardless of who performs the workforce development activity, if 51831
the department determines any of the following are the case: 51832

(1) A requirement of a grant agreement entered into under 51833
section 5101.20 of the Revised Code that includes the workforce 51834
development activity, including a requirement for grant agreements 51835
established by rules adopted under that section, is not complied 51836
with; 51837

(2) A performance standard for the workforce development 51838
activity established by the federal government or the department 51839
is not met; 51840

(3) A requirement for the workforce development activity 51841
established by the department or any of the following is not 51842
complied with: a federal or state law, state plan for receipt of 51843
federal financial participation, grant agreement between the 51844
department and a federal agency, or executive order; 51845

(4) The responsible entity is solely or partially 51846
responsible, as determined by the director of job and family 51847
services, for an adverse audit finding, adverse quality control 51848
finding, final disallowance of federal financial participation, or 51849
other sanction or penalty regarding the workforce development 51850

activity. 51851

(C) The department may take one or more of the following 51852
actions against the responsible entity when authorized by division 51853
(B)(1), (2), (3), or (4) of this section: 51854

(1) Require the responsible entity to submit to and comply 51855
with a corrective action plan, established or approved by the 51856
department, pursuant to a time schedule specified by the 51857
department; 51858

(2) Require the responsible entity to do one of the 51859
following: 51860

(a) Share with the department a final disallowance of federal 51861
financial participation or other sanction or penalty; 51862

(b) Reimburse the department the amount the department pays 51863
to the federal government or another entity that represents the 51864
amount the responsible entity is responsible for of an adverse 51865
audit finding, adverse quality control finding, final disallowance 51866
of federal financial participation, or other sanction or penalty 51867
issued by the federal government, auditor of state, or other 51868
entity; 51869

(c) Pay the federal government or another entity the amount 51870
that represents the amount the responsible entity is responsible 51871
for of an adverse audit finding, adverse quality control finding, 51872
final disallowance of federal financial participation, or other 51873
sanction or penalty issued by the federal government, auditor of 51874
state, or other entity; 51875

(d) Pay the department the amount that represents the amount 51876
the responsible entity is responsible for of an adverse audit 51877
finding, adverse quality control finding, or other sanction or 51878
penalty issued by the department. 51879

(3) Impose a financial or administrative sanction or adverse 51880

audit finding issued by the department against the responsible 51881
entity, which may be increased with each subsequent action taken 51882
against the responsible entity-i 51883

(4) Perform or contract with a government or private entity 51884
for the entity to perform the workforce development activity until 51885
the department is satisfied that the responsible entity ensures 51886
that the activity will be performed to the department's 51887
satisfaction. If the department performs or contracts with an 51888
entity to perform the workforce development activity under 51889
division (C)(4) of this section, the department may withhold funds 51890
allocated to or reimbursements due to the responsible entity for 51891
the activity and use those funds to implement division (C)(4) of 51892
this section. 51893

(5) Request the attorney general to bring mandamus 51894
proceedings to compel the responsible entity to take or cease the 51895
actions listed in division (B) of this section. The attorney 51896
general shall bring any mandamus proceedings in the Franklin 51897
county court of appeals at the department's request. 51898

(6) If the department takes action under this division 51899
because of division (B)(3) of this section, withhold funds 51900
allocated or reimbursement due to the responsible entity until the 51901
department determines that the responsible entity is in compliance 51902
with the requirement. The department shall release the funds when 51903
the department determines that compliance has been achieved. 51904

(7) Issue a notice of intent to revoke approval of all or 51905
part of the local plan effected that conflicts with state or 51906
federal law and effectuate the revocation. 51907

(D) The department shall notify the responsible entity and 51908
the appropriate county auditor when the department proposes to 51909
take action under division (C) of this section. The notice shall 51910
be in writing and specify the action the department proposes to 51911

take. The department shall send the notice by regular United States mail. Except as provided in division (E) of this section, the responsible entity may request an administrative review of a proposed action in accordance with administrative review procedures the department shall establish. The administrative review procedures shall comply with all of the following:

(1) A request for an administrative review shall state specifically all of the following:

(a) The proposed action specified in the notice from the department for which the review is requested;

(b) The reason why the responsible entity believes the proposed action is inappropriate;

(c) All facts and legal arguments that the responsible entity wants the department to consider;

(d) The name of the person who will serve as the responsible entity's representative in the review.

(2) If the department's notice specifies more than one proposed action and the responsible entity does not specify all of the proposed actions in its request pursuant to division (D)(1)(a) of this section, the proposed actions not specified in the request shall not be subject to administrative review and the parts of the notice regarding those proposed actions shall be final and binding on the responsible entity.

~~(3) In the case of a proposed action under division (C)(1) of this section, the~~ The responsible entity shall have fifteen calendar days after the department mails the notice to the responsible entity to send a written request to the department for an administrative review. ~~If it receives such a request within the required time, the department shall postpone taking action under division (C)(1) of this section for fifteen calendar days~~

~~following the day it receives the request to allow a~~ 51942
~~representative of the department and a representative of the~~ 51943
~~responsible entity an informal opportunity to resolve any dispute~~ 51944
~~during that fifteen day period. The responsible entity and the~~ 51945
~~department shall attempt to resolve informally any dispute and may~~ 51946
~~develop a written resolution to the dispute at any time prior to~~ 51947
~~submitting the written report described in division (D)(7) of this~~ 51948
~~section to the director.~~ 51949

~~(4) In the case of a proposed action under division (C)(2),~~ 51950
~~(3), or (4) of this section, the responsible entity shall have~~ 51951
~~thirty calendar days after the department mails the notice to the~~ 51952
~~responsible entity to send a written request to the department for~~ 51953
~~an administrative review. If it receives such a request within the~~ 51954
~~required time, the department shall postpone taking action under~~ 51955
~~division (C)(2), (3), or (4) of this section for thirty calendar~~ 51956
~~days following the day it receives the request to allow a~~ 51957
~~representative of the department and a representative of the~~ 51958
~~responsible entity an informal opportunity to resolve any dispute~~ 51959
~~during that thirty day period.~~ 51960

~~(5) In the case of a proposed action under division (C)(2) of~~ 51961
~~this section, the responsible entity may not include in its~~ 51962
~~request disputes over a finding, final disallowance of federal~~ 51963
~~financial participation, or other sanction or penalty issued by~~ 51964
~~the federal government, auditor of state, or other entity other~~ 51965
~~than the department.~~ 51966

~~(6)(5) If the responsible entity fails to request an~~ 51967
~~administrative review within the required time, the responsible~~ 51968
~~entity loses the right to request an administrative review of the~~ 51969
~~proposed actions specified in the notice and the notice becomes~~ 51970
~~final and binding on the responsible entity.~~ 51971

~~(7) If the informal opportunity provided in division (D)(3)~~ 51972
~~or (4) of this section does not result in a written resolution to~~ 51973

~~the dispute, the~~ (6) The director of job and family services shall 51974
appoint an administrative review panel to conduct the 51975
administrative review. The review panel shall consist of 51976
department employees who are not involved in the department's 51977
proposal to take action against the responsible entity. The review 51978
panel shall review the responsible entity's request. The review 51979
panel may require that the department or responsible entity submit 51980
additional information and schedule and conduct an informal 51981
hearing to obtain testimony or additional evidence. A review of a 51982
proposal to take action under division (C)(2) of this section 51983
shall be limited solely to the issue of the amount the responsible 51984
entity shall share with the department, reimburse the department, 51985
or pay to the federal government, department, or other entity 51986
under division (C)(2) of this section. The review panel is not 51987
required to make a stenographic record of its hearing or other 51988
proceedings. 51989

~~(8)(7)~~ After finishing an administrative review, an 51990
administrative review panel appointed under division (D)~~(7)~~(6) of 51991
this section shall submit a written report to the director setting 51992
forth its findings of fact, conclusions of law, and 51993
recommendations for action. The director may approve, modify, or 51994
disapprove the recommendations. ~~If the director modifies or~~ 51995
~~disapproves the recommendations, the director shall state the~~ 51996
~~reasons for the modification or disapproval and the actions to be~~ 51997
~~taken against the responsible entity.~~ 51998

~~(9)(8)~~ The director's approval, modification, or disapproval 51999
under division (D)~~(8)~~(7) of this section shall be final and 52000
binding on the responsible entity and shall not be subject to 52001
further ~~departmental~~ review. 52002

(E) The responsible entity is not entitled to an 52003
administrative review under division (D) of this section for any 52004
of the following: 52005

(1) An action taken under division (C)(5) or (6) of this section;	52006 52007
(2) An action taken under section 5101.242 of the Revised Code;	52008 52009
(3) An action taken under division (C)(2) of this section if the federal government, auditor of state, or entity other than the department has identified the responsible entity as being solely or partially responsible for an adverse audit finding, adverse quality control finding, final disallowance of federal financial participation, or other sanction or penalty;	52010 52011 52012 52013 52014 52015
(4) An adjustment to an allocation, cash draw, advance, or reimbursement to the responsible entity's local area that the department determines necessary for budgetary reasons;	52016 52017 52018
(5) Withholding of a cash draw or reimbursement due to noncompliance with a reporting requirement established in rules adopted under section 5101.243 of the Revised Code.	52019 52020 52021
(F) This section does not apply to other actions the department takes against the responsible entity pursuant to authority granted by another state law unless the other state law requires the department to take the action in accordance with this section.	52022 52023 52024 52025 52026
(G) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.	52027 52028 52029
<u>(H) The governor may decertify a local workforce development board for any of the following reasons in accordance with subsection (e) of section 117 of the "Workforce Investment Act of 1998" 112 Stat. 936, 29 U.S.C. 2801, as amended:</u>	52030 52031 52032 52033
<u>(1) Fraud or abuse;</u>	52034
<u>(2) Failure to carry out the requirements of the federal</u>	52035

"Workforce Investment Act," 112 Stat. 936, 29 U.S.C. 2801, as 52036
amended, including failure to meet performance standards 52037
established by the federal government for two consecutive years. 52038

If the governor finds that access to basic "Workforce 52039
Investment Act" services is not being provided in a local area, 52040
the governor may declare an emergency and, in consultation with 52041
the chief elected officials of the local area affected, arrange 52042
for provision of these services through an alternative entity 52043
during the time period in which resolution of the problem 52044
preventing service delivery in the local area is pending. An 52045
action taken by the governor pursuant to this section is not 52046
subject to appeal under this section. 52047

Sec. 5101.244. If a county family services agency submits an 52048
expenditure report to the department of job and family services, 52049
the department makes a payment to the agency based on the report, 52050
and the department subsequently determines that the payment 52051
exceeds the allowable amount for the expenditure, the department 52052
may adjust, offset, withhold, or reduce an allocation, cash draw, 52053
advance, reimbursement, or other financial assistance to the 52054
agency as necessary to recover the amount of the excess payment 52055
made to the agency. The department is not required to make the 52056
adjustment, offset, withholding, or reduction in accordance with 52057
section 5101.24 of the Revised Code. 52058

The director of job and family services may adopt rules under 52059
section 111.15 of the Revised Code as necessary to implement this 52060
section. The director shall adopt the rules as if they were 52061
internal management rules. 52062

Sec. 5101.26. As used in this section and in sections 5101.27 52063
to 5101.30 of the Revised Code: 52064

(A) "County agency" means a county department of job and 52065

family services or a public children services agency. 52066

(B) "Fugitive felon" means an individual who is fleeing to 52067
avoid prosecution, or custody or confinement after conviction, 52068
under the laws of the place from which the individual is fleeing, 52069
for a crime or an attempt to commit a crime that is a felony under 52070
the laws of the place from which the individual is fleeing or, in 52071
the case of New Jersey, a high misdemeanor, regardless of whether 52072
the individual has departed from the individual's usual place of 52073
residence. 52074

(C) "Information" means records as defined in section 149.011 52075
of the Revised Code, any other documents in any format, and data 52076
derived from records and documents that are generated, acquired, 52077
or maintained by the department of job and family services, a 52078
county agency, or an entity performing duties on behalf of the 52079
department or a county agency. 52080

(D) "Law enforcement agency" means the state highway patrol, 52081
an agency that employs peace officers as defined in section 109.71 52082
of the Revised Code, the adult parole authority, a county 52083
department of probation, a prosecuting attorney, the attorney 52084
general, similar agencies of other states, federal law enforcement 52085
agencies, and postal inspectors. "Law enforcement agency" includes 52086
the peace officers and other law enforcement officers employed by 52087
the agency. 52088

(E) "Medical assistance provided under a public assistance 52089
program" means medical assistance provided under the programs 52090
established under sections 5101.49, 5101.50 to 5101.503, and 52091
5101.51 to 5101.5110, ~~Chapters~~ Chapter 5111. ~~and 5115.~~, or any 52092
other provision of the Revised Code. 52093

(F) "Public assistance" means financial assistance, medical 52094
assistance, or social services provided under a program 52095
administered by the department of job and family services or a 52096

county agency pursuant to Chapter 329., 5101., 5104., 5107., 52097
5108., 5111., or 5115. of the Revised Code or an executive order 52098
issued under section 107.17 of the Revised Code. 52099

(G) "Public assistance recipient" means an applicant for or 52100
recipient or former recipient of public assistance. 52101

Sec. 5101.31. Any record, data, pricing information, or other 52102
information regarding a drug rebate agreement or a supplemental 52103
drug rebate agreement for the medicaid program established under 52104
Chapter 5111. of the Revised Code ~~or the disability medical~~ 52105
~~assistance program established under section 5115.10 of the~~ 52106
~~Revised Code~~ that the department of job and family services 52107
receives from a pharmaceutical manufacturer or creates pursuant to 52108
negotiation of the agreement is not a public record under section 52109
149.43 of the Revised Code and shall be treated by the department 52110
as confidential information. 52111

Sec. 5101.35. (A) As used in this section: 52112

(1) "Agency" means the following entities that administer a 52113
family services program: 52114

(a) The department of job and family services; 52115

(b) A county department of job and family services; 52116

(c) A public children services agency; 52117

(d) A private or government entity administering, in whole or 52118
in part, a family services program for or on behalf of the 52119
department of job and family services or a county department of 52120
job and family services or public children services agency. 52121

(2) "Appellant" means an applicant, participant, former 52122
participant, recipient, or former recipient of a family services 52123
program who is entitled by federal or state law to a hearing 52124
regarding a decision or order of the agency that administers the 52125

program. 52126

(3) "Family services program" means assistance provided under 52127
a Title IV-A program as defined in section 5101.80 of the Revised 52128
Code or under Chapter 5104., 5111., or 5115. or section 173.35, 52129
5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the 52130
Revised Code, other than assistance provided under section 5101.46 52131
of the Revised Code by the department of mental health, the 52132
department of mental retardation and developmental disabilities, a 52133
board of alcohol, drug addiction, and mental health services, or a 52134
county board of mental retardation and developmental disabilities. 52135

(B) Except as provided by division (G) of this section, an 52136
appellant who appeals under federal or state law a decision or 52137
order of an agency administering a family services program shall, 52138
at the appellant's request, be granted a state hearing by the 52139
department of job and family services. This state hearing shall be 52140
conducted in accordance with rules adopted under this section. The 52141
state hearing shall be tape-recorded, but neither the recording 52142
nor a transcript of the recording shall be part of the official 52143
record of the proceeding. A state hearing decision is binding upon 52144
the agency and department, unless it is reversed or modified on 52145
appeal to the director of job and family services or a court of 52146
common pleas. 52147

(C) Except as provided by division (G) of this section, an 52148
appellant who disagrees with a state hearing decision may make an 52149
administrative appeal to the director of job and family services 52150
in accordance with rules adopted under this section. This 52151
administrative appeal does not require a hearing, but the director 52152
or the director's designee shall review the state hearing decision 52153
and previous administrative action and may affirm, modify, remand, 52154
or reverse the state hearing decision. Any person designated to 52155
make an administrative appeal decision on behalf of the director 52156
shall have been admitted to the practice of law in this state. An 52157

administrative appeal decision is the final decision of the 52158
department and is binding upon the department and agency, unless 52159
it is reversed or modified on appeal to the court of common pleas. 52160

(D) An agency shall comply with a decision issued pursuant to 52161
division (B) or (C) of this section within the time limits 52162
established by rules adopted under this section. If a county 52163
department of job and family services or a public children 52164
services agency fails to comply within these time limits, the 52165
department may take action pursuant to section 5101.24 of the 52166
Revised Code. If another agency fails to comply within the time 52167
limits, the department may force compliance by withholding funds 52168
due the agency or imposing another sanction established by rules 52169
adopted under this section. 52170

(E) An appellant who disagrees with an administrative appeal 52171
decision of the director of job and family services or the 52172
director's designee issued under division (C) of this section may 52173
appeal from the decision to the court of common pleas pursuant to 52174
section 119.12 of the Revised Code. The appeal shall be governed 52175
by section 119.12 of the Revised Code except that: 52176

(1) The person may appeal to the court of common pleas of the 52177
county in which the person resides, or to the court of common 52178
pleas of Franklin county if the person does not reside in this 52179
state. 52180

(2) The person may apply to the court for designation as an 52181
indigent and, if the court grants this application, the appellant 52182
shall not be required to furnish the costs of the appeal. 52183

(3) The appellant shall mail the notice of appeal to the 52184
department of job and family services and file notice of appeal 52185
with the court within thirty days after the department mails the 52186
administrative appeal decision to the appellant. For good cause 52187
shown, the court may extend the time for mailing and filing notice 52188

of appeal, but such time shall not exceed six months from the date 52189
the department mails the administrative appeal decision. Filing 52190
notice of appeal with the court shall be the only act necessary to 52191
vest jurisdiction in the court. 52192

(4) The department shall be required to file a transcript of 52193
the testimony of the state hearing with the court only if the 52194
court orders the department to file the transcript. The court 52195
shall make such an order only if it finds that the department and 52196
the appellant are unable to stipulate to the facts of the case and 52197
that the transcript is essential to a determination of the appeal. 52198
The department shall file the transcript not later than thirty 52199
days after the day such an order is issued. 52200

(F) The department of job and family services shall adopt 52201
rules in accordance with Chapter 119. of the Revised Code to 52202
implement this section, including rules governing the following: 52203

(1) State hearings under division (B) of this section. The 52204
rules shall include provisions regarding notice of eligibility 52205
termination and the opportunity of an appellant appealing a 52206
decision or order of a county department of job and family 52207
services to request a county conference with the county department 52208
before the state hearing is held. 52209

(2) Administrative appeals under division (C) of this 52210
section; 52211

(3) Time limits for complying with a decision issued under 52212
division (B) or (C) of this section; 52213

(4) Sanctions that may be applied against an agency under 52214
division (D) of this section. 52215

(G) The department of job and family services may adopt rules 52216
in accordance with Chapter 119. of the Revised Code establishing 52217
an appeals process for an appellant who appeals a decision or 52218

order regarding a Title IV-A program identified under division 52219
(A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of section 5101.80 of the 52220
Revised Code that is different from the appeals process 52221
established by this section. The different appeals process may 52222
include having a state agency that administers the Title IV-A 52223
program pursuant to an interagency agreement entered into under 52224
section 5101.801 of the Revised Code administer the appeals 52225
process. 52226

(H) The requirements of Chapter 119. of the Revised Code 52227
apply to a state hearing or administrative appeal under this 52228
section only to the extent, if any, specifically provided by rules 52229
adopted under this section. 52230

Sec. 5101.36. Any application for public assistance gives a 52231
right of subrogation to the department of job and family services 52232
for any workers' compensation benefits payable to a person who is 52233
subject to a support order, as defined in section 3119.01 of the 52234
Revised Code, on behalf of the applicant, to the extent of any 52235
public assistance payments made on the applicant's behalf. If the 52236
director of job and family services, in consultation with a child 52237
support enforcement agency and the administrator of the bureau of 52238
workers' compensation, determines that a person responsible for 52239
support payments to a recipient of public assistance is receiving 52240
workers' compensation, the director shall notify the administrator 52241
of the amount of the benefit to be paid to the department of job 52242
and family services. 52243

For purposes of this section, "public assistance" means 52244
medical assistance provided through the medical assistance program 52245
established under section 5111.01 of the Revised Code; Ohio works 52246
first provided under Chapter 5107. of the Revised Code; 52247
prevention, retention, and contingency benefits and services 52248
provided under Chapter 5108. of the Revised Code; disability 52249

financial assistance provided under Chapter 5115. of the Revised Code; or disability medical assistance provided under former Chapter 5115. of the Revised Code.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug addiction, and mental health services; and with respect to the department of mental retardation and developmental disabilities, a county board of mental retardation and developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, mental health, and mental retardation and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation

of children and adults unable to protect their own interests, or
preserving, rehabilitating, or reuniting families; 52280
52281

(4) Preventing or reducing inappropriate institutional care 52282
by providing for community-based care, home-based care, or other 52283
forms of less intensive care; 52284

(5) Securing referral or admission for institutional care 52285
when other forms of care are not appropriate, or providing 52286
services to individuals in institutions. 52287

(C)(1) All federal funds received under Title XX shall be 52288
appropriated as follows: 52289

(a) Seventy-two and one-half per cent to the department of 52290
job and family services; 52291

(b) Twelve and ninety-three one-hundredths per cent to the 52292
department of mental health; 52293

(c) Fourteen and fifty-seven one-hundredths per cent to the 52294
department of mental retardation and developmental disabilities. 52295

(2) Each state department shall, subject to the approval of 52296
the controlling board, develop formulas for the distribution of 52297
their Title XX appropriations to their respective local agencies. 52298
The formulas shall take into account the total population of the 52299
area that is served by the agency, the percentage of the 52300
population in the area that falls below the federal poverty 52301
guidelines, and the agency's history of and ability to utilize 52302
Title XX funds. 52303

(3) Each of the state departments shall expend no more than 52304
three per cent of its Title XX appropriation for state 52305
administrative costs. Each of the department's respective local 52306
agencies shall expend no more than fourteen per cent of its Title 52307
XX appropriation for local administrative costs. 52308

(4) The department of job and family services shall expend no 52309

more than two per cent of its Title XX appropriation for the 52310
training of the following: 52311

(a) Employees of county departments of job and family 52312
services; 52313

(b) Providers of services under contract with the state 52314
departments' respective local agencies; 52315

(c) Employees of a public children services agency directly 52316
engaged in providing Title XX services. 52317

(D) The department of job and family services shall prepare a 52318
biennial comprehensive Title XX social services plan on the 52319
intended use of Title XX funds. The department shall develop a 52320
method for obtaining public comment during the development of the 52321
plan and following its completion. 52322

For each state fiscal year, the department of job and family 52323
services shall prepare a report on the actual use of Title XX 52324
funds. The department shall make the annual report available for 52325
public inspection. 52326

The departments of mental health and mental retardation and 52327
developmental disabilities shall prepare and submit to the 52328
department of job and family services the portions of each 52329
biennial plan and annual report that apply to services for mental 52330
health and mental retardation and developmental disabilities. Each 52331
respective local agency of the three state departments shall 52332
submit information as necessary for the preparation of biennial 52333
plans and annual reports. 52334

(E) Each county department shall adopt a county profile for 52335
the administration and provision of Title XX social services in 52336
the county. In developing its county profile, the county 52337
department shall take into consideration the comments and 52338
recommendations received from the public by the county family 52339

services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

~~(F) Not less often than every two years, the departments of job and family services, mental health, and mental retardation and developmental disabilities each shall commission an entity independent of itself to conduct an audit of its Title XX expenditures in accordance with generally accepted auditing principles. Within thirty days following the completion of its audit, each department shall submit a copy of the audit to the general assembly and to the United States secretary of health and human services.~~

~~(G) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. The If an audit is required, the social services provider shall reimburse the state department or local agency for the cost it incurred in conducting the audit or having the audit conducted.~~

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local

~~agency the amount of the adverse findings. The amount shall not be~~ 52371
~~reimbursed with Title XX funds received under this section. The~~ 52372
three state departments and their respective local agencies may 52373
terminate or refuse to enter into a Title XX contract with a 52374
~~provider of social services~~ provider if there are adverse findings 52375
in an audit that are the responsibility of the provider. ~~The~~ 52376
~~amount of any adverse findings shall not be reimbursed with Title~~ 52377
~~XX funds. The cost of conducting an audit shall be reimbursed~~ 52378
~~under a subsequent or amended Title XX contract with the provider.~~ 52379

~~(H) If federal funds received by the department of job and~~ 52380
~~family services for use under Chapters 5107. and 5108. of the~~ 52381
~~Revised Code are transferred by the controlling board for use in~~ 52382
~~providing social services under this section, the distribution and~~ 52383
~~use of the funds are not subject to the provisions of division (C)~~ 52384
~~of this section. The department may do one or both of the~~ 52385
~~following with the funds:~~ 52386

~~(1) Distribute the funds to the county departments of job and~~ 52387
~~family services:~~ 52388

~~(2) Use the funds for services that benefit individuals~~ 52389
~~eligible for services consistent with the principles of Title IV A~~ 52390
~~of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A.~~ 52391
~~301, as amended.~~ 52392

~~(I) Except for the authority to adopt rules under division~~ 52393
~~(J) of this section as necessary to carry out this division, this~~ 52394
~~section does not apply to any distribution by the department of~~ 52395
~~job and family services of funds for reimbursement of allowable~~ 52396
~~Title XX expenditures when the funds for the reimbursement are~~ 52397
~~received from a federal funding source other than Title XX.~~ 52398

~~(J)(G)~~ (G) The department of job and family services may adopt 52399
rules ~~necessary~~ to implement and carry out the purposes of this 52400
section. Rules ~~adopted under this division shall be adopted in~~ 52401

~~accordance with Chapter 119. of the Revised Code, unless they are~~ 52402
~~internal management rules governing fiscal and administrative~~ 52403
~~matters. Internal governing financial and operational matters of~~ 52404
~~the department or matters between the department and county~~ 52405
~~departments of job and family services shall be adopted as~~ 52406
~~internal management rules may be adopted in accordance with~~ 52407
section 111.15 of the Revised Code. Rules governing eligibility 52408
for services, program participation, and other matters pertaining 52409
to applicants and participants shall be adopted in accordance with 52410
Chapter 119. of the Revised Code. 52411

Sec. 5101.461. (A) As used in this section: 52412

(1) "Title IV-A" means Title IV-A of the "Social Security 52413
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 52414

(2) "Title XX" has the same meaning as in section 5101.46 of 52415
the Revised Code. 52416

(B) To the extent authorized by federal law, the department 52417
of job and family services may use funds received through the 52418
Title IV-A temporary assistance for needy families block grant for 52419
purposes of providing Title XX social services. The amount used 52420
under this section shall not exceed the maximum amount permitted 52421
by federal law. The funds and provision of Title XX social 52422
services with the funds are not subject to section 5101.46 of the 52423
Revised Code. 52424

(C) The department and any county department of job and 52425
family services may require an entity under contract to provide 52426
Title XX social services with funds used under this section to 52427
submit to an audit on the basis of alleged misuse or improper 52428
accounting of funds. If an audit is required, the social services 52429
provider shall reimburse the state department or county department 52430
for the cost it incurred in conducting the audit or having the 52431
audit conducted. 52432

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the state department or county department the amount of the adverse findings. The amount shall not be reimbursed with funds received under this section. The state department and county departments may terminate or refuse to enter into a contract with a social services provider to provide services with funds available pursuant to this section if there are adverse findings in an audit that are the responsibility of the provider.

(D) The state department of job and family services may adopt rules to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5101.47. (A) The Except as provided in division (B) of this section, the director of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

(1) The medicaid program established by Chapter 5111. of the Revised Code;

(2) The children's health insurance program parts I and II provided for under sections 5101.50 and 5101.51 of the Revised Code;

(3) Publicly funded child care provided under Chapter 5104.

of the Revised Code; 52463

(4) The food stamp program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code; 52464
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(5) Other programs the director determines are supportive of children, adults, or families with at least one employed member; 52467
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(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities. 52469
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(B) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services. 52474
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(C) Subject to division (B) of this section, if the director elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply: 52479
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(1) An individual seeking services under the program may apply for the program to the director or to the entity that state law governing the program authorizes to accept applications for the program. 52484
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(2) The director is subject to federal statutes and regulations and state law statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program. 52488
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~~(C)~~(D) The director may adopt rules as necessary to implement this section. 52493
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Sec. 5101.80. (A) As used in this section and in section 5101.801 of the Revised Code: 52495
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(1) "County family services agency" has the same meaning as in section 307.981 of the Revised Code. 52497
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(2) "State agency" has the same meaning as in section 9.82 of the Revised Code. 52499
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(3) "Title IV-A administrative agency" means both of the following: 52501
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(a) A county family services agency or state agency administering a Title IV-A program under the supervision of the department of job and family services; 52503
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(b) A government agency or private, not-for-profit entity administering a project funded in whole or in part with funds provided under the Title IV-A demonstration program created under section 5101.803 of the Revised Code. 52506
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(4) "Title IV-A program" means all of the following that are funded in part with funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended: 52510
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(a) The Ohio works first program established under Chapter 5107. of the Revised Code; 52515
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(b) The prevention, retention, and contingency program established under Chapter 5108. of the Revised Code; 52517
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(c) A program established by the general assembly or an executive order issued by the governor that is administered or supervised by the department of job and family services pursuant 52519
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to section 5101.801 of the Revised Code; 52522

(d) The kinship permanency incentive program created under section 5101.802 of the Revised Code; 52523
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(e) The Title IV-A demonstration program created under section 5101.803 of the Revised Code; 52525
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(f) A component of a Title IV-A program identified under 52527
divisions (A)~~(3)~~(4)(a) to ~~(e)~~(e) of this section that the Title 52528
IV-A state plan prepared under division (C)(1) of this section 52529
identifies as a component. 52530

(B) The department of job and family services shall act as 52531
the single state agency to administer and supervise the 52532
administration of Title IV-A programs. The Title IV-A state plan 52533
and amendments to the plan prepared under division (C) of this 52534
section are binding on ~~county family services agencies and state~~ 52535
~~agencies that administer a Title IV-A program~~ administrative 52536
agencies. No ~~county family services agency or state agency~~ 52537
~~administering a Title IV-A program~~ administrative agency may 52538
establish, by rule or otherwise, a policy governing ~~the a~~ a Title 52539
IV-A program that is inconsistent with a Title IV-A program policy 52540
established, in rule or otherwise, by the director of job and 52541
family services. 52542

(C) The department of job and family services shall do all of 52543
the following: 52544

(1) Prepare and submit to the United States secretary of 52545
health and human services a Title IV-A state plan for Title IV-A 52546
programs; 52547

(2) Prepare and submit to the United States secretary of 52548
health and human services amendments to the Title IV-A state plan 52549
that the department determines necessary, including amendments 52550
necessary to implement Title IV-A programs identified in ~~division~~ 52551

divisions (A)~~(3)~~(4)(c) and ~~(d)~~ to (f) of this section; 52552

(3) Prescribe forms for applications, certificates, reports, 52553
records, and accounts of ~~county family services agencies and state~~ 52554
~~agencies administering a~~ Title IV-A program administrative 52555
agencies, and other matters related to Title IV-A programs; 52556

(4) Make such reports, in such form and containing such 52557
information as the department may find necessary to assure the 52558
correctness and verification of such reports, regarding Title IV-A 52559
programs; 52560

(5) Require reports and information from each ~~county family~~ 52561
~~services agency and state agency administering a~~ Title IV-A 52562
~~program administrative agency~~ as may be necessary or advisable 52563
regarding the a Title IV-A program; 52564

(6) Afford a fair hearing in accordance with section 5101.35 52565
of the Revised Code to any applicant for, or participant or former 52566
participant of, a Title IV-A program aggrieved by a decision 52567
regarding the program; 52568

(7) Administer and expend, pursuant to Chapters 5104., 5107., 52569
and 5108. of the Revised Code and ~~section~~ sections 5101.801, 52570
5101.802, and 5101.803 of the Revised Code, any sums appropriated 52571
by the general assembly for the purpose of those chapters and 52572
~~section~~ sections and all sums paid to the state by the secretary 52573
of the treasury of the United States as authorized by Title IV-A 52574
of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 52575
601, as amended; 52576

(8) Conduct investigations and audits as are necessary 52577
regarding Title IV-A programs; 52578

(9) Enter into reciprocal agreements with other states 52579
relative to the provision of Ohio works first and prevention, 52580
retention, and contingency to residents and nonresidents; 52581

(10) Contract with a private entity to conduct an independent on-going evaluation of the Ohio works first program and the prevention, retention, and contingency program. The contract must require the private entity to do all of the following:

(a) Examine issues of process, practice, impact, and outcomes;

(b) Study former participants of Ohio works first who have not participated in Ohio works first for at least one year to determine whether they are employed, the type of employment in which they are engaged, the amount of compensation they are receiving, whether their employer provides health insurance, whether and how often they have received benefits or services under the prevention, retention, and contingency program, and whether they are successfully self sufficient;

(c) Provide the department with reports at times the department specifies.

(11) Not later than January 1, 2001, and the first day of each January and July thereafter, prepare a report containing information on the following:

(a) Individuals exhausting the time limits for participation in Ohio works first set forth in section 5107.18 of the Revised Code.

(b) Individuals who have been exempted from the time limits set forth in section 5107.18 of the Revised Code and the reasons for the exemption.

~~(12) Not later than January 1, 2001, and on a quarterly basis thereafter until December 1, 2003, prepare, to the extent the necessary data is available to the department, a report based on information determined under section 5107.80 of the Revised Code that states how many former Ohio works first participants entered~~

~~the workforce during the most recent previous quarter for which
the information is known and includes information regarding the
earnings of those former participants. The report shall include a
county by county breakdown and shall not contain the names or
social security numbers of former participants.~~

~~(13) To the extent authorized by section 5101.801 of the
Revised Code, enter into interagency agreements with state
agencies for the administration of Title IV A programs identified
under division (A)(3)(c) and (d) of this section.~~

(D) The department shall provide copies of the reports it
receives under division (C)(10) of this section and prepares under
~~divisions~~ division (C)(11) and ~~(12)~~ of this section to the
governor, the president and minority leader of the senate, and the
speaker and minority leader of the house of representatives. The
department shall provide copies of the reports to any private or
government entity on request.

(E) An authorized representative of the department or a
county family services agency or state agency administering a
Title IV-A program shall have access to all records and
information bearing thereon for the purposes of investigations
conducted pursuant to this section. An authorized representative
of a government entity or private, not-for-profit entity
administering a project funded in whole or in part with funds
provided under the Title IV-A demonstration program shall have
access to all records and information bearing on the project for
the purpose of investigations conducted pursuant to this section.

Sec. 5101.801. (A) Except as otherwise provided by the law
enacted by the general assembly or executive order issued by the
governor establishing the Title IV-A program, a Title IV-A program
identified under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), or (f) of
section 5101.80 of the Revised Code shall provide benefits and

services that are not "assistance" as defined in 45 C.F.R. 52643
260.31(a) and are benefits and services that 45 C.F.R. 260.31(b) 52644
excludes from the definition of assistance. 52645

(B)(1) Except as otherwise provided by the law enacted by the 52646
general assembly or executive order issued by the governor 52647
establishing the Title IV-A program, the department of job and 52648
family services shall do either of the following regarding a Title 52649
IV-A program identified under division (A)~~(3)~~(4)(c) ~~or~~, (d), (e), 52650
or (f) of section 5101.80 of the Revised Code: 52651

~~(1)~~(a) Administer the program or supervise a county family 52652
services agency's administration of the program; 52653

~~(2)~~(b) Enter into an interagency agreement with a state 52654
agency for the state agency to administer the program under the 52655
department's supervision. 52656

(2) The department may enter into an agreement with a 52657
government entity and, to the extent permitted by federal law, a 52658
private, not-for-profit entity for the entity to receive funding 52659
for a project under the Title IV-A demonstration program. 52660

(C) ~~If the department administers or supervises the 52661
administration of a Title IV A program identified under division 52662
(A)(3)(c) or (d) of section 5101.80 of the Revised Code pursuant 52663
to division (B)(1) of this section, the The department may adopt 52664
rules governing ~~the program~~ Title IV-A programs identified under 52665
divisions (A)(4)(c), (d), (e), and (f) of section 5101.80 of the 52666
Revised Code. Rules governing financial and operational matters of 52667
the department or between the department and ~~the~~ county family 52668
services ~~agency~~ agencies shall be adopted as internal management 52669
rules adopted in accordance with section 111.15 of the Revised 52670
Code. All other rules shall be adopted in accordance with Chapter 52671
119. of the Revised Code. 52672~~

(D) If the department enters into an ~~interagency~~ agreement 52673

regarding a Title IV-A program identified under division 52674
(A)~~(3)~~(4)(c) ~~or (d)~~, (e), or (f) of section 5101.80 of the Revised 52675
Code pursuant to division (B)(1)(b) or (2) of this section, the 52676
agreement shall include at least all of the following: 52677

(1) A requirement that the state agency or entity comply with 52678
the requirements for the program or project, including all of the 52679
following requirements established by federal statutes and 52680
regulations, state statutes and rules, the United States office of 52681
management and budget, and the Title IV-A state plan prepared 52682
under section 5101.80 of the Revised Code: 52683

(a) Eligibility; 52684

(b) Reports; 52685

(c) Benefits and services; 52686

(d) Use of funds; 52687

(e) Appeals for applicants for, and recipients and former 52688
recipients of, the benefits and services; 52689

(f) Audits. 52690

(2) A complete description of all of the following: 52691

(a) The benefits and services that the program or project is 52692
to provide; 52693

(b) The methods of program or project administration; 52694

(c) The appeals process under section 5101.35 of the Revised 52695
Code for applicants for, and recipients and former recipients of, 52696
the ~~program's~~ program or project's benefits and services; 52697

(d) Other ~~program and administrative~~ requirements that the 52698
department requires be included. 52699

(3) Procedures for the department to approve a policy, 52700
established by rule or otherwise, that the state agency or entity 52701
establishes for the program or project before the policy is 52702

established; 52703

(4) Provisions regarding how the department is to reimburse 52704
the state agency or entity for allowable expenditures under the 52705
program or project that the department approves, including all of 52706
the following: 52707

(a) Limitations on administrative costs; 52708

(b) The department, at its discretion, ~~withholding doing~~ 52709
either of the following: 52710

(i) Withholding no more than five per cent of the funds that 52711
the department would otherwise provide to the state agency or 52712
entity for the program or ~~charging project;~~ 52713

(ii) Charging the state agency or entity for the costs to the 52714
department of performing, or contracting for the performance of, 52715
audits and other administrative functions associated with the 52716
program or project. 52717

(5) If the state agency or entity arranges by contract, 52718
grant, or other agreement for another entity to perform a function 52719
the state agency or entity would otherwise perform regarding the 52720
program or project, the state ~~agency's~~ agency or entity's 52721
responsibilities for both of the following: 52722

(a) Ensuring that the other entity complies with the 52723
~~interagency~~ agreement between the state agency or entity and 52724
department and federal statutes and regulations and state statutes 52725
and rules governing the use of funds for the program or project; 52726

(b) Auditing the other entity in accordance with requirements 52727
established by the United States office of management and budget. 52728

(6) The state ~~agency's~~ agency or entity's responsibilities 52729
regarding the prompt payment, including any interest assessed, of 52730
any adverse audit finding, final disallowance of federal funds, or 52731
other sanction or penalty imposed by the federal government, 52732

auditor of state, department, a court, or other entity regarding 52733
funds for the program or project; 52734

(7) Provisions for the department to terminate the 52735
~~interagency~~ agreement or withhold reimbursement from the state 52736
agency or entity if either of the following occur: 52737

(a) The federal government disapproves the program or project 52738
or reduces federal funds for the program or project; 52739

(b) The state agency or entity fails to comply with the terms 52740
of the ~~interagency~~ agreement. 52741

(8) Provisions for both of the following: 52742

(a) The department and state agency or entity determining the 52743
performance outcomes expected for the program or project; 52744

(b) An evaluation of the program or project to determine its 52745
success in achieving the performance outcomes determined under 52746
division (D)(8)(a) of this section. 52747

(E) To the extent consistent with the law enacted by the 52748
general assembly or executive order issued by the governor 52749
establishing the Title IV-A program and subject to the approval of 52750
the director of budget and management, the director of job and 52751
family services may terminate a Title IV-A program identified 52752
under division (A)~~(3)~~(4)(c) or, (d), (e), or (f) of section 52753
5101.80 of the Revised Code or reduce funding for the program if 52754
the director of job and family services determines that federal or 52755
state funds are insufficient to fund the program. If the director 52756
of budget and management approves the termination or reduction in 52757
funding for such a program, the director of job and family 52758
services shall issue instructions for the termination or funding 52759
reduction. If a ~~county family services agency or state~~ Title IV-A 52760
administrative agency is administering the program, the ~~county~~ 52761
~~family services agency or state~~ agency is bound by the termination 52762
or funding reduction and shall comply with the director's 52763

instructions. 52764

(F) The director of job and family services may adopt 52765
internal management rules in accordance with section 111.15 of the 52766
Revised Code as necessary to implement this section. The rules are 52767
binding on each ~~county family services agency and state agency~~ 52768
~~administering, pursuant to this section, a Title IV-A program~~ 52769
~~identified in division (A)(3)(c) or (d) of section 5101.80 of the~~ 52770
~~Revised Code~~ administrative agency. 52771

Sec. 5101.802. (A) As used in this section: 52772

(1) "Custodian," "guardian," and "minor child" have the same 52773
meanings as in section 5107.02 of the Revised Code. 52774

(2) "Federal poverty guidelines" has the same meaning as in 52775
section 5101.46 of the Revised Code. 52776

(3) "Kinship caregiver" has the same meaning as in section 52777
5101.85 of the Revised Code. 52778

(B) Subject to division (E) of section 5101.801 of the 52779
Revised Code, there is hereby created the kinship permanency 52780
incentive program to promote permanency for a minor child in the 52781
legal and physical custody of a kinship caregiver. The program 52782
shall provide an initial one-time incentive payment to the kinship 52783
caregiver to defray the costs of initial placement of the minor 52784
child in the kinship caregiver's home. The program may provide 52785
additional permanency incentive payments for the minor child at 52786
six month intervals for a total period not to exceed thirty-six 52787
months. 52788

(C) A kinship caregiver may participate in the program if all 52789
of the following requirements are met: 52790

(1) The kinship caregiver applies to a public children 52791
services agency in accordance with the application process 52792
established in rules authorized by division (E) of this section; 52793

(2) The minor child the kinship caregiver is caring for is a child with special needs as that term is defined in rules adopted under section 5153.163 of the Revised Code; 52794
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(3) A juvenile court has adjudicated the minor child to be an abused, neglected, dependent, or unruly child and determined that it is in the child's best interest to be in the legal custody of the kinship caregiver or the probate court has determined that it is in the child's best interest to be in the guardianship of the kinship caregiver; 52797
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(4) The kinship caregiver is either the minor child's custodian or guardian; 52803
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(5) The minor child resides with the kinship caregiver pursuant to a placement approval process established in rules authorized by division (E) of this section; 52805
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(6) The gross income of the kinship caregiver's family, including the minor child, does not exceed two hundred per cent of the federal poverty guidelines. 52808
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(D) Public children services agencies shall make initial and ongoing eligibility determinations for the kinship permanency incentive program in accordance with rules authorized by division (E) of this section. The director of job and family services shall supervise public children services agencies' duties under this section. 52811
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(E) The director of job and family services shall adopt rules under division (C) of section 5101.801 of the Revised Code as necessary to implement the kinship permanency incentive program. The rules shall establish all of the following: 52817
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(1) The application process for the program; 52821

(2) The placement approval process through which a minor child is placed with a kinship caregiver for the kinship caregiver 52822
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<u>to be eligible for the program;</u>	52824
<u>(3) The initial and ongoing eligibility determination process</u>	52825
<u>for the program;</u>	52826
<u>(4) The amount of the incentive payments provided under the</u>	52827
<u>program;</u>	52828
<u>(5) The method by which the incentive payments are provided</u>	52829
<u>to a kinship caregiver, which shall not require a public children</u>	52830
<u>services agency to seek reimbursement from the department of job</u>	52831
<u>and family services;</u>	52832
<u>(6) Anything else the director considers necessary to</u>	52833
<u>implement the program.</u>	52834
<u>(F) The director shall begin implementation of the kinship</u>	52835
<u>permanency incentive program no later than January 1, 2006.</u>	52836
<u>Sec. 5101.803.</u> (A) <u>Subject to division (E) of section</u>	52837
<u>5101.801 of the Revised Code, there is hereby created the Title</u>	52838
<u>IV-A demonstration program to provide funding for innovative and</u>	52839
<u>promising prevention and intervention projects that meet one or</u>	52840
<u>more of the four purposes of the temporary assistance for needy</u>	52841
<u>families block grant as specified in 42 U.S.C. 601 and are for</u>	52842
<u>individuals with specific and multiple barriers to achieving or</u>	52843
<u>maintaining self-sufficiency and personal responsibility. The</u>	52844
<u>department of job and family services may provide funding for such</u>	52845
<u>projects to government entities and, to the extent permitted by</u>	52846
<u>federal law, private, not-for-profit entities with which the</u>	52847
<u>department enters into agreements under division (B)(2) of section</u>	52848
<u>5101.801 of the Revised Code.</u>	52849
<u>In accordance with criteria the department develops, the</u>	52850
<u>department may solicit proposals for entities seeking to enter</u>	52851
<u>into an agreement with the department under division (B)(2) of</u>	52852
<u>section 5101.801 of the Revised Code. The department may enter</u>	52853

into such agreements with entities that do both of the following: 52854

(1) Meet the proposals' criteria; 52855

(2) If the entity's proposed project does not potentially 52856
affect persons in each county of the state, provides the 52857
department evidence that the entity has notified, in writing, the 52858
county department of job and family services of each county where 52859
persons may be affected by the implementation of the project. 52860

(B) In developing the criteria, soliciting the proposals, and 52861
entering in the agreements, the department shall comply with all 52862
applicable federal and state laws, the Title IV-A state plan 52863
submitted to the United States secretary of health and human 52864
services under section 5101.80 of the Revised Code, amendments to 52865
the Title IV-A state plan submitted to the United States secretary 52866
under that section, and federal waivers the United States 52867
secretary grants. 52868

(C) The department shall begin implementation of the Title 52869
IV-A demonstration program no later than January 1, 2006. 52870

Sec. 5101.821. Except as otherwise approved by the director 52871
of budget and management, the department of job and family 52872
services shall deposit federal funds received under Title IV-A of 52873
the "Social Security Act," 42 U.S.C.A. 601, 110 Stat. 2113 (1996), 52874
into the temporary assistance for needy families (TANF) federal 52875
fund, which is hereby created in the state treasury. The 52876
department shall use money in the fund for the Ohio works first 52877
program established under Chapter 5107. of the Revised Code; the 52878
prevention, retention, and contingency program established under 52879
Chapter 5108. of the Revised Code; social services provided 52880
pursuant to section 5101.461 of the Revised Code; and any other 52881
purposes consistent with Title IV-A, federal regulations, federal 52882
waivers granted by the United States secretary of health and human 52883

services, state law, the Title IV-A state plan and amendments 52884
submitted to the United States secretary of health and human 52885
services under section 5101.80 of the Revised Code, and rules 52886
adopted by the department under section 5107.05 of the Revised 52887
Code. 52888

Sec. 5101.93. The department of job and family services shall 52889
apply to the United States secretary of health and human services 52890
for a waiver of federal medicaid requirements if necessary to 52891
fulfill the requirements of section 1751.89 of the Revised Code. 52892

Sec. 5101.94. (A) The director of job and family services 52893
shall determine whether a waiver of federal medicaid requirements 52894
is necessary to fulfill the requirements of section 3901.3814 of 52895
the Revised Code. If the director determines a waiver is 52896
necessary, the department of job and family services shall apply 52897
to the United States secretary of health and human services for 52898
the waiver. 52899

(B)(1) If the director determines that section 3901.3814 of 52900
the Revised Code can be implemented without a waiver or a waiver 52901
is granted, the department shall notify the department of 52902
insurance that the section can be implemented. Implementation of 52903
the section shall be effective sixty days after the notice is 52904
sent. 52905

(2) At the time the notice is given under division (B)(1) of 52906
this section, the department shall also give notice to each health 52907
insuring corporation that provides coverage to medicaid 52908
recipients. The notice shall inform the corporation that sections 52909
3901.38 and 3901.381 to 3901.3814 of the Revised Code apply to 52910
claims for services rendered to recipients on the date determined 52911
under division (B)(1) of this section. That date shall be 52912
specified in the notice. 52913

Sec. 5104.01. As used in this chapter:	52914
(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.	52915 52916 52917
(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.	52918 52919
(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.	52920 52921 52922
(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care.	52923 52924 52925 52926
(E) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.	52927 52928 52929 52930 52931 52932 52933 52934
(F) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child care pursuant to this chapter and any rules adopted under it.	52935 52936 52937 52938 52939 52940
(G) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the	52941 52942 52943

Revised Code. 52944

(H) "Child" includes an infant, toddler, preschool child, or school child. 52945
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(I) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990), 42 U.S.C. 9858, as amended. 52947
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(J) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home. 52951
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(K) "Child care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home. 52965
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(L) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which 52971
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child care or publicly funded child care is provided for seven to
twelve children at one time. In counting children for the purposes
of this division, any children under six years of age who are
related to a licensee, administrator, or employee and who are on
the premises of the center shall be counted. "Child day-care
center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined
in section 3727.01 of the Revised Code, in which the needs of
children are administered to, if all the children whose needs are
being administered to are monitored under the on-site supervision
of a physician licensed under Chapter 4731. of the Revised Code or
a registered nurse licensed under Chapter 4723. of the Revised
Code, and the services are provided only for children who, in the
opinion of the child's parent, guardian, or custodian, are
exhibiting symptoms of a communicable disease or other illness or
are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded
child care, if all of the following apply:

(a) An organized religious body provides the child care;

(b) A parent, custodian, or guardian of at least one child
receiving child care is on the premises and readily accessible at
all times;

(c) The child care is not provided for more than thirty days
a year;

(d) The child care is provided only for preschool and school
children.

(M) "Child care resource and referral service organization"
means a community-based nonprofit organization that provides child
care resource and referral services but not child care.

(N) "Child care resource and referral services" means all of the following services:	53005 53006
(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;	53007 53008 53009
(2) Provision of individualized consumer education to families seeking child care;	53010 53011
(3) Provision of timely referrals of available child care providers to families seeking child care;	53012 53013
(4) Recruitment of child care providers;	53014
(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;	53015 53016 53017 53018
(6) Collection and analysis of data on the supply of and demand for child care in the community;	53019 53020
(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;	53021 53022 53023
(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;	53024 53025 53026
(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;	53027 53028
(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;	53029 53030 53031 53032
(11) Cooperation with the county department of job and family	53033

services in encouraging the establishment of parent cooperative
child care centers and parent cooperative type A family day-care
homes. 53034
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(O) "Child-care staff member" means an employee of a child
day-care center or type A family day-care home who is primarily
responsible for the care and supervision of children. The
administrator may be a part-time child-care staff member when not
involved in other duties. 53037
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(P) "Drop-in child day-care center," "drop-in center,"
"drop-in type A family day-care home," and "drop-in type A home"
mean a center or type A home that provides child care or publicly
funded child care for children on a temporary, irregular basis. 53042
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(Q) "Employee" means a person who either: 53046

(1) Receives compensation for duties performed in a child
day-care center or type A family day-care home; 53047
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(2) Is assigned specific working hours or duties in a child
day-care center or type A family day-care home. 53049
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(R) "Employer" means a person, firm, institution,
organization, or agency that operates a child day-care center or
type A family day-care home subject to licensure under this
chapter. 53051
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(S) "Federal poverty line" means the official poverty
guideline as revised annually in accordance with section 673(2) of
the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42
U.S.C. 9902, as amended, for a family size equal to the size of
the family of the person whose income is being determined. 53055
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(T) "Head start program" means a comprehensive child
development program that receives funds distributed under the
"Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as
amended, ~~or under sections 3301.31 to 3301.37 of the Revised Code~~ 53060
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and is licensed as a child day-care center. 53064

(U) "Income" means gross income, as defined in section 53065
5107.10 of the Revised Code, less any amounts required by federal 53066
statutes or regulations to be disregarded. 53067

(V) "Indicator checklist" means an inspection tool, used in 53068
conjunction with an instrument-based program monitoring 53069
information system, that contains selected licensing requirements 53070
that are statistically reliable indicators or predictors of a 53071
child day-care center or type A family day-care home's compliance 53072
with licensing requirements. 53073

(W) "Infant" means a child who is less than eighteen months 53074
of age. 53075

(X) "In-home aide" means a person certified by a county 53076
director of job and family services pursuant to section 5104.12 of 53077
the Revised Code to provide publicly funded child care to a child 53078
in a child's own home pursuant to this chapter and any rules 53079
adopted under it. 53080

(Y) "Instrument-based program monitoring information system" 53081
means a method to assess compliance with licensing requirements 53082
for child day-care centers and type A family day-care homes in 53083
which each licensing requirement is assigned a weight indicative 53084
of the relative importance of the requirement to the health, 53085
growth, and safety of the children that is used to develop an 53086
indicator checklist. 53087

(Z) "License capacity" means the maximum number in each age 53088
category of children who may be cared for in a child day-care 53089
center or type A family day-care home at one time as determined by 53090
the director of job and family services considering building 53091
occupancy limits established by the department of commerce, number 53092
of available child-care staff members, amount of available indoor 53093
floor space and outdoor play space, and amount of available play 53094

equipment, materials, and supplies. 53095

(AA) "Licensed preschool program" or "licensed school child 53096
program" means a preschool program or school child program, as 53097
defined in section 3301.52 of the Revised Code, that is licensed 53098
by the department of education pursuant to sections 3301.52 to 53099
3301.59 of the Revised Code. 53100

(BB) "Licensee" means the owner of a child day-care center or 53101
type A family day-care home that is licensed pursuant to this 53102
chapter and who is responsible for ensuring its compliance with 53103
this chapter and rules adopted pursuant to this chapter. 53104

(CC) "Operate a child day camp" means to operate, establish, 53105
manage, conduct, or maintain a child day camp. 53106

(DD) "Owner" includes a person, as defined in section 1.59 of 53107
the Revised Code, or government entity. 53108

(EE) "Parent cooperative child day-care center," "parent 53109
cooperative center," "parent cooperative type A family day-care 53110
home," and "parent cooperative type A home" mean a corporation or 53111
association organized for providing educational services to the 53112
children of members of the corporation or association, without 53113
gain to the corporation or association as an entity, in which the 53114
services of the corporation or association are provided only to 53115
children of the members of the corporation or association, 53116
ownership and control of the corporation or association rests 53117
solely with the members of the corporation or association, and at 53118
least one parent-member of the corporation or association is on 53119
the premises of the center or type A home during its hours of 53120
operation. 53121

(FF) "Part-time child day-care center," "part-time center," 53122
"part-time type A family day-care home," and "part-time type A 53123
home" mean a center or type A home that provides child care or 53124
publicly funded child care for no more than four hours a day for 53125

any child.	53126
(GG) "Place of worship" means a building where activities of	53127
an organized religious group are conducted and includes the	53128
grounds and any other buildings on the grounds used for such	53129
activities.	53130
(HH) "Preschool child" means a child who is three years old	53131
or older but is not a school child.	53132
(II) "Protective child care" means publicly funded child care	53133
for the direct care and protection of a child to whom either of	53134
the following applies:	53135
(1) A case plan prepared and maintained for the child	53136
pursuant to section 2151.412 of the Revised Code indicates a need	53137
for protective care and the child resides with a parent,	53138
stepparent, guardian, or another person who stands in loco	53139
parentis as defined in rules adopted under section 5104.38 of the	53140
Revised Code;	53141
(2) The child and the child's caretaker either temporarily	53142
reside in a facility providing emergency shelter for homeless	53143
families or are determined by the county department of job and	53144
family services to be homeless, and are otherwise ineligible for	53145
publicly funded child care.	53146
(JJ) "Publicly funded child care" means administering to the	53147
needs of infants, toddlers, preschool children, and school	53148
children under age thirteen during any part of the	53149
twenty-four-hour day by persons other than their caretaker parents	53150
for remuneration wholly or in part with federal or state funds,	53151
including funds available under the child care block grant act,	53152
Title IV-A, and Title XX, distributed by the department of job and	53153
family services.	53154
(KK) "Religious activities" means any of the following:	53155

worship or other religious services; religious instruction; Sunday 53156
school classes or other religious classes conducted during or 53157
prior to worship or other religious services; youth or adult 53158
fellowship activities; choir or other musical group practices or 53159
programs; meals; festivals; or meetings conducted by an organized 53160
religious group. 53161

(LL) "School child" means a child who is enrolled in or is 53162
eligible to be enrolled in a grade of kindergarten or above but is 53163
less than fifteen years old. 53164

(MM) "School child day-care center," "school child center," 53165
"school child type A family day-care home," and "school child type 53166
A family home" mean a center or type A home that provides child 53167
care for school children only and that does either or both of the 53168
following: 53169

(1) Operates only during that part of the day that 53170
immediately precedes or follows the public school day of the 53171
school district in which the center or type A home is located; 53172

(2) Operates only when the public schools in the school 53173
district in which the center or type A home is located are not 53174
open for instruction with pupils in attendance. 53175

(NN) "State median income" means the state median income 53176
calculated by the department of development pursuant to division 53177
(A)(1)(g) of section 5709.61 of the Revised Code. 53178

(OO) "Title IV-A" means Title IV-A of the "Social Security 53179
Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended. 53180

(PP) "Title XX" means Title XX of the "Social Security Act," 53181
88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended. 53182

(QQ) "Toddler" means a child who is at least eighteen months 53183
of age but less than three years of age. 53184

(RR) "Type A family day-care home" and "type A home" mean a 53185

permanent residence of the administrator in which child care or 53186
publicly funded child care is provided for seven to twelve 53187
children at one time or a permanent residence of the administrator 53188
in which child care is provided for four to twelve children at one 53189
time if four or more children at one time are under two years of 53190
age. In counting children for the purposes of this division, any 53191
children under six years of age who are related to a licensee, 53192
administrator, or employee and who are on the premises of the type 53193
A home shall be counted. "Type A family day-care home" does not 53194
include a residence in which the needs of children are 53195
administered to, if all of the children whose needs are being 53196
administered to are siblings of the same immediate family and the 53197
residence is the home of the siblings. "Type A family day-care 53198
home" and "type A home" do not include any child day camp. 53199

(SS) "Type B family day-care home" and "type B home" mean a 53200
permanent residence of the provider in which child care is 53201
provided for one to six children at one time and in which no more 53202
than three children are under two years of age at one time. In 53203
counting children for the purposes of this division, any children 53204
under six years of age who are related to the provider and who are 53205
on the premises of the type B home shall be counted. "Type B 53206
family day-care home" does not include a residence in which the 53207
needs of children are administered to, if all of the children 53208
whose needs are being administered to are siblings of the same 53209
immediate family and the residence is the home of the siblings. 53210
"Type B family day-care home" and "type B home" do not include any 53211
child day camp. 53212

Sec. 5104.02. (A) The director of job and family services is 53213
responsible for the licensing of child day-care centers and type A 53214
family day-care homes, ~~and~~. Each entity operating a head start 53215
program shall meet the criteria for, and be licensed as, a child 53216

day-care center. The director is responsible for the enforcement 53217
of this chapter and of rules promulgated pursuant to this chapter. 53218
~~No~~ 53219

No person, firm, organization, institution, or agency shall 53220
operate, establish, manage, conduct, or maintain a child day-care 53221
center or type A family day-care home without a license issued 53222
under section 5104.03 of the Revised Code. The current license 53223
shall be posted in a conspicuous place in the center or type A 53224
home that is accessible to parents, custodians, or guardians and 53225
employees of the center or type A home at all times when the 53226
center or type A home is in operation. 53227

(B) A person, firm, institution, organization, or agency 53228
operating any of the following programs is exempt from the 53229
requirements of this chapter: 53230

(1) A program of child care that operates for two or less 53231
consecutive weeks; 53232

(2) Child care in places of worship during religious 53233
activities during which children are cared for while at least one 53234
parent, guardian, or custodian of each child is participating in 53235
such activities and is readily available; 53236

(3) Religious activities which do not provide child care; 53237

(4) Supervised training, instruction, or activities of 53238
children in specific areas, including, but not limited to: art; 53239
drama; dance; music; gymnastics, swimming, or another athletic 53240
skill or sport; computers; or an educational subject conducted on 53241
an organized or periodic basis no more than one day a week and for 53242
no more than six hours duration; 53243

(5) Programs in which the director determines that at least 53244
one parent, custodian, or guardian of each child is on the 53245
premises of the facility offering child care and is readily 53246
accessible at all times, except that child care provided on the 53247

premises at which a parent, custodian, or guardian is employed 53248
more than two and one-half hours a day shall be licensed in 53249
accordance with division (A) of this section; 53250

(6)(a) Programs that provide child care funded and regulated 53251
or operated and regulated by state departments other than the 53252
department of job and family services or the state board of 53253
education when the director of job and family services has 53254
determined that the rules governing the program are equivalent to 53255
or exceed the rules promulgated pursuant to this chapter. 53256

Notwithstanding any exemption from regulation under this 53257
chapter, each state department shall submit to the director of job 53258
and family services a copy of the rules that govern programs that 53259
provide child care and are regulated or operated and regulated by 53260
the department. Annually, each state department shall submit to 53261
the director a report for each such program it regulates or 53262
operates and regulates that includes the following information: 53263

(i) The site location of the program; 53264

(ii) The maximum number of infants, toddlers, preschool 53265
children, or school children served by the program at one time; 53266

(iii) The number of adults providing child care for the 53267
number of infants, toddlers, preschool children, or school 53268
children; 53269

(iv) Any changes in the rules made subsequent to the time 53270
when the rules were initially submitted to the director. 53271

The director shall maintain a record of the child care 53272
information submitted by other state departments and shall provide 53273
this information upon request to the general assembly or the 53274
public. 53275

(b) Child care programs conducted by boards of education or 53276
by chartered nonpublic schools that are conducted in school 53277

buildings and that provide child care to school children only 53278
shall be exempt from meeting or exceeding rules promulgated 53279
pursuant to this chapter. 53280

(7) Any preschool program or school child program, except a 53281
head start program, that is subject to licensure by the department 53282
of education under sections 3301.52 to 3301.59 of the Revised 53283
Code. 53284

(8) Any program providing child care that meets all of the 53285
following requirements and, on October 20, 1987, was being 53286
operated by a nonpublic school that holds a charter issued by the 53287
state board of education for kindergarten only: 53288

(a) The nonpublic school has given the notice to the state 53289
board and the director of job and family services required by 53290
Section 4 of Substitute House Bill No. 253 of the 117th general 53291
assembly; 53292

(b) The nonpublic school continues to be chartered by the 53293
state board for kindergarten, or receives and continues to hold a 53294
charter from the state board for kindergarten through grade five; 53295

(c) The program is conducted in a school building; 53296

(d) The program is operated in accordance with rules 53297
promulgated by the state board under sections 3301.52 to 3301.57 53298
of the Revised Code. 53299

(9) A youth development program operated outside of school 53300
hours by a community-based center to which all of the following 53301
apply: 53302

(a) The children enrolled in the program are under nineteen 53303
years of age and enrolled in or eligible to be enrolled in a grade 53304
of kindergarten or above. 53305

(b) The program provides informal child care and at least two 53306
of the following supervised activities: educational, recreational, 53307

culturally enriching, social, and personal development activities. 53308

(c) The state board of education has approved the program's 53309
participation in the child and adult care food program as an 53310
outside-school-hours care center pursuant to standards established 53311
under section 3313.813 of the Revised Code. 53312

(d) The community-based center operating the program is 53313
exempt from federal income taxation pursuant to 26 U.S.C. 501(a) 53314
and (c)(3). 53315

Sec. 5104.30. (A) The department of job and family services 53316
is hereby designated as the state agency responsible for 53317
administration and coordination of federal and state funding for 53318
publicly funded child care in this state. Publicly funded child 53319
care shall be provided to the following: 53320

(1) Recipients of transitional child care as provided under 53321
section 5104.34 of the Revised Code; 53322

(2) Participants in the Ohio works first program established 53323
under Chapter 5107. of the Revised Code; 53324

(3) Individuals who would be participating in the Ohio works 53325
first program if not for a sanction under section 5107.16 of the 53326
Revised Code and who continue to participate in a work activity, 53327
developmental activity, or alternative work activity pursuant to 53328
an assignment under section 5107.42 of the Revised Code; 53329

(4) A family receiving publicly funded child care on October 53330
1, 1997, until the family's income reaches one hundred fifty per 53331
cent of the federal poverty line; 53332

(5) Subject to available funds, other individuals determined 53333
eligible in accordance with rules adopted under section 5104.38 of 53334
the Revised Code. 53335

The department shall apply to the United States department of 53336

health and human services for authority to operate a coordinated 53337
program for publicly funded child care, if the director of job and 53338
family services determines that the application is necessary. For 53339
purposes of this section, the department of job and family 53340
services may enter into agreements with other state agencies that 53341
are involved in regulation or funding of child care. The 53342
department shall consider the special needs of migrant workers 53343
when it administers and coordinates publicly funded child care and 53344
shall develop appropriate procedures for accommodating the needs 53345
of migrant workers for publicly funded child care. 53346

(B) The department of job and family services shall 53347
distribute state and federal funds for publicly funded child care, 53348
including appropriations of state funds for publicly funded child 53349
care and appropriations of federal funds available under the child 53350
care block grant act, Title IV-A, and Title XX. The department may 53351
use any state funds appropriated for publicly funded child care as 53352
the state share required to match any federal funds appropriated 53353
for publicly funded child care. 53354

(C) In the use of federal funds available under the child 53355
care block grant act, all of the following apply: 53356

(1) The department may use the federal funds to hire staff to 53357
prepare any rules required under this chapter and to administer 53358
and coordinate federal and state funding for publicly funded child 53359
care. 53360

(2) Not more than five per cent of the aggregate amount of 53361
the federal funds received for a fiscal year may be expended for 53362
administrative costs. 53363

(3) The department shall allocate and use at least four per 53364
cent of the federal funds for the following: 53365

(a) Activities designed to provide comprehensive consumer 53366
education to parents and the public; 53367

(b) Activities that increase parental choice; 53368

(c) Activities, including child care resource and referral 53369
services, designed to improve the quality, and increase the 53370
supply, of child care. 53371

(4) The department shall ensure that the federal funds will 53372
be used only to supplement, and will not be used to supplant, 53373
federal, state, and local funds available on the effective date of 53374
the child care block grant act for publicly funded child care and 53375
related programs. A county department of job and family services 53376
may purchase child care from funds obtained through any other 53377
means. 53378

(D) The department shall encourage the development of 53379
suitable child care throughout the state, especially in areas with 53380
high concentrations of recipients of public assistance and 53381
families with low incomes. The department shall encourage the 53382
development of suitable child care designed to accommodate the 53383
special needs of migrant workers. On request, the department, 53384
through its employees or contracts with state or community child 53385
care resource and referral service organizations, shall provide 53386
consultation to groups and individuals interested in developing 53387
child care. The department of job and family services may enter 53388
into interagency agreements with the department of education, the 53389
board of regents, the department of development, and other state 53390
agencies and entities whenever the cooperative efforts of the 53391
other state agencies and entities are necessary for the department 53392
of job and family services to fulfill its duties and 53393
responsibilities under this chapter. 53394

The department shall develop and maintain a registry of 53395
persons providing child care. The director shall adopt rules 53396
pursuant to Chapter 119. of the Revised Code establishing 53397
procedures and requirements for the registry's administration. 53398

(E)(1) The director shall adopt rules in accordance with 53399
Chapter 119. of the Revised Code establishing both of the 53400
following: 53401

(a) Reimbursement ceilings for providers of publicly funded 53402
child care shall be amounts that are not less than sixty-five per 53403
cent of the market's usual and customary cost to the public based 53404
on the most recently conducted market rate survey required by 45 53405
C.F.R. 98.16; 53406

(b) A procedure for reimbursing and paying providers of 53407
publicly funded child care. 53408

(2) In establishing reimbursement ceilings under division 53409
(E)(1)(a) of this section, the director shall do all of the 53410
following: 53411

(a) Use the information obtained under division (B)(3) of 53412
section 5104.04 of the Revised Code; 53413

(b) Establish an enhanced reimbursement ceiling for providers 53414
who provide child care for caretaker parents who work 53415
nontraditional hours; 53416

(c) For a type B family day-care home provider that has 53417
received limited certification pursuant to rules adopted under 53418
division (G)(1) of section 5104.011 of the Revised Code, establish 53419
a reimbursement ceiling that is the following: 53420

(i) If the provider is a person described in division 53421
(G)(1)(a) of section 5104.011 of the Revised Code, seventy-five 53422
per cent of the reimbursement ceiling that applies to a type B 53423
family day-care home certified by the same county department of 53424
job and family services pursuant to section 5104.11 of the Revised 53425
Code; 53426

(ii) If the provider is a person described in division 53427
(G)(1)(b) of section 5104.011 of the Revised Code, sixty per cent 53428

of the reimbursement ceiling that applies to a type B family 53429
day-care home certified by the same county department pursuant to 53430
section 5104.11 of the Revised Code. 53431

(3) In establishing reimbursement ceilings under division 53432
(E)(1)(a) of this section, the director may establish different 53433
reimbursement ceilings based on any of the following: 53434

(a) Geographic location of the provider; 53435

(b) Type of care provided; 53436

(c) Age of the child served; 53437

(d) Special needs of the child served; 53438

(e) Whether the expanded hours of service are provided; 53439

(f) Whether weekend service is provided; 53440

(g) Whether the provider has exceeded the minimum 53441
requirements of state statutes and rules governing child care; 53442

(h) Any other factors the director considers appropriate. 53443

Sec. 5104.32. (A) Except as provided in division (C) of this 53444
section, all purchases of publicly funded child care shall be made 53445
under a contract entered into by a licensed child day-care center, 53446
licensed type A family day-care home, certified type B family 53447
day-care home, certified in-home aide, approved child day camp, 53448
licensed preschool program, licensed school child program, or 53449
border state child care provider and the county department of job 53450
and family services. A county department of job and family 53451
services may enter into a contract with a provider for publicly 53452
funded child care for a specified period of time or upon a 53453
continuous basis for an unspecified period of time. All contracts 53454
for publicly funded child care shall be contingent upon the 53455
availability of state and federal funds. The department of job and 53456
family services shall prescribe a standard form to be used for all 53457

contracts for the purchase of publicly funded child care, 53458
regardless of the source of public funds used to purchase the 53459
child care. To the extent permitted by federal law and 53460
notwithstanding any other provision of the Revised Code that 53461
regulates state or county contracts or contracts involving the 53462
expenditure of state, county, or federal funds, all contracts for 53463
publicly funded child care shall be entered into in accordance 53464
with the provisions of this chapter and are exempt from any other 53465
provision of the Revised Code that regulates state or county 53466
contracts or contracts involving the expenditure of state, county, 53467
or federal funds. 53468

(B) Each contract for publicly funded childcare shall 53469
specify at least the following: 53470

(1) That the provider of publicly funded child care agrees to 53471
be paid for rendering services at the lowest of the rate 53472
customarily charged by the provider for children enrolled for 53473
child care, the reimbursement ceiling or rate of payment 53474
established pursuant to section 5104.30 of the Revised Code, or a 53475
rate the county department negotiates with the provider; 53476

(2) That, if a provider provides child care to an individual 53477
potentially eligible for publicly funded child care who is 53478
subsequently determined to be eligible, the county department 53479
agrees to pay for all child care provided between the date the 53480
county department receives the individual's completed application 53481
and the date the individual's eligibility is determined; 53482

(3) Whether the county department of job and family services, 53483
the provider, or a child care resource and referral service 53484
organization will make eligibility determinations, whether the 53485
provider or a child care resource and referral service 53486
organization will be required to collect information to be used by 53487
the county department to make eligibility determinations, and the 53488
time period within which the provider or child care resource and 53489

referral service organization is required to complete required 53490
eligibility determinations or to transmit to the county department 53491
any information collected for the purpose of making eligibility 53492
determinations; 53493

(4) That the provider, other than a border state child care 53494
provider ~~or except as provided in division (B) of section 3301.37~~ 53495
~~of the Revised Code~~, shall continue to be licensed, approved, or 53496
certified pursuant to this chapter and shall comply with all 53497
standards and other requirements in this chapter and in rules 53498
adopted pursuant to this chapter for maintaining the provider's 53499
license, approval, or certification; 53500

(5) That, in the case of a border state child care provider, 53501
the provider shall continue to be licensed, certified, or 53502
otherwise approved by the state in which the provider is located 53503
and shall comply with all standards and other requirements 53504
established by that state for maintaining the provider's license, 53505
certificate, or other approval; 53506

(6) Whether the provider will be paid by the county 53507
department of job and family services or the state department of 53508
job and family services; 53509

(7) That the contract is subject to the availability of state 53510
and federal funds. 53511

(C) Unless specifically prohibited by federal law, the county 53512
department of job and family services shall give individuals 53513
eligible for publicly funded child care the option of obtaining 53514
certificates for payment that the individual may use to purchase 53515
services from any provider qualified to provide publicly funded 53516
child care under section 5104.31 of the Revised Code. Providers of 53517
publicly funded child care may present these certificates for 53518
payment for reimbursement in accordance with rules that the 53519
director of job and family services shall adopt. Only providers 53520

may receive reimbursement for certificates for payment. The value 53521
of the certificate for payment shall be based on the lowest of the 53522
rate customarily charged by the provider, the reimbursement 53523
ceiling or rate of payment established pursuant to section 5104.30 53524
of the Revised Code, or a rate the county department negotiates 53525
with the provider. The county department may provide the 53526
certificates for payment to the individuals or may contract with 53527
child care providers or child care resource and referral service 53528
organizations that make determinations of eligibility for publicly 53529
funded child care pursuant to contracts entered into under section 53530
5104.34 of the Revised Code for the providers or resource and 53531
referral service organizations to provide the certificates for 53532
payment to individuals whom they determine are eligible for 53533
publicly funded child care. 53534

For each six-month period a provider of publicly funded child 53535
care provides publicly funded child day-care to the child of an 53536
individual given certificates for payment, the individual shall 53537
provide the provider certificates for days the provider would have 53538
provided publicly funded child care to the child had the child 53539
been present. County departments shall specify the maximum number 53540
of days providers will be provided certificates of payment for 53541
days the provider would have provided publicly funded child care 53542
had the child been present. The maximum number of days shall not 53543
exceed ten days in a six-month period during which publicly funded 53544
child care is provided to the child regardless of the number of 53545
providers that provide publicly funded child care to the child 53546
during that period. 53547

Sec. 5104.38. In addition to any other rules adopted under 53548
this chapter, the director of job and family services shall adopt 53549
rules in accordance with Chapter 119. of the Revised Code 53550
governing financial and administrative requirements for publicly 53551

funded child care and establishing all of the following: 53552

(A) Procedures and criteria to be used in making 53553
determinations of eligibility for publicly funded child care that 53554
give priority to children of families with lower incomes and 53555
procedures and criteria for eligibility for publicly funded 53556
protective child care. The rules shall specify the maximum amount 53557
of income a family may have for initial and continued eligibility. 53558
The maximum amount shall not exceed two hundred per cent of the 53559
federal poverty line. 53560

(B) Procedures under which a county department of job and 53561
family services may, if the department, under division (A) of this 53562
section, specifies a maximum amount of income a family may have 53563
for eligibility for publicly funded child care that is less than 53564
the maximum amount specified in that division, specify a maximum 53565
amount of income a family residing in the county the county 53566
department serves may have for initial and continued eligibility 53567
for publicly funded child care that is higher than the amount 53568
specified by the department but does not exceed the maximum amount 53569
specified in division (A) of this section; 53570

(C) A schedule of fees requiring all eligible caretaker 53571
parents to pay a fee for publicly funded child care according to 53572
income and family size, which shall be uniform for all types of 53573
publicly funded child care, except as authorized by rule, and, to 53574
the extent permitted by federal law, shall permit the use of state 53575
and federal funds to pay the customary deposits and other advance 53576
payments that a provider charges all children who receive child 53577
care from that provider. The schedule of fees ~~may not provide for~~ 53578
~~a caretaker parent to pay a fee that exceeds ten per cent of the~~ 53579
~~parent's family income~~ shall be calculated as permitted by federal 53580
law. 53581

(D) A formula based upon a percentage of the county's total 53582
expenditures for publicly funded child care for determining the 53583

maximum amount of state and federal funds appropriated for	53584
publicly funded child care that a county department may use for	53585
administrative purposes;	53586
(E) Procedures to be followed by the department and county	53587
departments in recruiting individuals and groups to become	53588
providers of child care;	53589
(F) Procedures to be followed in establishing state or local	53590
programs designed to assist individuals who are eligible for	53591
publicly funded child care in identifying the resources available	53592
to them and to refer the individuals to appropriate sources to	53593
obtain child care;	53594
(G) Procedures to deal with fraud and abuse committed by	53595
either recipients or providers of publicly funded child care;	53596
(H) Procedures for establishing a child care grant or loan	53597
program in accordance with the child care block grant act;	53598
(I) Standards and procedures for applicants to apply for	53599
grants and loans, and for the department to make grants and loans;	53600
(J) A definition of "person who stands in loco parentis" for	53601
the purposes of division (II)(1) of section 5104.01 of the Revised	53602
Code;	53603
(K) Procedures for a county department of job and family	53604
services to follow in making eligibility determinations and	53605
redeterminations for publicly funded child care available through	53606
telephone, computer, and other means at locations other than the	53607
county department;	53608
(L) Any other rules necessary to carry out sections 5104.30	53609
to 5104.39 of the Revised Code.	53610
Sec. 5107.05. The director of job and family services shall	53611
adopt rules to implement this chapter. The rules shall be	53612

consistent with Title IV-A, Title IV-D, federal regulations, state 53613
law, the Title IV-A state plan submitted to the United States 53614
secretary of health and human services under section 5101.80 of 53615
the Revised Code, amendments to the plan, and waivers granted by 53616
the United States secretary. Rules governing eligibility, program 53617
participation, and other applicant and participant requirements 53618
shall be adopted in accordance with Chapter 119. of the Revised 53619
Code. Rules governing financial and other administrative 53620
requirements applicable to the department of job and family 53621
services and county departments of job and family services shall 53622
be adopted in accordance with section 111.15 of the Revised Code. 53623

(A) The rules shall specify, establish, or govern all of the 53624
following: 53625

(1) A payment standard for Ohio works first based on federal 53626
and state appropriations; 53627

(2) The method of determining the amount of cash assistance 53628
an assistance group receives under Ohio works first; 53629

(3) Requirements for initial and continued eligibility for 53630
Ohio works first, including requirements regarding income, 53631
citizenship, age, residence, and assistance group composition. The 53632
rules regarding income shall specify what is countable income, 53633
gross earned income, and gross unearned income for the purpose of 53634
section 5107.10 of the Revised Code. 53635

(4) For the purpose of section 5107.12 of the Revised Code, 53636
application and verification procedures, including the minimum 53637
information an application must contain; 53638

(5) The extent to which a participant of Ohio works first 53639
must notify, pursuant to section 5107.12 of the Revised Code, a 53640
county department of job and family services of additional income 53641
not previously reported to the county department; 53642

(6) The department of job and family services providing 53643

written notice of a sanction under section 5107.161 of the Revised Code; 53644
53645

(7) Requirements for the collection and distribution of support payments owed participants of Ohio works first pursuant to section 5107.20 of the Revised Code; 53646
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(8) For the purpose of section 5107.22 of the Revised Code, what constitutes cooperating in establishing a minor child's paternity or establishing, modifying, or enforcing a child support order and good cause for failure or refusal to cooperate. The rule shall be consistent with 42 U.S.C.A. 654(29). 53649
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(9) The administration of requirements governing the LEAP program provided for under section 5107.30 of the Revised Code, including the definitions of "equivalent of a high school diploma" and "good cause," and the incentives provided under the LEAP program; 53654
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(10) If the director implements section 5107.301 of the Revised Code, the requirements governing the award provided under that section, including the form that the award is to take and requirements an individual must satisfy to receive the award; 53659
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(11) Circumstances under which a county department of job and family services may exempt a minor head of household or adult from participating in a work activity or developmental activity for all or some of the weekly hours otherwise required by section 5107.43 of the Revised Code. Circumstances shall include that a school or place of work is closed due to a holiday or weather or other emergency and that an employer grants the minor head of household or adult leave for illness or earned vacation. 53663
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~~(11)~~(12) The maximum amount of time the department will subsidize positions created by state agencies and political subdivisions under division (C) of section 5107.52 of the Revised Code. 53671
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(B) The rules may provide that a county department of job and family services is not required to take action under section 5107.76 of the Revised Code to recover an erroneous payment that is below an amount the department specifies.

Sec. 5107.10. (A) As used in this section:

(1) "Countable income," "gross earned income," and "gross unearned income" have the meanings established in rules adopted under section 5107.05 of the Revised Code.

(2) "Federal poverty guidelines" has the same meaning as in section 5101.46 of the Revised Code, except that references to a person's family in the definition shall be deemed to be references to the person's assistance group.

(3) "Gross income" means gross earned income and gross unearned income.

~~(3)~~(4) "Initial eligibility threshold" means the higher of the following:

(a) Fifty per cent of the federal poverty guidelines;

(b) The gross income maximum for initial eligibility for Ohio works first as that maximum was set by division (D)(1)(a) of this section on the day before the effective date of this amendment.

(5) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(B) Under the Ohio works first program, an assistance group shall receive, except as otherwise provided by this chapter, time-limited cash assistance. In the case of an assistance group that includes a minor head of household or adult, assistance shall be provided in accordance with the self-sufficiency contract entered into under section 5107.14 of the Revised Code.

(C) To be eligible to participate in Ohio works first, an assistance group must meet all of the following requirements:

(1) The assistance group, except as provided in division (E) of this section, must include at least one of the following:

(a) A minor child who, except as provided in section 5107.24 of the Revised Code, resides with a parent, or specified relative caring for the child, or, to the extent permitted by Title IV-A and federal regulations adopted until Title IV-A, resides with a guardian or custodian caring for the child;

(b) A parent residing with and caring for the parent's minor child who receives supplemental security income under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C.A. 1383, as amended, or federal, state, or local adoption assistance;

(c) A specified relative residing with and caring for a minor child who is related to the specified relative in a manner that makes the specified relative a specified relative and receives supplemental security income or federal, state, or local foster care or adoption assistance;

(d) A woman at least six months pregnant.

(2) The assistance group must meet the income requirements established by division (D) of this section.

(3) No member of the assistance group may be involved in a strike.

(4) The assistance group must satisfy the requirements for

Ohio works first established by this chapter and sections 5101.58, 53734
5101.59, and 5101.83 of the Revised Code. 53735

(5) The assistance group must meet requirements for Ohio 53736
works first established by rules adopted under section 5107.05 of 53737
the Revised Code. 53738

(D)(1) Except as provided in division (D)~~(3)~~(4) of this 53739
section, to determine whether an assistance group is initially 53740
eligible to participate in Ohio works first, a county department 53741
of job and family services shall do the following: 53742

(a) Determine whether the assistance group's gross income 53743
exceeds the ~~following amount:~~ 53744

Size of Assistance Group	Gross Income	53745
1	\$423	53746
2	\$537	53747
3	\$630	53748
4	\$750	53749
5	\$858	53750
6	\$942	53751
7	\$1,038	53752
8	\$1,139	53753
9	\$1,241	53754
10	\$1,343	53755
11	\$1,440	53756
12	\$1,542	53757
13	\$1,643	53758
14	\$1,742	53759
15	\$1,844	53760

~~For each person in the assistance group that brings the 53761
assistance group to more than fifteen persons, add one hundred two 53762
dollars to the amount of gross income for an assistance group of 53763
fifteen specified in division (D)(1)(a) of this section. 53764~~

~~In~~ initial eligibility threshold. In making this 53765
determination, the county department shall disregard amounts that 53766
federal statutes or regulations and sections 5101.17 and 5117.10 53767
of the Revised Code require be disregarded. The assistance group 53768
is ineligible to participate in Ohio works first if the assistance 53769
group's gross income, less the amounts disregarded, exceeds the 53770
~~amount specified in division (D)(1)(a) of this section~~ initial 53771
eligibility threshold. 53772

(b) If the assistance group's gross income, less the amounts 53773
disregarded pursuant to division (D)(1)(a) of this section, does 53774
not exceed the ~~amount specified in that division~~ initial 53775
eligibility threshold, determine whether the assistance group's 53776
countable income is less than the payment standard. The assistance 53777
group is ineligible to participate in Ohio works first if the 53778
assistance group's countable income equals or exceeds the payment 53779
standard. 53780

(2) For the purpose of determining whether an assistance 53781
group meets the income requirement established by division 53782
(D)(1)(a) of this section, the annual revision that the United 53783
States department of health and human services makes to the 53784
federal poverty guidelines shall go into effect on the first day 53785
of July of the year for which the revision is made. 53786

(3) To determine whether an assistance group participating in 53787
Ohio works first continues to be eligible to participate, a county 53788
department of job and family services shall determine whether the 53789
assistance group's countable income continues to be less than the 53790
payment standard. In making this determination, the county 53791
department shall disregard the first two hundred fifty dollars and 53792
fifty per cent of the remainder of the assistance group's gross 53793
earned income. No amounts shall be disregarded from the assistance 53794
group's gross unearned income. The assistance group ceases to be 53795
eligible to participate in Ohio works first if its countable 53796

income, less the amounts disregarded, equals or exceeds the 53797
payment standard. 53798

~~(3)~~(4) If an assistance group reapplies to participate in 53799
Ohio works first not more than four months after ceasing to 53800
participate, a county department of job and family services shall 53801
use the income requirement established by division (D)~~(2)~~(3) of 53802
this section to determine eligibility for resumed participation 53803
rather than the income requirement established by division (D)(1) 53804
of this section. 53805

(E)(1) An assistance group may continue to participate in 53806
Ohio works first even though a public children services agency 53807
removes the assistance group's minor children from the assistance 53808
group's home due to abuse, neglect, or dependency if the agency 53809
does both of the following: 53810

(a) Notifies the county department of job and family services 53811
at the time the agency removes the children that it believes the 53812
children will be able to return to the assistance group within six 53813
months; 53814

(b) Informs the county department at the end of each of the 53815
first five months after the agency removes the children that the 53816
parent, guardian, custodian, or specified relative of the children 53817
is cooperating with the case plans prepared for the children under 53818
section 2151.412 of the Revised Code and that the agency is making 53819
reasonable efforts to return the children to the assistance group. 53820

(2) An assistance group may continue to participate in Ohio 53821
works first pursuant to division (E)(1) of this section for not 53822
more than six payment months. This division does not affect the 53823
eligibility of an assistance group that includes a woman at least 53824
six months pregnant. 53825

Sec. 5107.26. (A) As used in this section: 53826

(1) "Transitional child care" means publicly funded child care provided under division (A)(3) of section 5104.34 of the Revised Code.

(2) "Transitional medicaid" means the medical assistance provided under section ~~5111.023~~ 5111.0115 of the Revised Code.

(B) Except as provided in division (C) of this section, each member of an assistance group participating in Ohio works first is ineligible to participate in the program for six payment months if a county department of job and family services determines that a member of the assistance group terminated the member's employment and each person who, on the day prior to the day a recipient begins to receive transitional child care or transitional medicaid, was a member of the recipient's assistance group is ineligible to participate in Ohio works first for six payment months if a county department determines that the recipient terminated the recipient's employment.

(C) No assistance group member shall lose or be denied eligibility to participate in Ohio works first pursuant to division (B) of this section if the termination of employment was because an assistance group member or recipient of transitional child care or transitional medicaid secured comparable or better employment or the county department of job and family services certifies that the member or recipient terminated the employment with just cause.

Just cause includes the following:

(1) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, or national origin;

(2) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(3) Employment that has become unsuitable due to any of the following:	53857 53858
(a) The wage is less than the federal minimum wage;	53859
(b) The work is at a site subject to a strike or lockout, unless the strike has been enjoined under section 208 of the "Labor-Management Relations Act," 61 Stat. 155 (1947), 29 U.S.C.A. 178, as amended, an injunction has been issued under section 10 of the "Railway Labor Act," 44 Stat. 586 (1926), 45 U.S.C.A. 160, as amended, or an injunction has been issued under section 4117.16 of the Revised Code;	53860 53861 53862 53863 53864 53865 53866
(c) The documented degree of risk to the member or recipient's health and safety is unreasonable;	53867 53868
(d) The member or recipient is physically or mentally unfit to perform the employment, as documented by medical evidence or by reliable information from other sources.	53869 53870 53871
(4) Documented illness of the member or recipient or of another assistance group member of the member or recipient requiring the presence of the member or recipient;	53872 53873 53874
(5) A documented household emergency;	53875
(6) Lack of adequate child care for children of the member or recipient who are under six years of age.	53876 53877
Sec. 5107.30. (A) As used in this section:	53878
(1) <u>"Equivalent of a high school diploma" and "good cause" have the meanings established in rules adopted under section 5107.05 of the Revised Code.</u>	53879 53880 53881
(2) <u>"LEAP program"</u> means the learning, earning, and parenting program.	53882 53883
(2) "Teen" (3) <u>"Participating teen"</u> means <u>an individual to whom all of the following apply:</u>	53884 53885

(a) The individual is a participant of Ohio works first who; 53886

(b) The individual is under age eighteen or is age eighteen 53887
and in school and is a natural or adoptive parent or is pregnant; 53888

(c) The individual is subject to the LEAP program's 53889
requirements. 53890

~~(3)~~(4) "School" means an educational program that is designed 53891
to lead to the attainment of a high school diploma or the 53892
equivalent of a high school diploma. 53893

(B) The director of job and family services may ~~adopt rules~~ 53894
~~under section 5107.05 of the Revised Code, to the extent that such~~ 53895
~~rules are consistent with federal law, to do all of the following:~~ 53896

~~(1) Define "good cause" and "the equivalent of a high school~~ 53897
~~diploma" for the purposes of this section;~~ 53898

~~(2) Conduct~~ conduct a program titled the "LEAP program" ~~and~~ 53899
~~establish requirements governing the program in accordance with~~ 53900
rules adopted under section 5107.05 of the Revised Code. The 53901
purpose of the LEAP program is to encourage teens to complete 53902
school. 53903

~~(3) Require every~~ Every participating teen ~~who is subject to~~ 53904
~~LEAP program requirements to~~ shall attend school in accordance 53905
with the requirements governing the LEAP program unless the 53906
participating teen shows good cause for not attending school. The 53907
department shall provide, in addition to the cash assistance 53908
payment provided under Ohio works first, an incentive payment, in 53909
an amount determined by the department, to every participating 53910
teen ~~who is participating in the LEAP program and~~ attends school 53911
in accordance with the requirements governing the LEAP program. In 53912
addition to the incentive payment, the department may provide 53913
other incentives to participating teens who attend school in 53914
accordance with the LEAP program's requirements. The department 53915

shall reduce the cash assistance payment, in an amount determined 53916
by the department, under Ohio works first to every participating 53917
~~teen participating in the LEAP program~~ who fails or refuses, 53918
without good cause, to meet the LEAP program's requirements 53919
~~governing the program.~~ 53920

~~(4) Require every~~ Every participating teen ~~who is subject to~~ 53921
~~LEAP program requirements to shall~~ enter into a written agreement 53922
with the county department of job and family services that 53923
~~provides~~ specifies all of the following: 53924

~~(a)(1)~~ The participating teen, to be eligible to receive the 53925
incentive payment and other incentives, if any, under ~~division~~ 53926
~~(B)(3)~~ of this section, must meet the requirements of the LEAP 53927
program. 53928

~~(b)(2)~~ The ~~county department will provide the~~ incentive 53929
payment ~~to the teen~~ and other incentives, if any, will be provided 53930
if the participating teen meets the requirements of the LEAP 53931
program. 53932

~~(c)(3)~~ The ~~county department will reduce the~~ participating 53933
teen's cash assistance payment under Ohio works first will be 53934
reduced if the participating teen fails or refuses without good 53935
cause to attend school in accordance with the requirements 53936
governing the LEAP program. 53937

(C) A minor head of household who is participating in the 53938
LEAP program shall be considered to be participating in a work 53939
activity for the purpose of sections 5107.40 to 5107.69 of the 53940
Revised Code. However, the minor head of household is not subject 53941
to the requirements or sanctions of those sections. 53942

(D) Subject to the availability of funds, county departments 53943
of job and family services shall provide for ~~LEAP participants~~ 53944
participating teens to receive support services the county 53945
department determines to be necessary for LEAP participation. 53946

Support services may include publicly funded child care under 53947
Chapter 5104. of the Revised Code, transportation, and other 53948
services. 53949

Sec. 5107.301. For the purpose of encouraging individuals who 53950
have successfully completed the requirements of the LEAP program 53951
to enroll in post-secondary education, the director of job and 53952
family services may provide an award to such individuals who 53953
enroll in post-secondary education. If provided, the award shall 53954
be provided in accordance with rules adopted under section 5107.05 53955
of the Revised Code. 53956

Sec. 5107.58. In accordance with a federal waiver granted by 53957
the United States secretary of health and human services pursuant 53958
to a request made under former section 5101.09 of the Revised 53959
Code, county departments of job and family services may establish 53960
and administer as a work activity for minor heads of households 53961
and adults participating in Ohio works first an education program 53962
under which the participant is enrolled full-time in 53963
post-secondary education leading to vocation at a state 53964
institution of higher education, as defined in section 3345.031 of 53965
the Revised Code; a private nonprofit college or university that 53966
possesses a certificate of authorization issued by the Ohio board 53967
of regents pursuant to Chapter 1713. of the Revised Code, or is 53968
exempted by division (E) of section 1713.02 of the Revised Code 53969
from the requirement of a certificate; a school that holds a 53970
certificate of registration and program authorization issued by 53971
the state board of career colleges and schools under Chapter 3332. 53972
of the Revised Code; a private institution exempt from regulation 53973
under Chapter 3332. of the Revised Code as prescribed in section 53974
3333.046 of the Revised Code; or a school that has entered into a 53975
contract with the county department of job and family services. 53976
The participant shall make reasonable efforts, as determined by 53977

the county department, to obtain a loan, scholarship, grant, or 53978
other assistance to pay for the tuition, including a federal Pell 53979
grant under 20 U.S.C.A. 1070a ~~and~~, an Ohio instructional grant 53980
under section 3333.12 of the Revised Code, and an Ohio college
opportunity grant under section 3333.122 of the Revised Code. If 53981
the participant has made reasonable efforts but is unable to 53982
obtain sufficient assistance to pay the tuition the program may 53983
pay the tuition. On or after October 1, 1998, the county 53984
department may enter into a loan agreement with the participant to 53985
pay the tuition. The total period for which tuition is paid and 53986
loans made shall not exceed two years. If the participant, 53987
pursuant to division (B)(3) of section 5107.43 of the Revised 53988
Code, volunteers to participate in the education program for more 53989
hours each week than the participant is assigned to the program, 53990
the program may pay or the county department may loan the cost of 53991
the tuition for the additional voluntary hours as well as the cost 53992
of the tuition for the assigned number of hours. The participant 53993
may receive, for not more than three years, support services, 53994
including publicly funded child care under Chapter 5104. of the 53995
Revised Code and transportation, that the participant needs to 53996
participate in the program. To receive support services in the 53997
third year, the participant must be, as determined by the 53998
educational institution in which the participant is enrolled, in 53999
good standing with the institution. 54000
54001

A county department that provides loans under this section 54002
shall establish procedures governing loan application for and 54003
approval and administration of loans granted pursuant to this 54004
section. 54005

Sec. 5110.01. As used in this chapter: 54006

(A) "Administrative fee" means the amount specified in rules 54007
adopted under division (G) of section 5110.35 of the Revised Code. 54008

(B) "Children's health insurance program" means the children's health insurance program part I and part II established under sections 5101.50 to 5101.5110 of the Revised Code.

~~(C) "Disability medical assistance program" means the program established under section 5115.10 of the Revised Code.~~

~~(D)~~ "Medicaid" means the medical assistance program established under Chapter 5111. of the Revised Code.

~~(E)~~(D) "National drug code number" means the number registered for a drug pursuant to the listing system established by the United States food and drug administration under the "Drug Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended.

~~(F)~~(E) "Ohio's best Rx program administrator" means the entity, if any, the department of job and family services contracts with pursuant to section 5110.10 of the Revised Code to perform administrative functions of the Ohio's best Rx program and to offer the mail order system through which Ohio's best Rx program participants may obtain drugs by mail.

~~(G)~~(F) "Ohio's best Rx program applicant" or "applicant" means an individual who signs an application for the Ohio's best Rx program and submits it to the department of job and family services, or the Ohio's best Rx program administrator, for a determination of eligibility for the program.

~~(H)~~(G) "Ohio's best Rx program participant" or "participant" means an individual determined eligible for the Ohio's best Rx program and included under a valid Ohio's best Rx program enrollment card.

~~(I)~~(H) "Ohio's best Rx program price" means the price a participating terminal distributor is to charge an Ohio's best Rx program participant for a drug included in the Ohio's best Rx program as determined under section 5110.14 of the Revised Code.

"Ohio's best Rx program price" does not include either of the 54039
following: 54040

(1) The amount of the professional fee, if any, the 54041
participating terminal distributor adds to the Ohio's best Rx 54042
program price pursuant to an agreement under section 5110.12 of 54043
the Revised Code; 54044

(2) The amount of the administrative fee, if any, the 54045
department of job and family services reports to the participating 54046
terminal distributor under section 5110.29 of the Revised Code. 54047

~~(J)~~(I) "Participating manufacturer" means a drug manufacturer 54048
participating in the Ohio's best Rx program pursuant to a rebate 54049
agreement. 54050

~~(K)~~(J) "Participating terminal distributor" means a terminal 54051
distributor of dangerous drugs participating in the Ohio's best Rx 54052
program pursuant to an agreement entered into with the department 54053
of job and family services under section 5110.12 of the Revised 54054
Code. 54055

~~(L)~~(K) "Per unit price," with regard to a state health 54056
benefit plan or state retirement system health benefit plan, means 54057
the total amount paid to a terminal distributor of dangerous drugs 54058
under a state health benefit plan or state retirement system 54059
health benefit plan for one unit of a drug covered by the plan, 54060
after the plan discounts or otherwise reduces the amount to be 54061
paid to the terminal distributor. "Per unit price" includes both 54062
of the following: 54063

(1) The amount that the state health benefit plan or state 54064
retirement system health benefit plan, or other government entity 54065
or person authorized to make the payment on behalf of the plan, 54066
pays to the terminal distributor of dangerous drugs; 54067

(2) The amount that the beneficiary of the state health 54068
benefit plan or state retirement system health benefit plan pays 54069

to the terminal distributor of dangerous drugs in the form of a 54070
copayment, coinsurance, or other cost-sharing charge. 54071

~~(M)~~(L) "Per unit rebate," with regard to a state health 54072
benefit plan or state retirement system health benefit plan, means 54073
all rebates, discounts, formulary fees, administrative fees, and 54074
other allowances a drug manufacturer pays to the plan, or other 54075
government entity or person authorized to receive all or part of 54076
such payments, for a drug during a calendar year, divided by the 54077
total number of units of that drug dispensed under the plan during 54078
the same calendar year. 54079

~~(N)~~(M) "Rebate administration percentage" means the 54080
percentage specified in rules adopted under division (K) of 54081
section 5110.35 of the Revised Code. 54082

~~(O)~~(N) "Rebate agreement" means an agreement under section 54083
5110.21 of the Revised Code between the department of job and 54084
family services and a drug manufacturer. 54085

~~(P)~~(O) "State health benefit plan" means a program of health 54086
care benefits offered through the Ohio med preferred provider 54087
organization, or a successor entity selected by the state, to 54088
which either of the following apply: 54089

(1) It is provided by a collective bargaining agreement 54090
authorized by division (A)(4) of section 4117.03 of the Revised 54091
Code. 54092

(2) It is offered by the department of administrative 54093
services to state employees in accordance with section 124.81 or 54094
124.82 of the Revised Code. 54095

~~(Q)~~(P) "State retirement system" means all of the following: 54096
the public employees retirement system, state teachers retirement 54097
system, school employees retirement system, Ohio police and fire 54098
pension fund, and state highway patrol retirement system. 54099

~~(R)~~(Q) "State retirement system health benefit plan" means a 54100
plan of health care benefits offered by a state retirement system 54101
under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the 54102
Revised Code. 54103

~~(S)~~(R) "Terminal distributor of dangerous drugs" has the same 54104
meaning as in section 4729.01 of the Revised Code. 54105

~~(T)~~(S) "Third-party payer" has the same meaning as in section 54106
3901.38 of the Revised Code. 54107

~~(U)~~(T) "Trade secret" has the same meaning as in section 54108
1333.61 of the Revised Code. 54109

~~(V)~~(U) "Usual and customary charge" means the amount a 54110
participating terminal distributor or the Ohio's best Rx program 54111
administrator charges for a drug included in the program to an 54112
individual who does not receive a discounted price for the drug 54113
pursuant to any drug discount program, including the Ohio's best 54114
Rx program, a prescription drug discount card program established 54115
under section 173.061 of the Revised Code, or a pharmacy 54116
assistance program established by any person or government entity, 54117
and for whom no third-party payer or program funded in whole or 54118
part with state or federal funds is responsible for all or part of 54119
the cost of the drug the distributor dispenses to the individual. 54120

Sec. 5110.05. (A) To be eligible for the Ohio's best Rx 54121
program, an individual must meet all of the following requirements 54122
at the time of application or reapplication for the program: 54123

(1) Be a resident of this state; 54124

(2) Have family income, as determined under rules adopted 54125
pursuant to section 5110.35 of the Revised Code, that does not 54126
exceed two hundred fifty per cent of the federal poverty 54127
guidelines, as revised annually by the United States department of 54128
health and human services in accordance with section 673(2) of the 54129

"Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42	54130
U.S.C. 9902, as amended, or be sixty years of age or older;	54131
(3) Not have outpatient prescription drug coverage paid for	54132
in whole or in part by any of the following:	54133
(a) A third-party payer;	54134
(b) The medicaid program;	54135
(c) The children's health insurance program;	54136
(d) The disability medical assistance program;	54137
(e) Another health plan or pharmacy assistance program that	54138
uses state or federal funds to pay part or all of the cost of the	54139
individual's outpatient prescription drugs, other than a	54140
prescription drug discount card program established under section	54141
173.061 of the Revised Code.	54142
(4) Not have had outpatient prescription drug coverage	54143
specified in division (A)(3) of this section during any of the	54144
four months preceding the month in which the application or	54145
reapplication for the Ohio's best Rx program is made, unless any	54146
of the following applies:	54147
(a) The individual is sixty years of age or older.	54148
(b) The third-party payer that paid all or part of the	54149
coverage filed for bankruptcy under federal bankruptcy laws.	54150
(c) The individual is no longer eligible for coverage	54151
provided through a retirement plan subject to protection under the	54152
"Employee Retirement Income Security Act of 1974," 88 Stat. 832,	54153
29 U.S.C. 1001, as amended.	54154
(d) The individual is no longer eligible for the medicaid	54155
program, <u>or</u> children's health insurance program, or disability	54156
medical assistance program.	54157
(B) Application and annual reapplication for the Ohio's best	54158

Rx program shall be made in accordance with rules adopted under 54159
section 5110.35 of the Revised Code on a form prescribed in those 54160
rules. An individual may apply or reapply on behalf of the 54161
individual and the individual's spouse and children. The guardian 54162
or custodian of an individual may apply or reapply on behalf of 54163
the individual. 54164

Sec. 5110.352. As used in this section, "medicaid dispensing 54165
fee" means the dispensing fee established under section ~~5111.08~~ 54166
5111.071 of the Revised Code for the medicaid program. 54167

In adopting a rule under division (F) of section 5110.35 of 54168
the Revised Code increasing the maximum amount of the professional 54169
fee participating terminal distributors may charge Ohio's best Rx 54170
program participants under section 5110.12 of the Revised Code and 54171
the Ohio's best Rx program administrator may charge under a 54172
contract entered into under section 5110.10 of the Revised Code, 54173
the department of job and family services shall review the amount 54174
of the professional fee once a year or, at the department's 54175
discretion, at more frequent intervals and shall not increase the 54176
professional fee to an amount exceeding the medicaid dispensing 54177
fee. 54178

A participating terminal distributor and the Ohio's best Rx 54179
program administrator may charge a maximum three dollar 54180
professional fee regardless of whether the medicaid dispensing fee 54181
for that drug is less than that amount. The department, however, 54182
may not adopt a rule increasing the maximum professional fee for 54183
that drug until the medicaid dispensing fee for that drug exceeds 54184
that amount. 54185

Sec. 5110.39. Not later than ~~April 1, 2005~~ the first day of 54186
March of each year, the department of job and family services 54187
shall do all of the following: 54188

(A) Create a list of the twenty-five drugs most often 54189
dispensed to Ohio's best Rx program participants under the 54190
program, using data from the most recent six-month period for 54191
which the data is available; 54192

(B) Determine the average amount that participating terminal 54193
distributors charge, on a date selected by the department, 54194
participants for each drug included on the list created under 54195
division (A) of this section; 54196

(C) Determine, for the date selected for division (B) of this 54197
section, the average usual and customary charge of participating 54198
terminal distributors for each drug included on the list created 54199
under division (A) of this section; 54200

(D) By comparing the average charges determined under 54201
divisions (B) and (C) of this section, determine the average 54202
percentage savings in the amount participating terminal 54203
distributors charge Ohio's best Rx program participants for each 54204
drug included on the list created under division (A) of this 54205
section. 54206

Sec. 5111.011. (A) As used in this section: 54207

(1) "Intermediate care facility for the mentally retarded" 54208
has the same meaning as in section 5111.20 of the Revised Code. 54209

(2) "Nursing facility" means a facility defined as a nursing 54210
facility under Sec. 1919 of the "Social Security Act," 49 Stat. 54211
620 (1935), 42 U.S.C. 1396r, as amended has the same meaning as in 54212
section 5111.20 of the Revised Code. 54213

~~(2)~~(3) "Institutionalized individual" means an individual who 54214
is a patient in a nursing facility or who receives home and 54215
community-based services under a federal waiver granted the 54216
department of job and family services under 42 U.S.C. 54217
1396a(10)(A)(ii)(VI). 54218

(B) Subject to this section, the director of job and family services shall, pursuant to section 111.15 of the Revised Code, adopt rules establishing eligibility requirements for the ~~medical assistance~~ medicaid program and defining, consistent with federal law, the term "resources" as used in this section.

(C) In determining eligibility for ~~medical assistance~~ the medicaid program, the following shall apply with respect to real property used by an aged, blind or disabled applicant or recipient as a homestead or principal place of residence:

(1) The value of ~~real~~ the property of aged, blind, or disabled persons used as a homestead by such persons shall be the maximum allowed under Title XVI of the "Social Security Act.," 86 Stat. 1329 (1972), 42 U.S.C. 1381;

(2) Except as provided in division (C)(3) of this section, the department of job and family services may consider the property to not be the homestead or principal place of residence of the applicant or recipient if the applicant or recipient resides in a nursing facility, intermediate care facility for the mentally retarded, or other medical institution for thirteen months or longer.

(3) Division (C)(2) of this section does not apply if any of the following individuals reside in the applicant's or recipient's real property used as a homestead or principal place of residence:

(a) The applicant's or recipient's spouse;

(b) A son or daughter of the applicant or recipient, if the son or daughter is under twenty-one years of age or blind or disabled in accordance with rules adopted by the director of job and family services;

(c) A son or daughter of the applicant or recipient, if the son or daughter is financially dependent on the applicant or

recipient for housing in accordance with rules adopted by the 54249
director of job and family services; 54250

(d) A sibling of the applicant or recipient, if the sibling 54251
has a verified equity and ownership interest in the real property 54252
and has resided in the real property for at least one year 54253
immediately before the date the applicant or recipient was 54254
admitted to the nursing facility, intermediate care facility for 54255
the mentally retarded, or other medical institution. 54256

(D) Except as provided in division (G) of this section, no 54257
person is eligible for ~~medical assistance~~ the medicaid program if 54258
on or prior to December 31, 1989, the person has transferred real 54259
or personal property for the purpose of securing ~~medical~~ 54260
~~assistance under section 5111.01 of the Revised Code~~ medicaid 54261
eligibility and the transfer occurred during the two years 54262
preceding the person's application. In order to secure compliance 54263
with this division, the director of job and family services shall 54264
require all applicants for ~~assistance~~ medicaid to submit true and 54265
correct copies of any federal income or gift tax form or schedule 54266
filed, singly or jointly, by the applicant during the preceding 54267
five taxable years. Such copies, and the information disclosed 54268
thereon, shall be used solely for the purpose of determining the 54269
probability of whether the applicant has transferred assets in 54270
violation of this division. The director shall provide for the 54271
confidentiality and return of any copies of forms or schedules 54272
submitted under this division. Where such copies reveal the 54273
probability that an applicant has transferred assets in violation 54274
of this division, a presumption arises that the applicant has 54275
transferred assets in violation of this division, and the director 54276
shall deny the application until the applicant submits a true and 54277
accurate expenditure statement to the director that shows the 54278
applicant did not violate this division. The director of job and 54279
family services shall adopt rules to implement this provision. 54280

(E)(1) Except as provided in ~~division~~ divisions (E)(2) and 54281
(G) of this section, an institutionalized individual who is 54282
otherwise eligible for ~~medical assistance~~ medicaid shall be 54283
ineligible for nursing facility services or services provided 54284
under a home and community-based waiver for a period specified in 54285
rules adopted under division ~~(E)(2)(3)~~ of this section if the 54286
institutionalized individual or individual's spouse, on or after 54287
January 1, 1990, transfers resources for less than fair market 54288
value at any time during or after ~~a period of time, as specified~~ 54289
~~in rules adopted under division (E)(2) of this section, the~~ 54290
five-year period immediately prior to either of the following: 54291

(a) The date the individual becomes an institutionalized 54292
individual if the individual is eligible for ~~medical assistance~~ 54293
medicaid on that date; 54294

(b) The date the individual applies for ~~medical assistance~~ 54295
medicaid while an institutionalized individual. 54296

(2) The director shall apply to the United States secretary 54297
of health and human services for a waiver of federal law governing 54298
the medicaid program as necessary for the implementation of the 54299
five-year look-back period provided for by division (E)(1) of this 54300
section. If a waiver is not approved, the look-back period shall 54301
be the period of time specified in 42 U.S.C. 1396p(c). 54302

(3) The director shall adopt rules specifying, for the 54303
purpose of division (E)(1) of this section, the ~~period of time~~ 54304
~~preceding institutionalization or application for medical~~ 54305
~~assistance during which transfers of assets for less than fair~~ 54306
~~market value are prohibited and the length of the resulting period~~ 54307
of ineligibility due to transfers of resources for less than fair 54308
market value on or after the look-back date. The period of 54309
ineligibility shall begin with the month in which the resources 54310
were transferred. The rules shall be consistent with Title XIX of 54311

the "Social Security Act-," 79 Stat. 286 (1965), 42 U.S.C. 1396. 54312
The department shall allow exceptions to the period of 54313
ineligibility to the extent that exceptions are permitted by that 54314
title. An exception based on undue hardship to the 54315
institutionalized individual shall be allowed only so long as the 54316
individual cooperates with the department or the county department 54317
of job and family services in securing the return of transferred 54318
resources. 54319

~~(3)~~(4) To secure compliance with this division, the 54320
department may require applicants for and recipients of ~~medical~~ 54321
~~assistance~~ medicaid, as a condition of eligibility, to provide 54322
documentation of their income and resources up to five years prior 54323
to the ~~time of application~~ date the individual becomes an 54324
institutionalized individual if the individual is eligible for 54325
medicaid on that date or the date the individual applies for 54326
medicaid while an institutionalized individual. Documentation may 54327
include, but is not limited to, tax returns, records from 54328
financial institutions, and real property records. 54329

(F) The director shall, by rule adopted in accordance with 54330
section 111.15 of the Revised Code, establish standards consistent 54331
with federal law for allocating income and resources as income and 54332
resources of the spouse, children, parents, or stepparents of a 54333
recipient of or applicant for ~~medical assistance~~ medicaid. 54334
Notwithstanding any provision of state law, including statutes, 54335
administrative rules, common law, and court rules, regarding real 54336
or personal property or domestic relations, the standards 54337
established under this division shall be used to determine 54338
eligibility for ~~medical assistance~~ medicaid. 54339

(G) The director may, by rule adopted in accordance with 54340
section 111.15 of the Revised Code, exempt individuals who apply 54341
for or receive ~~any medical assistance~~ medicaid that may be 54342
provided pursuant to division (C) of section 5111.01 of the 54343

Revised Code from some or all of the requirements of this section. 54344

Sec. 5111.019. (A) The director of job and family services 54345
shall submit to the United States secretary of health and human 54346
services an amendment to the state medicaid plan to make an 54347
individual who meets all of the following requirements eligible 54348
for medicaid for the amount of time provided by division (B) of 54349
this section: 54350

(1) The individual is the parent of a child under nineteen 54351
years of age and resides with the child; 54352

(2) The individual's family income does not exceed ~~one~~ 54353
~~hundred ninety~~ per cent of the federal poverty guidelines; 54354

(3) The individual is not otherwise eligible for medicaid; 54355

(4) The individual satisfies all relevant requirements 54356
established by rules adopted under division (D) of section 5111.01 54357
of the Revised Code. 54358

(B) An individual is eligible to receive medicaid under this 54359
section for a period that does not exceed two years beginning on 54360
the date on which eligibility is established. 54361

~~(C) If approved by the United States secretary of health and 54362
human services and the director of job and family services, the 54363
director shall implement the medicaid plan amendment submitted 54364
under this section not sooner than July 1, 2000. If a federal 54365
waiver is necessary for the United States secretary to approve the 54366
amendment, the director of job and family services shall submit a 54367
waiver request to the United States secretary not later than 54368
ninety days after the effective date of this section. 54369~~

Sec. 5111.0112. ~~The~~ (A) Not later than July 1, 2006, the 54370
director of job and family services shall ~~examine instituting~~ 54371
institute a copayment program under medicaid. ~~As part of the~~ 54372

~~examination, the director shall determine which groups of medicaid~~ 54373
~~recipients may be subjected to a copayment requirement under The~~ 54374
~~copayment program shall establish a copayment requirement for only~~ 54375
~~dental services, vision services, and prescription drugs, other~~ 54376
~~than generic drugs, to the extent permitted by federal statutes~~ 54377
~~and regulations. If, on completion of the examination, the~~ 54378
~~director determines that it is feasible to institute such a~~ 54379
~~copayment program, the director may seek approval from the United~~ 54380
~~States secretary of health and human services to institute the~~ 54381
~~copayment program. If necessary, the director may seek approval by~~ 54382
~~applying for a waiver of federal statutes and regulations. If such~~ 54383
~~approval is obtained, the The director shall adopt rules in~~ 54384
~~accordance with Chapter 119. under section 5111.02 of the Revised~~ 54385
Code governing the copayment program. 54386

(B) The copayment program shall, to the extent permitted by 54387
federal law, provide for all of the following with regard to any 54388
providers participating in the medicaid program: 54389

(1) No provider shall refuse to provide a service to a 54390
medicaid recipient who is unable to pay a required copayment for 54391
the service. 54392

(2) Division (B)(1) of this section shall not be considered 54393
to do either of the following with regard to a medicaid recipient 54394
who is unable to pay a required copayment: 54395

(a) Relieve the medicaid recipient from the obligation to pay 54396
a copayment; 54397

(b) Prohibit the provider from attempting to collect an 54398
unpaid copayment. 54399

(3) No provider shall waive a medicaid recipient's obligation 54400
to pay the provider a copayment. 54401

(4) No provider or drug manufacturer, including the 54402
manufacturer's representative, employee, independent contractor, 54403

or agent, shall pay any copayment on behalf of a medicaid recipient. 54404
54405

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the copayment program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services. 54406
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Sec. 5111.0114. (A) As used in this section, "dangerous drug" and "manufacturer of dangerous drugs" have the same meaning as in section 4729.01 of the Revised Code. 54415
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(B) The director of job and family services may enter into or administer an agreement or cooperative arrangement with other states to create or join a multiple-state prescription drug purchasing program for the purpose of negotiating with manufacturers of dangerous drugs to receive discounts or rebates for dangerous drugs dispensed under the medicaid program. 54418
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Sec. ~~5111.023~~ 5111.0115. (A) The department of job and family services may provide medical assistance under ~~Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, in addition to such assistance provided under section 5111.01 of the Revised Code~~ the medicaid program, as long as federal funds are provided for such assistance, to each former participant of the Ohio works first program established under Chapter 5107. of the Revised Code who meets all of the following requirements: 54424
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(1) Is ineligible to participate in Ohio works first solely 54433

as a result of increased income due to employment; 54434

(2) Is not covered by, and does not have access to, medical 54435
insurance coverage through the employer with benefits comparable 54436
to those provided under this section, as determined in accordance 54437
with rules adopted by the director of job and family services 54438
under division (B) of this section; 54439

(3) Meets any other requirement established by rule adopted 54440
under division (B) of this section. 54441

(B) The director of job and family services shall adopt such 54442
rules under Chapter 119. of the Revised Code as are necessary to 54443
implement and administer the medical assistance program under this 54444
section. 54445

(C) A person seeking to participate in a program of medical 54446
assistance under this section shall apply to the county department 54447
of job and family services in the county in which the applicant 54448
resides. The application shall be made on a form prescribed by the 54449
department of job and family services and furnished by the county 54450
department. 54451

(D) If the county department of job and family services 54452
determines that a person is eligible to receive medical assistance 54453
under this section, the department shall provide assistance, to 54454
the same extent and in the same manner as medical assistance is 54455
provided to a person eligible for medical assistance pursuant to 54456
division (A)(1)(a) of section 5111.01 of the Revised Code, for no 54457
longer than twelve months, beginning the month after the date the 54458
participant's eligibility for Ohio works first is terminated. 54459

Sec. 5111.02. The director of job and family services shall 54460
adopt, and may amend or rescind, rules under Chapter 119. of the 54461
Revised Code establishing the amount, duration, and scope of 54462
medicaid services. The rules shall be consistent with federal and 54463

state law. The rules may be different for different medicaid 54464
services. The rules shall establish all of the following: 54465

(A) The conditions under which the medicaid program shall 54466
cover and reimburse medicaid services; 54467

(B) The method of reimbursement applicable to each medicaid 54468
service; 54469

(C) The amount of reimbursement or, in lieu of amounts, 54470
methods by which amounts are to be determined for each medicaid 54471
service; 54472

(D) Procedures for enforcing the rules adopted under this 54473
section that provide due process protections, including procedures 54474
for corrective action plans for, and imposing financial and 54475
administrative sanctions on, persons and government entities that 54476
violate the rules. 54477

Sec. ~~5111.02~~ 5111.021. ~~(A)~~ Under the ~~medical assistance~~ 54478
~~medicaid~~ program: 54479

~~(1)~~(A) Except as otherwise permitted by federal statute or 54480
regulation and at the department's discretion, reimbursement by 54481
the department of job and family services to a medical provider 54482
for any medical service rendered under the program shall not 54483
exceed the authorized reimbursement level for the same service 54484
under the medicare program established under Title XVIII of the 54485
"Social Security Act," ~~49~~ 79 Stat. ~~620~~ 286 (~~1935~~ 1965), 42 54486
U.S.C.A. ~~301~~ 1395, as amended. 54487

~~(2)~~(B) Reimbursement for freestanding medical laboratory 54488
charges shall not exceed the customary and usual fee for 54489
laboratory profiles. 54490

~~(3)~~(C) The department may deduct from payments for services 54491
rendered by a medicaid provider under the ~~medical assistance~~ 54492

medicaid program any amounts the provider owes the state as the 54493
result of incorrect ~~medical assistance~~ medicaid payments the 54494
department has made to the provider. 54495

~~(4)~~(D) The department may conduct final fiscal audits in 54496
accordance with the applicable requirements set forth in federal 54497
laws and regulations and determine any amounts the provider may 54498
owe the state. When conducting final fiscal audits, the department 54499
shall consider generally accepted auditing standards, which 54500
include the use of statistical sampling. 54501

~~(5)~~(E) The number of days of inpatient hospital care for 54502
which reimbursement is made on behalf of a medicaid recipient ~~of~~ 54503
~~medical assistance~~ to a hospital that is not paid under a 54504
diagnostic-related-group prospective payment system shall not 54505
exceed thirty days during a period beginning on the day of the 54506
recipient's admission to the hospital and ending sixty days after 54507
the termination of that hospital stay, except that the department 54508
may make exceptions to this limitation. The limitation does not 54509
apply to children participating in the program for medically 54510
handicapped children established under section 3701.023 of the 54511
Revised Code. 54512

~~(B) The director of job and family services may adopt, amend,~~ 54513
~~or rescind rules under Chapter 119. of the Revised Code~~ 54514
~~establishing the amount, duration, and scope of medical services~~ 54515
~~to be included in the medical assistance program. Such rules shall~~ 54516
~~establish the conditions under which services are covered and~~ 54517
~~reimbursed, the method of reimbursement applicable to each covered~~ 54518
~~service, and the amount of reimbursement or, in lieu of such~~ 54519
~~amounts, methods by which such amounts are to be determined for~~ 54520
~~each covered service. Any rules that pertain to nursing facilities~~ 54521
~~or intermediate care facilities for the mentally retarded shall be~~ 54522
~~consistent with sections 5111.20 to 5111.33 of the Revised Code.~~ 54523

~~(C)~~(F) The division of any reimbursement between a 54524

collaborating physician or podiatrist and a clinical nurse 54525
specialist, certified nurse-midwife, or certified nurse 54526
practitioner for services performed by the nurse shall be 54527
determined and agreed on by the nurse and collaborating physician 54528
or podiatrist. In no case shall reimbursement exceed the payment 54529
that the physician or podiatrist would have received had the 54530
physician or podiatrist provided the entire service. 54531

Sec. ~~5111.021~~ 5111.022. Under the ~~medical assistance~~ medicaid 54532
program, any amount determined to be owed the state by a final 54533
fiscal audit conducted pursuant to division ~~(A)(4)(D)~~ of section 54534
~~5111.02~~ 5111.021 of the Revised Code, upon the issuance of an 54535
adjudication order pursuant to Chapter 119. of the Revised Code 54536
that contains a finding that there is a preponderance of the 54537
evidence that the provider will liquidate assets or file 54538
bankruptcy in order to prevent payment of the amount determined to 54539
be owed the state, becomes a lien upon the real and personal 54540
property of the provider. Upon failure of the provider to pay the 54541
amount to the state, the director of job and family services shall 54542
file notice of the lien, for which there shall be no charge, in 54543
the office of the county recorder of the county in which it is 54544
ascertained that the provider owns real or personal property. The 54545
director shall notify the provider by mail of the lien, but 54546
absence of proof that the notice was sent does not affect the 54547
validity of the lien. The lien is not valid as against the claim 54548
of any mortgagee, pledgee, purchaser, judgment creditor, or other 54549
lienholder of record at the time the notice is filed. 54550

If the provider acquires real or personal property after 54551
notice of the lien is filed, the lien shall not be valid as 54552
against the claim of any mortgagee, pledgee, subsequent bona fide 54553
purchaser for value, judgment creditor, or other lienholder of 54554
record to such after-acquired property unless the notice of lien 54555
is refiled after the property is acquired by the provider and 54556

before the competing lien attaches to the after-acquired property 54557
or before the conveyance to the subsequent bona fide purchaser for 54558
value. 54559

When the amount has been paid, the provider may record with 54560
the recorder notice of the payment. For recording such notice of 54561
payment, the recorder shall charge and receive from the provider a 54562
base fee of one dollar for services and a housing trust fund fee 54563
of one dollar pursuant to section 317.36 of the Revised Code. 54564

In the event of a distribution of a provider's assets 54565
pursuant to an order of any court under the law of this state 54566
including any receivership, assignment for benefit of creditors, 54567
adjudicated insolvency, or similar proceedings, amounts then or 54568
thereafter due the state under this chapter have the same priority 54569
as provided by law for the payment of taxes due the state and 54570
shall be paid out of the receivership trust fund or other such 54571
trust fund in the same manner as provided for claims for unpaid 54572
taxes due the state. 54573

If the attorney general finds after investigation that any 54574
amount due the state under this chapter is uncollectable, in whole 54575
or in part, the attorney general shall recommend to the director 54576
the cancellation of all or part of the claim. The director may 54577
thereupon effect the cancellation. 54578

Sec. ~~5111.022~~ 5111.023. (A) As used in this section: 54579

(1) "Community mental health facility" means a community 54580
mental health facility that has a quality assurance program 54581
accredited by the joint commission on accreditation of healthcare 54582
organizations or is certified by the department of mental health 54583
or department of job and family services. 54584

(2) "Mental health professional" means a person qualified to 54585
work with mentally ill persons under the standards established by 54586

the director of mental health pursuant to section 5119.611 of the Revised Code. 54587
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(B) The state medicaid plan shall include provision of the following mental health services when provided by community mental health facilities: 54589
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(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed; 54592
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(2) Partial-hospitalization mental health services of three to fourteen hours per service day, rendered by persons directly supervised by a mental health professional; 54598
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(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional; 54601
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(4) Subject to receipt of federal approval, assertive community treatment and intensive home-based mental health services. 54604
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(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local funds to match federal medicaid reimbursement funds earned by community mental health facilities. 54607
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(D) The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section. 54611
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(E) Not later than July 21, ~~2004~~ 2006, the department of job and family services shall request federal approval to provide 54615
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assertive community treatment and intensive home-based mental 54617
health services under medicaid pursuant to this section. 54618

(F) On receipt of federal approval sought under division (E) 54619
of this section, the director of job and family services shall 54620
adopt rules in accordance with Chapter 119. of the Revised Code 54621
for assertive community treatment and intensive home-based mental 54622
health services provided under medicaid pursuant to this section. 54623
The director shall consult with the department of mental health in 54624
adopting the rules. 54625

Sec. 5111.025. (A) In rules adopted under section 5111.02 of 54626
the Revised Code, the director of job and family services shall 54627
modify the manner or establish a new manner in which the following 54628
are paid under medicaid: 54629

(1) Community mental health facilities for providing mental 54630
health services included in the state medicaid plan pursuant to 54631
section ~~5111.022~~ 5111.023 of the Revised Code; 54632

(2) Providers of alcohol and drug addiction services for 54633
providing alcohol and drug addiction services included in the 54634
medicaid program pursuant to rules adopted under section 5111.02 54635
of the Revised Code. 54636

(B) The director's authority to modify the manner, or to 54637
establish a new manner, for medicaid to pay for the services 54638
specified in division (A) of this section is not limited by any 54639
rules adopted under section 5111.02 or 5119.61 of the Revised Code 54640
that are in effect on ~~the effective date of this section~~ June 26, 54641
2003, and govern the way medicaid pays for those services. This is 54642
the case regardless of what state agency adopted the rules. 54643

Sec. 5111.027. If the medicaid program provides prescription 54644
drug services to medicaid recipients, the program shall not 54645
provide reimbursement for prescription drugs for treatment of 54646

erectile dysfunction.

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Sec. 5111.028. (A) The director of job and family services
may establish a step therapy system for the medicaid program under
which a medicaid provider shall do, except as provided in division
(B) of this section, all of the following:

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(1) When prescribing an initial medical treatment for a
medicaid recipient, prescribe the least costly treatment that can
be used to safely and effectively treat the medicaid recipient's
symptoms or effect a cure for the medicaid recipient's medical
condition;

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(2) If the initial medical treatment does not treat the
symptoms or effect a cure, sequentially prescribe increasingly
more costly treatments after providing the director with clinical
substantiation that the previous treatment was unsafe or
ineffective in treating the symptoms or effecting a cure.

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(B) A medicaid provider is not required to follow the step
therapy system if the treatment a medicaid recipient needs is an
antiretroviral agent.

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Sec. 5111.042. The departments of mental retardation and
developmental disabilities and job and family services may
approve, reduce, deny, or terminate a service included in the
individualized service plan developed for a medicaid recipient
with mental retardation or other developmental disability who is
eligible for medicaid case management services. ~~The departments~~
~~shall consider the recommendations a county board of mental~~
~~retardation and developmental disabilities makes under division~~
~~(B)(1) of section 5126.055 of the Revised Code.~~ If either
department approves, reduces, denies, or terminates a service,
that department shall timely notify the medicaid recipient that

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the recipient may request a hearing under section 5101.35 of the Revised Code. 54676
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Sec. 5111.06. (A)(1) As used in this section and in sections 5111.061 and 5111.062 of the Revised Code: 54678
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(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. 54680
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(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code. 54685
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(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code. 54687
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(2) This section does not apply to any action taken by the department of job and family services under sections 5111.35 to 5111.62 of the Revised Code. 54689
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(B) Except as provided in division (D) of this section and section 5111.914 of the Revised Code, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code: 54692
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(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing provider agreement with a provider; 54697
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(2) Take any action based upon a final fiscal audit of a provider. 54700
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(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code. 54702
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(D) The department is not required to comply with division 54706
(B)(1) of this section whenever any of the following occur: 54707

(1) The terms of a provider agreement require the provider to 54708
have a license, permit, or certificate issued by an official, 54709
board, commission, department, division, bureau, or other agency 54710
of state government other than the department of job and family 54711
services, and the license, permit, or certificate has been denied 54712
or revoked. 54713

(2) The provider agreement is denied, terminated, or not 54714
renewed pursuant to division (C) or (E) of section 5111.03 of the 54715
Revised Code; 54716

(3) The provider agreement is denied, terminated, or not 54717
renewed due to the provider's termination, suspension, or 54718
exclusion from the medicare program established under Title XVIII 54719
of the "Social Security Act," and the termination, suspension, or 54720
exclusion is binding on the provider's participation in the 54721
medicaid program; 54722

(4) The provider agreement is denied, terminated, or not 54723
renewed due to the provider's pleading guilty to or being 54724
convicted of a criminal activity materially related to either the 54725
medicare or medicaid program; 54726

(5) The provider agreement is denied, terminated, or 54727
suspended as a result of action by the United States department of 54728
health and human services and that action is binding on the 54729
provider's participation in the medicaid program; 54730

(6) The provider agreement is terminated or not renewed 54731
because the provider has not billed or otherwise submitted a 54732
medicaid claim to the department for two years or longer, and the 54733
department has determined that the provider has moved from the 54734
address on record with the department without leaving an active 54735
forwarding address with the department. 54736

In the case of a provider described in division (D)(6) of this section, the department may terminate or not renew the provider agreement by sending a notice explaining the department's proposed action to the address on record with the department. The notice may be sent by regular mail.

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(E) The department may withhold payments for services rendered by a medicaid provider under the medical assistance program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code.

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Sec. 5111.061. (A) The department of job and family services may recover, at any time, a medicaid payment or portion of a payment made to a provider to which the provider is not entitled. Among the overpayments that may be recovered under this section are the following:

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(1) Payment for a service, or a day of service, not rendered;

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(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate;

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(3) Payment of a service, or day of service, that was paid by, or partially paid by, a third-party, as defined in section 5101.571 of the Revised Code, and the third-party's payment or partial payment was not offset against the amount paid by the

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<u>medicaid program to reduce or eliminate the amount that was paid</u>	54767
<u>by the medicaid program;</u>	54768
<u>(4) Payment when a medicaid recipient's responsibility for</u>	54769
<u>payment was understated and resulted in an overpayment to the</u>	54770
<u>provider.</u>	54771
<u>(B) The department is authorized to recover overpayments</u>	54772
<u>under this section prior to or after any of the following:</u>	54773
<u>(1) Adjudication of a final fiscal audit that section 5111.06</u>	54774
<u>of the Revised Code requires to be conducted in accordance with</u>	54775
<u>Chapter 119. of the Revised Code;</u>	54776
<u>(2) Adjudication of a finding under any other provision of</u>	54777
<u>this chapter or the rules adopted under it;</u>	54778
<u>(3) Expiration of the time to issue a final fiscal audit that</u>	54779
<u>section 5111.06 of the Revised Code requires to be conducted in</u>	54780
<u>accordance with Chapter 119. of the Revised Code;</u>	54781
<u>(4) Expiration of the time to issue a finding under any other</u>	54782
<u>provision of this chapter or the rules adopted under it.</u>	54783
<u>(C)(1) Subject to division (C)(2) of this section, the</u>	54784
<u>recovery of an overpayment under this section does not preclude</u>	54785
<u>the department from subsequently doing the following:</u>	54786
<u>(a) Issuing a final fiscal audit in accordance with Chapter</u>	54787
<u>119. of the Revised Code, as required under section 5111.06 of the</u>	54788
<u>Revised Code;</u>	54789
<u>(b) Issuing a finding under any other provision of this</u>	54790
<u>chapter or the rules adopted under it.</u>	54791
<u>(2) A final fiscal audit or finding issued subsequent to the</u>	54792
<u>recovery of an overpayment under this section shall be reduced by</u>	54793
<u>the amount of the prior recovery, as appropriate.</u>	54794
<u>(D) Nothing in this section limits the department's authority</u>	54795

to recover overpayments pursuant to any other provision of the 54796
Revised Code. 54797

Sec. 5111.062. In any action taken by the department of job 54798
and family services under section 5111.06 or 5111.061 of the 54799
Revised Code or any other provision of this chapter that requires 54800
the department to give notice of an opportunity for a hearing in 54801
accordance with Chapter 119. of the Revised Code, if the 54802
department gives notice of the opportunity for a hearing but the 54803
provider or other entity subject to the notice does not request a 54804
hearing or timely request a hearing in accordance with section 54805
119.07 of the Revised Code, the department is not required to hold 54806
a hearing. The director of job and family service may proceed by 54807
issuing a final adjudication order in accordance with Chapter 119. 54808
of the Revised Code. 54809

Sec. 5111.082. The director of job and family services, in 54810
rules adopted under section 5111.02 of the Revised Code, may 54811
establish and implement a supplemental drug rebate program under 54812
which drug manufacturers may be required to provide the department 54813
of job and family services a supplemental rebate as a condition of 54814
having the drug manufacturers' drug products covered by the 54815
medicaid program without prior approval. The department may 54816
receive a supplemental rebate negotiated under the program for a 54817
drug dispensed to a medicaid recipient pursuant to a prescription 54818
or a drug purchased by a medicaid provider for administration to a 54819
medicaid recipient in the provider's primary place of business. If 54820
necessary, the director may apply to the United States secretary 54821
of health and human services for a waiver of federal statutes and 54822
regulations to establish the supplemental drug rebate program. 54823

If the director establishes a supplemental drug rebate 54824
program, the director shall consult with drug manufacturers 54825

regarding the establishment and implementation of the program. 54826

~~If the director establishes a supplemental drug rebate program, the director shall exempt from the program all of a drug manufacturer's drug products that have been approved by the United States food and drug administration for the treatment of either of the following:~~ 54827

~~(A) Mental illness, as defined in section 5122.01 of the Revised Code, including schizophrenia, major depressive disorder, and bipolar disorder;~~ 54828

~~(B) HIV or AIDS, both as defined in section 3701.24 of the Revised Code.~~ 54829

Sec. 5111.083. (A) As used in this section: 54830

(1) "State maximum allowable cost" means the per unit amount the department of job and family services reimburses a terminal distributor of dangerous drugs for a prescription drug included in the state maximum allowable cost program established under division (B) of this section. "State maximum allowable cost" excludes dispensing fees and copayments, coinsurance, or other cost-sharing charges, if any. 54831

(2) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code. 54832

(B) The director of job and family services shall establish a state maximum allowable cost program for purposes of managing reimbursement to terminal distributors of dangerous drugs for prescription drugs identified by the director pursuant to this division. The director shall do all of the following with respect to the program: 54833

(1) Identify and create a list of prescription drugs to be included in the program. 54834

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<u>(2) Update the list of prescription drugs described in</u>	54855
<u>division (B)(1) of this section on a weekly basis.</u>	54856
<u>(3) Review the state maximum allowable cost for each drug</u>	54857
<u>included on the list described in division (B)(1) of this section</u>	54858
<u>on a weekly basis.</u>	54859
<u>(C) The director may adopt rules in accordance with Chapter</u>	54860
<u>119. of the Revised Code to implement this section.</u>	54861
<u>Sec. 5111.084.</u> (A) <u>As used in this section, "licensed health</u>	54862
<u>professional authorized to prescribe drugs" has the same meaning</u>	54863
<u>as in section 4729.01 of the Revised Code.</u>	54864
<u>(B) The director of job and family services may establish an</u>	54865
<u>e-prescribing system for the medicaid program under which a</u>	54866
<u>medicaid provider who is a licensed health professional authorized</u>	54867
<u>to prescribe drugs shall use an electronic system to prescribe a</u>	54868
<u>drug for a medicaid recipient when required to do so by division</u>	54869
<u>(C) of this section. The e-prescribing system shall eliminate the</u>	54870
<u>need for such medicaid providers to make prescriptions for</u>	54871
<u>medicaid recipients by handwriting or telephone. The e-prescribing</u>	54872
<u>system also shall provide such medicaid providers with an</u>	54873
<u>up-to-date, clinically relevant drug information database and a</u>	54874
<u>system of electronically monitoring medicaid recipients' medical</u>	54875
<u>history, drug regimen compliance, and fraud and abuse.</u>	54876
<u>(C) If the director establishes an e-prescribing system under</u>	54877
<u>division (B) of this section, the director shall do all of the</u>	54878
<u>following:</u>	54879
<u>(1) Require that a medicaid provider who is a licensed health</u>	54880
<u>professional authorized to prescribe drugs use the e-prescribing</u>	54881
<u>system during a fiscal year if the medicaid provider was one of</u>	54882
<u>the ten medicaid providers who, during the calendar year that</u>	54883
<u>precedes that fiscal year, issued the most prescriptions for</u>	54884

<u>medicaid recipients receiving hospital services;</u>	54885
<u>(2) Before the beginning of each fiscal year, determine the</u>	54886
<u>ten medicaid providers that issued the most prescriptions for</u>	54887
<u>medicaid recipients receiving hospital services during the</u>	54888
<u>calendar year that precedes the upcoming fiscal year and notify</u>	54889
<u>those medicaid providers that they must use the e-prescribing</u>	54890
<u>system for the upcoming fiscal year;</u>	54891
<u>(3) Seek the most federal financial participation available</u>	54892
<u>for the development and implementation of the e-prescribing</u>	54893
<u>system.</u>	54894
Sec. 5111.81 <u>5111.085</u>. There is hereby established the	54895
pharmacy and therapeutics committee of the department of job and	54896
family services. The committee shall consist of eight <u>nine</u> members	54897
and shall be appointed by the director of job and family services.	54898
The membership of the committee shall include: two <u>three</u>	54899
pharmacists licensed under Chapter 4729. of the Revised Code; two	54900
doctors of medicine and two doctors of osteopathy licensed under	54901
Chapter 4731. of the Revised Code; a registered nurse licensed	54902
under Chapter 4723. of the Revised Code; and a pharmacologist who	54903
has a doctoral degree. The committee shall elect one of its	54904
members as chairperson.	54905
Sec. <u>5111.10</u>. <u>The director of job and family services may</u>	54906
<u>conduct reviews of the medicaid program. The reviews may include</u>	54907
<u>physical inspections of records and sites where medicaid-funded</u>	54908
<u>services are provided and interviews of providers and recipients</u>	54909
<u>of the services. If the director determines pursuant to a review</u>	54910
<u>that a person or government entity has violated a rule governing</u>	54911
<u>the medicaid program, the director may establish a corrective</u>	54912
<u>action plan for the violator and impose fiscal, administrative, or</u>	54913
<u>both types of sanctions on the violator in accordance with rules</u>	54914

governing the medicaid program. Such action to be taken against a 54915
responsible entity, as defined in section 5101.24 of the Revised 54916
Code, shall be taken in accordance with that section. 54917

Sec. 5111.11. (A) As used in this section, ~~"estate" means all~~ 54918
and section 5111.111 of the Revised Code: 54919

(1) "Estate" includes both of the following: 54920

(a) All real and personal property and other assets to be 54921
administered under Title XXI of the Revised Code and property that 54922
would be administered under that title if not for section 2113.03 54923
or 2113.031 of the Revised Code; 54924

(b) Any other real and personal property and other assets in 54925
which an individual had any legal title or interest at the time of 54926
death (to the extent of the interest), including assets conveyed 54927
to a survivor, heir, or assign of the individual through joint 54928
tenancy, tenancy in common, survivorship, life estate, living 54929
trust, or other arrangement. 54930

(2) "Institution" means a nursing facility, intermediate care 54931
facility for the mentally retarded, or a medical institution. 54932

(3) "Intermediate care facility for the mentally retarded" 54933
and "nursing facility" have the same meanings as in section 54934
5111.20 of the Revised Code. 54935

(4) "Permanently institutionalized individual" means an 54936
individual to whom all of the following apply: 54937

(a) Is an inpatient in an institution; 54938

(b) Is required, as a condition of the medicaid program 54939
paying for the individual's services in the institution, to spend 54940
for costs of medical or nursing care all of the individual's 54941
income except for an amount for personal needs specified by the 54942
department of job and family services; 54943

(c) Cannot reasonably be expected to be discharged from the institution and return home as determined by the department of job and family services. 54944
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(5) "Time of death" shall not be construed to mean a time after which a legal title or interest in real or personal property or other asset may pass by survivorship or other operation of law due to the death of the decedent or terminate by reason of the decedent's death. 54947
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~~(B) For the purpose of recovering the cost of services correctly paid under the medical assistance program to a recipient age fifty five or older, the To the extent permitted by federal law, the department of job and family services shall institute an estate recovery program against the property and estates of medical assistance recipients to recover medical assistance correctly paid on their behalf to the extent that federal law and regulations permit the implementation of a program of that nature. The department shall seek to recover medical assistance correctly paid only after the recipient and the recipient's surviving spouse, if any, have died and only at a time when the recipient has no surviving child who is under age twenty one or blind or permanently and totally disabled.~~ 54952
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~~The department may enter into a contract with any person under which the person administers the estate recovery program on behalf of the department or performs any of the functions required to carry out the program. The contract may provide for the person to be compensated from the property recovered from the estates of medical assistance recipients or may provide for another manner of compensation agreed to by the person and the department. Regardless of whether it is administered by the department or a person under contract with the department, the program shall be administered in accordance with applicable requirements of federal law and regulations and state law and rules.~~ 54965
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(C) under which the department shall, except as provided in 54976
divisions (C) and (D) of this section, do both of the following: 54977

(1) For the costs of medicaid services the medicaid program 54978
correctly paid or will pay on behalf of a permanently 54979
institutionalized individual of any age, seek adjustment or 54980
recovery from the individual's estate or on the sale of property 54981
of the individual or spouse that is subject to a lien imposed 54982
under section 5111.111 of the Revised Code; 54983

(2) For the costs of medicaid services the medicaid program 54984
correctly paid or will pay on behalf of an individual fifty-five 54985
years of age or older who is not a permanently institutionalized 54986
individual, seek adjustment or recovery from the individual's 54987
estate. 54988

(C)(1) No adjustment or recovery may be made under division 54989
(B)(1) of this section from a permanently institutionalized 54990
individual's estate or on the sale of property of a permanently 54991
institutionalized individual that is subject to a lien imposed 54992
under section 5111.111 of the Revised Code or under division 54993
(B)(2) of this section from an individual's estate while either of 54994
the following are alive: 54995

(a) The spouse of the permanently institutionalized 54996
individual or individual; 54997

(b) The son or daughter of a permanently institutionalized 54998
individual or individual if the son or daughter is under age 54999
twenty-one or, under 42 U.S.C. 1382c, is considered blind or 55000
disabled. 55001

(2) No adjustment or recovery may be made under division 55002
(B)(1) of this section from a permanently institutionalized 55003
individual's home that is subject to a lien imposed under section 55004
5111.111 of the Revised Code while either of the following 55005
lawfully reside in the home: 55006

(a) The permanently institutionalized individual's sibling who resided in the home for at least one year immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time; 55007
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(b) The permanently institutionalized individual's son or daughter who provided care to the permanently institutionalized individual that delayed the permanently institutionalized individual's institutionalization and resided in the home for at least two years immediately before the date of the permanently institutionalized individual's admission to the institution and on a continuous basis since that time. 55012
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(D) The department ~~may~~ shall waive seeking an adjustment or recovery of ~~medical assistance correctly paid otherwise required by this section~~ if the director of job and family services determines that adjustment or recovery would work an undue hardship. ~~The~~ The department may limit the duration of the waiver to the period during which the undue hardship exists. 55019
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The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules ~~establishing regarding the estate recovery program, including rules that establish procedures and criteria~~ for waiver of adjustment or recovery due to an undue hardship, ~~which.~~ These rules shall meet the standards specified by the United States secretary of health and human services under 42 U.S.C. 1396p(b)(3), as amended. 55025
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~~(D) Any action that may be taken by the department under section 5111.111 of the Revised Code may be taken by a person administering the program, or performing actions specified in that section, pursuant to a contract with the department.~~ 55032
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(E) For the purpose of determining whether an individual meets the definition of "permanently institutionalized individual" 55036
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established for this section, a rebuttable presumption exists that 55038
the individual cannot reasonably be expected to be discharged from 55039
an institution and return home if either of the following is the 55040
case: 55041

(1) The individual declares that he or she does not intend to 55042
return home. 55043

(2) The individual has been an inpatient in an institution 55044
for at least six months. 55045

~~Sec. 5111.111. As used in this section, "home and~~ 55046
~~community based services" means services provided pursuant to a~~ 55047
~~waiver under section 1915 of the "Social Security Act," 49 Stat.~~ 55048
~~620 (1935), 42 U.S.C.A. 1396n, as amended.~~ 55049

The (A) Except as provided in division (B) of this section 55050
and section 5111.12 of the Revised Code, no lien may be imposed 55051
against the property of an individual before the individual's 55052
death on account of medicaid services correctly paid or to be paid 55053
on the individual's behalf. 55054

(B) Except as provided in division (C) of this section, the 55055
department of job and family services may ~~plae~~ impose a lien 55056
against the real property of a ~~medical assistance~~ medicaid 55057
recipient ~~or~~ who is a permanently institutionalized individual and 55058
against the real property of the recipient's spouse, other than a 55059
~~recipient or spouse of a recipient of home and community based~~ 55060
~~services, that the department may recover as part of the program~~ 55061
~~instituted under section 5111.11 of the Revised Code~~ including any 55062
real property that is jointly held by the recipient and spouse. 55063
~~When medical assistance is paid on behalf of any person in~~ 55064
~~circumstances under which federal law and regulations and this~~ 55065
~~section permit the imposition of a lien, the~~ The lien may be 55066
imposed on account of medicaid paid or to be paid on the 55067

recipient's behalf. 55068

(C) No lien may be imposed under division (B) of this section 55069
against the home of a medicaid recipient if any of the following 55070
lawfully resides in the home: 55071

(1) The recipient's spouse; 55072

(2) The recipient's son or daughter who is under twenty-one 55073
years of age or, under 42 U.S.C. 1382c, considered to be blind or 55074
disabled; 55075

(3) The recipient's sibling who has an equity interest in the 55076
home and resided in the home for at least one year immediately 55077
before the date of the recipient's admission to the institution. 55078

(D) The director of job and family services or a person 55079
designated by the director ~~may~~ shall sign a certificate to ~~the~~ 55080
~~effect~~ effectuate a lien required to be imposed under this 55081
section. The county department of job and family services shall 55082
file for recording and indexing the certificate, or a certified 55083
copy, in the real estate mortgage records in the office of the 55084
county recorder in every county in which real property of the 55085
recipient or spouse is situated. From the time of filing the 55086
certificate in the office of the county recorder, the lien 55087
attaches to all real property of the recipient or spouse described 55088
~~therein in the certificate~~ for all amounts ~~of aid which are paid~~ 55089
~~or which thereafter are paid,~~ for which adjustment or recovery may 55090
be made under section 5111.11 of the Revised Code and, except as 55091
provided in division (E) of this section, shall remain a lien 55092
until satisfied. 55093

Upon filing the certificate in the office of the recorder, 55094
all persons are charged with notice of the lien and the rights of 55095
the department of job and family services thereunder. 55096

The county recorder shall keep a record of every certificate 55097
filed showing its date, the time of filing, the name and residence 55098

of the recipient or spouse, and any release, waivers, or 55099
satisfaction of the lien. 55100

The priority of the lien shall be established in accordance 55101
with state and federal law. 55102

The department may waive the priority of its lien to provide 55103
for the costs of the last illness as determined by the department, 55104
administration, attorney fees, administrator fees, a sum for the 55105
payment of the costs of burial, which shall be computed by 55106
deducting from five hundred dollars whatever amount is available 55107
for the same purpose from all other sources, and a similar sum for 55108
the spouse of the decedent. 55109

(E) A lien imposed with respect to a medicaid recipient under 55110
this section shall dissolve on the recipient's discharge from the 55111
institution and return home. 55112

Sec. 5111.112. The department of job and family services may 55113
enter into a contract with any person or government entity under 55114
which the person or government entity administers the estate 55115
recovery program instituted under section 5111.11 of the Revised 55116
Code on behalf of the department or performs any of the functions 55117
required to carry out the program. The contract may provide for 55118
the person or government entity to be compensated from the 55119
property recovered under the program or may provide for another 55120
manner of compensation agreed to by the person or government 55121
entity and the department. Regardless of whether it is 55122
administered by the department or a person or government entity 55123
under contract with the department, the program shall be 55124
administered in accordance with applicable requirements of federal 55125
law and regulations and state law and rules. 55126

Any action that may be taken by the department under section 55127
5111.111 of the Revised Code may be taken by a person or 55128

government entity administering the program, or performing actions 55129
specified in that section, pursuant to a contract with the 55130
department. 55131

Sec. ~~5111.112~~ 5111.113. (A) As used in this section: 55132

(1) "Adult care facility" has the same meaning as in section 55133
3722.01 of the Revised Code. 55134

(2) "Commissioner" means a person appointed by a probate 55135
court under division (B) of section 2113.03 of the Revised Code to 55136
act as a commissioner. 55137

(3) "Home" has the same meaning as in section 3721.10 of the 55138
Revised Code. 55139

(4) "Personal needs allowance account" means an account or 55140
petty cash fund that holds the money of a resident of an adult 55141
care facility or home and that the facility or home manages for 55142
the resident. 55143

(B) Except as provided in divisions (C) and (D) of this 55144
section, the owner or operator of an adult care facility or home 55145
shall transfer to the department of job and family services the 55146
money in the personal needs allowance account of a resident of the 55147
facility or home who was a recipient of the medical assistance 55148
program no earlier than sixty days but not later than ninety days 55149
after the resident dies. The adult care facility or home shall 55150
transfer the money even though the owner or operator of the 55151
facility or home has not been issued letters testamentary or 55152
letters of administration concerning the resident's estate. 55153

(C) If funeral or burial expenses for a resident of an adult 55154
care facility or home who has died have not been paid and the only 55155
resource the resident had that could be used to pay for the 55156
expenses is the money in the resident's personal needs allowance 55157
account, or all other resources of the resident are inadequate to 55158

pay the full cost of the expenses, the money in the resident's
personal needs allowance account shall be used to pay for the
expenses rather than being transferred to the department of job
and family services pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of an
adult care facility or home dies, letters testamentary or letters
of administration are issued, or an application for release from
administration is filed under section 2113.03 of the Revised Code,
concerning the resident's estate, the owner or operator of the
facility or home shall transfer the money in the resident's
personal needs allowance account to the administrator, executor,
commissioner, or person who filed the application for release from
administration.

(E) The transfer or use of money in a resident's personal
needs allowance account in accordance with division (B), (C), or
(D) of this section discharges and releases the adult care
facility or home, and the owner or operator of the facility or
home, from any claim for the money from any source.

(F) If, sixty-one or more days after a resident of an adult
care facility or home dies, letters testamentary or letters of
administration are issued, or an application for release from
administration under section 2113.03 of the Revised Code is filed,
concerning the resident's estate, the department of job and family
services shall transfer the funds to the administrator, executor,
commissioner, or person who filed the application, unless the
department is entitled to recover the money under the estate
recovery program instituted under section 5111.11 of the Revised
Code.

Sec. ~~5111.113~~ 5111.114. As used in this section, "nursing
facility" and "intermediate care facility for the ~~mental~~ mentally
retarded" have the same meanings as in section 5111.20 of the

Revised Code. 55190

In determining the amount of income that a recipient of 55191
medical assistance must apply monthly toward payment of the cost 55192
of care in a nursing facility or intermediate care facility for 55193
the mentally retarded, the county department of job and family 55194
services shall deduct from the recipient's monthly income a 55195
monthly personal needs allowance in accordance with section 1902 55196
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 55197
1396a, as amended. 55198

For a resident of a nursing facility, the monthly personal 55199
needs allowance shall be not less than forty dollars for an 55200
individual resident and not less than eighty dollars for a married 55201
couple if both spouses are residents of a nursing facility. 55202

For a resident of an intermediate care facility for the 55203
mentally retarded, the monthly personal needs allowance shall be 55204
forty dollars unless the resident has earned income, in which case 55205
the monthly personal needs allowance shall be determined by the 55206
state department of job and family services but shall not exceed 55207
one hundred five dollars. 55208

Sec. 5111.16. (A) As part of the medicaid program, the 55209
department of job and family services shall establish a care 55210
management system. The department shall submit, if necessary, 55211
applications to the United States department of health and human 55212
services for waivers of federal medicaid requirements that would 55213
otherwise be violated in the implementation of the system. 55214

(B)(1) The department shall implement the care management 55215
system in some or all counties and shall designate the medicaid 55216
recipients who are required or permitted to participate in the 55217
system. 55218

(2) In the case of individuals who receive medicaid on the 55219

basis of being included in the category identified by the 55220
department as covered families and children, the care management 55221
system shall be implemented in all counties and all individuals 55222
included in the category shall be designated for participation. 55223
The department shall designate the participants not later than 55224
January 1, 2006. Not later than December 31, 2006, the department 55225
shall ensure that all participants are enrolled in health insuring 55226
corporations under contract with the department pursuant to 55227
section 5111.17 of the Revised Code. 55228

~~(B) Under the care management system~~ (C) Subject to division 55229
(B)(2) of this section, the department may do both of the 55230
following under the care management system: 55231

(1) Require or permit participants in the system to obtain 55232
health care services from providers designated by the department; 55233

(2) ~~require~~ Require or permit participants in the system to 55234
obtain health care services through managed care organizations 55235
under contract with the department pursuant to section 5111.17 of 55236
the Revised Code. 55237

~~(C)~~(D) The department shall prepare an annual report on the 55238
care management system. The report shall address the department's 55239
ability to implement the system, including the required 55240
designation of participants included in the category identified by 55241
the department as covered families and children, the conduct of 55242
the pilot programs established under sections 5111.163 to 5111.165 55243
of the Revised Code, and the use of any programs for enhanced care 55244
management. 55245

The department shall submit each annual report to the general 55246
assembly. The first report shall be submitted not later than 55247
October 1, 2007. 55248

(E) The director of job and family services may adopt rules 55249
in accordance with Chapter 119. of the Revised Code to implement 55250

this section. 55251

Sec. 5111.161. (A) There is hereby created the medicaid care management working group, consisting of the following members: 55252
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(1) Three individuals representing medicaid health insuring corporations, as defined in section 5111.176 of the Revised Code, one appointed by the president of the senate, one appointed by the speaker of the house of representatives, and one appointed by the governor; 55254
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(2) One individual representing programs that provide enhanced care management services, appointed by the governor; 55259
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(3) Four individuals representing health care professional and trade associations, appointed as follows: 55261
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(a) One representative of the American academy of pediatrics, appointed by the president of the senate; 55263
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(b) One representative of the American academy of family physicians, appointed by the speaker of the house of representatives; 55265
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(c) One representative of the Ohio state medical association, appointed by the president of the senate; 55268
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(d) One representative of the Ohio hospital association, appointed by the speaker of the house of representatives. 55270
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(4) One individual representing behavioral health professional and trade associations, appointed by the speaker of the house of representatives; 55272
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(5) Two individuals representing consumer advocates, one appointed by the president of the senate and one appointed by the speaker of the house of representatives; 55275
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(6) One individual representing county departments of job and family services, appointed by the president of the senate; 55278
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(7) Three individuals representing the business community, one appointed by the president of the senate, one appointed by the speaker of the house of representatives, and one appointed by the governor; 55280
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(8) The director of job and family services or the director's designee; 55284
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(9) The director of health or the director's designee; 55286

(10) The director of aging or the director's designee. 55287

(B) The members of the working group shall serve at the pleasure of their appointing authorities. Vacancies shall be filled in the manner provided for original appointments. 55288
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(C) The working group shall develop guidelines to be followed by the department of job and family services when entering into contracts under section 5111.17 of the Revised Code with managed care organizations for purposes of the care management system established under section 5111.16 of the Revised Code. The working group shall consult regularly with the departments of insurance, aging, alcohol and drug addiction services, mental health, and mental retardation and developmental disabilities and the rehabilitation services commission. 55291
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In developing the guidelines for managed care contracts, the working group shall do all of the following: 55300
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(1) Examine the best practice standards used in managed care programs and other health care and related systems to maximize patient and provider satisfaction, maintain quality of care, and obtain cost-effectiveness; 55302
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(2) Consider the most effective means of facilitating the expansion of the care management system and increasing consistency within the system; 55306
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(3) Make recommendations for coordinating the regulatory 55309

<u>relationships involved in the medicaid care management system;</u>	55310
<u>(4) Make recommendations for improving the resolution of</u>	55311
<u>contracting issues among the providers involved in the care</u>	55312
<u>management system;</u>	55313
<u>(5) Make recommendations to the department of job and family</u>	55314
<u>services for creating the financial incentive program under</u>	55315
<u>division (B) of section 5111.17 of the Revised Code to improve and</u>	55316
<u>reward positive health outcomes through care management contracts.</u>	55317
<u>In making these recommendations, the working group shall include</u>	55318
<u>all of the following:</u>	55319
<u>(a) Standards and procedures by which care management</u>	55320
<u>contractors may receive financial incentives for positive health</u>	55321
<u>outcomes measured on an individual basis;</u>	55322
<u>(b) Specific measures of positive health outcomes,</u>	55323
<u>particularly among individuals with high-risk health conditions;</u>	55324
<u>(c) Criteria for determining what constitutes a completed</u>	55325
<u>health outcome;</u>	55326
<u>(d) Methods of funding the program without requiring an</u>	55327
<u>increase in appropriations.</u>	55328
<u>(D) The working group shall prepare an annual report on its</u>	55329
<u>activities and shall submit the report to the president of the</u>	55330
<u>senate, speaker of the house of representatives, and governor. The</u>	55331
<u>report shall include any findings and recommendations the working</u>	55332
<u>group considers relevant to its duties. The working group shall</u>	55333
<u>complete an initial report not later than December 31, 2005. Each</u>	55334
<u>year thereafter, the working group shall complete its annual</u>	55335
<u>report by the last day of December.</u>	55336
<u>Sec. 5111.162. (A) As used in this section:</u>	55337
<u>(1) "Medicaid managed care organization" means a managed care</u>	55338

organization that has entered into a contract with the department 55339
of job and family services pursuant to section 5111.17 of the 55340
Revised Code. 55341

(2) "Provider" has the same meaning as in section 5111.06 of 55342
the Revised Code. 55343

(B) Except as provided in division (C) of this section, when 55344
a participant in the care management system established under 55345
section 5111.16 of the Revised Code is enrolled in a medicaid 55346
managed care organization and the organization refers the 55347
participant to a provider that is not under contract with the 55348
organization, the provider shall provide the service for which the 55349
referral was made and shall accept from the organization, as 55350
payment in full, the amount derived from the reimbursement rate 55351
used by the department to reimburse other providers of the same 55352
type for providing the same service to a medicaid recipient who is 55353
not enrolled in a medicaid managed care organization. 55354

(C) A provider that is a hospital is not subject to division 55355
(B) of this section if all of the following are the case: 55356

(1) The hospital is located in a county in which participants 55357
in the care management system are required before January 1, 2006, 55358
to be enrolled in a medicaid managed care organization that is a 55359
health insuring corporation; 55360

(2) The hospital has entered into a contract before January 55361
1, 2006, with at least one health insuring corporation serving the 55362
participants specified in division (C)(1) of this section; 55363

(3) The hospital remains under contract with at least one 55364
health insuring corporation serving participants in the care 55365
management system who are required to be enrolled in a health 55366
insuring corporation. 55367

(D) The director of job and family services shall adopt rules 55368

specifying the circumstances under which a medicaid managed care organization is permitted to refer a participant in the care management system to a provider that is not under contract with the organization. The director may adopt any other rules necessary to implement this section. All rules adopted under this section shall be adopted in accordance with Chapter 119. of the Revised Code. 55369
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Sec. 5111.163. (A) The department of job and family services shall develop a care management pilot program under which individuals designated by the department who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, are required to enroll in and obtain medicaid-covered health care services through the care management system established under section 5111.16 of the Revised Code. The department shall implement the pilot program not later than July 1, 2006. 55376
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(B) Unless the department receives the necessary waivers of federal medicaid requirements, the department shall not designate individuals for participation in the pilot program if they are included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department may exclude from participation some or all individuals who are included in one or more of the following groups of medicaid recipients: 55385
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(1) Individuals who are under twenty-one years of age; 55392

(2) Individuals who are institutionalized; 55393

(3) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements; 55394
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(4) Individuals who are dually eligible under the medicaid program and the medicare program established under Title XVIII of 55397
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the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as 55399
amended; 55400

(5) Individuals to the extent that they are receiving 55401
medicaid services through a medicaid waiver component, as defined 55402
in section 5111.85 of the Revised Code. 55403

(C) When entering into contracts under section 5111.17 of the 55404
Revised Code to implement the pilot program, the department shall 55405
contract only with managed care organizations that are health 55406
insuring corporations. 55407

(D) The department may cease operation of the pilot program 55408
if the department determines any of the following: 55409

(1) That requiring the individuals designated for 55410
participation in the pilot program is not a cost-effective means 55411
of providing medicaid services to the individuals; 55412

(2) That the department has sufficient information to 55413
evaluate the pilot program's effectiveness; 55414

(3) That any other reason exists to justify the pilot 55415
program's termination. 55416

(E) The department shall conduct an evaluation of the pilot 55417
program's effectiveness. 55418

(F) The department may adopt any rules it considers necessary 55419
to implement this section. The rules shall be adopted in 55420
accordance with Chapter 119. of the Revised Code. 55421

Sec. 5111.164. (A) The department of job and family services 55422
shall develop a care management pilot program for long-term care 55423
under which individuals designated by the department who receive 55424
medicaid on the basis of being aged, blind, or disabled, as 55425
specified in division (A)(2) of section 5111.01 of the Revised 55426
Code, are required to enroll in and obtain medicaid-covered health 55427

care services through the care management system established under 55428
section 5111.16 of the Revised Code. The department shall 55429
implement the pilot program not later than July 1, 2006. 55430

(B) Unless the department receives the necessary waivers of 55431
federal medicaid requirements, the department shall not designate 55432
an individual for participation in the pilot program if the 55433
individual is included in one or more of the medicaid recipient 55434
groups specified in 42 C.F.R. 438.50(d). To be designated for 55435
participation, an individual shall meet both of the following 55436
conditions: 55437

(1) Be fifty-five years of age or older; 55438

(2) Require the level of care provided by a nursing facility, 55439
as defined in section 5111.20 of the Revised Code. 55440

(C) When entering into contracts under section 5111.17 of the 55441
Revised Code to implement the pilot program, the department may 55442
include provisions that permit a managed care organization to pay 55443
nursing facilities according to rates that differ from the rates 55444
the department uses to reimburse nursing facilities for their 55445
services. 55446

(D) The department may cease operation of the pilot program 55447
if the department determines any of the following: 55448

(1) That requiring the individuals designated for 55449
participation in the pilot program is not a cost-effective means 55450
of providing medicaid services to the individuals; 55451

(2) That the department has sufficient information to 55452
evaluate the pilot program's effectiveness; 55453

(3) That any other reason exists to justify the pilot 55454
program's termination. 55455

(E) The department shall conduct an evaluation of the pilot 55456

program's effectiveness. 55457

(F) The department may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. 55458
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Sec. 5111.165. (A) As used in this section, "chronically ill child" means an individual who is not more than twenty-one years of age and meets the conditions specified in division (A)(2) of section 5111.01 of the Revised Code to be eligible for medicaid on the basis of being blind or disabled. 55461
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(B) Notwithstanding any conflicting provision of section 5111.163 of the Revised Code, the department of job and family services shall develop a pilot program for the care management of chronically ill children in accordance with this section. The pilot program shall be implemented not later than October 1, 2006, or, if by that date the department has not received any necessary federal approval to implement the program, as soon as practicable after receiving the approval. The department shall operate the program until October 1, 2008, except that the department shall cease operation of the program before that date if either of the following is the case: 55466
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(1) The department determines that requiring chronically ill children to participate in the care management system is not a cost-effective means of providing medicaid services. 55477
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(2) The combined state and federal cost of the children's care coordination described in division (D) of this section reaches three million dollars. 55480
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(C) The department shall ensure that the pilot program is operated in at least three counties selected by the department. In its consideration of the counties to be selected, the department may give priority to Hamilton county and Muskingum county. The 55483
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department may extend its operation of the program into the areas 55487
surrounding the counties in which the program is operated. 55488

(D) The purpose of the pilot program shall be to determine 55489
whether occurrences of acute illnesses and hospitalizations among 55490
chronically ill children can be prevented or reduced by 55491
establishing a medical home for the children where care is 55492
administered proactively and in a manner that is accessible, 55493
continuous, family-centered, coordinated, and compassionate. In 55494
establishing a medical home for a chronically ill child, all of 55495
the following apply: 55496

(1) A physician shall serve as the care coordinator for the 55497
child. The care coordinator may be engaged in practice as a 55498
pediatrician certified in pediatrics by a medical specialty board 55499
of the American medical association or American osteopathic 55500
association, a pediatric subspecialist, or a provider for the 55501
program for medically handicapped children in the department of 55502
health. If the physician is in a group practice, any member of the 55503
group practice may serve as the child's care coordinator. The 55504
duties of the care coordinator may be performed by a person acting 55505
under the supervision of the care coordinator. 55506

(2) The child may receive care from any health care 55507
practitioner appropriate to the child's needs, but the care 55508
coordinator shall direct and oversee the child's overall care. 55509

(3) The care coordinator shall establish a relationship of 55510
mutual responsibility with the child's parents or other persons 55511
who are responsible for the child. Under this relationship, the 55512
care coordinator shall commit to developing a long-term disease 55513
prevention strategy and providing disease management and education 55514
services, while the child's parents or other persons who are 55515
responsible for the child shall commit to participating fully in 55516
implementing the child's care management plan. 55517

(4) The medicaid program shall provide reimbursement for the reasonable and necessary costs of the services associated with care coordination, including, but not limited to, case management, care plan oversight, preventive care, health and behavioral care assessment and intervention, and any service modifier that reflects the provision of prolonged services or additional care.

(E) The department shall conduct an evaluation of the pilot program's effectiveness. As part of the evaluation, the department shall maintain statistics on physician expenditures, hospital expenditures, preventable hospitalizations, and other matters the department considers necessary to conduct the evaluation.

(F) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. The rules shall specify standards and procedures to be used in designating the chronically ill children who are required to participate in the pilot program.

Sec. 5111.17. (A) The department of job and family services may enter into contracts with managed care organizations, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under section 5111.16 of the Revised Code.

(B) The department shall develop and implement a financial incentive program to improve and reward positive health outcomes through the managed care organization contracts entered into under this section. The department shall base the program on the recommendations made by the medicaid care management working group created under section 5111.161 of the Revised Code.

(C) The director of job and family services may adopt rules 55549
in accordance with Chapter 119. of the Revised Code to implement 55550
this section. 55551

Sec. 5111.172. ~~When~~ (A) Subject to division (B) of this 55552
section, when contracting under section 5111.17 of the Revised 55553
Code with a managed care organization that is a health insuring 55554
corporation, the department of job and family services may require 55555
the health insuring corporation to provide coverage of 55556
prescription drugs for medicaid recipients enrolled in the health 55557
insuring corporation. In providing the required coverage, the 55558
health insuring corporation may, subject to the department's 55559
approval, use strategies for the management of drug utilization. 55560

(B) The department shall require a health insuring 55561
corporation with which the department contracts under section 55562
5111.17 of the Revised Code to provide coverage of prescription 55563
drugs that protect against respiratory syncytial virus for 55564
medicaid recipients enrolled in the health insuring corporation 55565
who, as an infant born premature or other pediatric patient, are 55566
at risk for respiratory syncytial virus. In covering the drugs for 55567
these medicaid recipients, the health insuring corporation shall 55568
do both of the following: 55569

(1) Cover the drugs in at least the same amount, duration, 55570
and scope as the medicaid program's coverage of the drugs for 55571
medicaid recipients who receive state medicaid plan services under 55572
the fee-for-service system; 55573

(2) Establish access requirements for the drugs that are less 55574
or no more restrictive than the access requirements for the drugs 55575
under the fee-for-service system. 55576

Sec. 5111.176. (A) As used in this section: 55577

(1) "Medicaid health insuring corporation" means a health 55578

insuring corporation that holds a certificate of authority under 55579
Chapter 1751. of the Revised Code and has entered into a contract 55580
with the department of job and family services pursuant to section 55581
5111.17 of the Revised Code. 55582

(2) "Managed care premium" means any premium payment, 55583
capitation payment, or other payment a medicaid health insuring 55584
corporation receives for providing, or arranging for the provision 55585
of, health care services to its members or enrollees residing in 55586
this state. 55587

(B) Except as provided in division (C) of this section, all 55588
of the following apply: 55589

(1) Each medicaid health insuring corporation shall pay to 55590
the department of job and family services a franchise permit fee 55591
for each calendar quarter occurring between January 1, 2006, and 55592
June 30, 2007. 55593

(2) The fee to be paid is an amount that is equal to a 55594
percentage of the managed care premiums the medicaid health 55595
insuring corporation received in the quarter to which the fee 55596
applies, excluding the amount of any managed care premiums the 55597
corporation returned or refunded to enrollees, members, or premium 55598
payers during that quarter. 55599

(3) The percentage to be used in calculating the fee shall be 55600
four and one-half per cent, unless the department adopts rules 55601
under division (L) of this section decreasing the percentage below 55602
four and one-half per cent or increasing the percentage to not 55603
more than six per cent. 55604

(C) The department shall reduce the franchise permit fee 55605
imposed under this section or terminate its collection of the fee 55606
if the department determines either of the following: 55607

(1) That the reduction or termination is required to comply 55608

with federal statutes or regulations; 55609

(2) That the fee does not qualify as a state share of 55610
medicaid expenditures eligible for federal financial 55611
participation. 55612

(D) The franchise permit fee shall be paid on or before the 55613
thirtieth day following the end of the calendar quarter to which 55614
the fee applies. At the time the fee is submitted, the medicaid 55615
health insuring corporation shall file with the department a 55616
report on a form prescribed by the department. The corporation 55617
shall provide on the form all information required by the 55618
department and shall include with the form any necessary 55619
supporting documentation. 55620

(E) The department may audit the records of any medicaid 55621
health insuring corporation to determine whether the corporation 55622
is in compliance with this section. The department may audit the 55623
records that pertain to a particular calendar quarter at any time 55624
during the five years following the date the franchise permit fee 55625
payment for that quarter was due. 55626

(F)(1) A medicaid health insuring corporation that does not 55627
pay the franchise permit fee in full by the date the payment is 55628
due is subject to any or all of the following: 55629

(a) A monetary penalty in the amount of five hundred dollars 55630
for each day any part of the fee remains unpaid, except that the 55631
penalty shall not exceed an amount equal to five per cent of the 55632
total fee that was due for the calendar quarter for which the 55633
penalty is being imposed; 55634

(b) Withholdings from future managed care premiums pursuant 55635
to division (G) of this section; 55636

(c) Termination of the corporation's medicaid provider 55637
agreement pursuant to division (H) of this section. 55638

(2) Penalties imposed under division (F)(1)(a) of this section are in addition to and not in lieu of the franchise permit fee. 55639
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(G) If a medicaid health insuring corporation fails to pay the full amount of its franchise permit fee when due, or the full amount of a penalty imposed under division (F)(1)(a) of this section, the department may withhold an amount equal to the remaining amount due from any future managed care premiums to be paid to the corporation under the medicaid program. The department may withhold amounts under this division without providing notice to the corporation. The amounts may be withheld until the amount due has been paid. 55642
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(H) The department may commence actions to terminate a medicaid health insuring corporation's medicaid provider agreement, and may terminate the agreement subject to division (I) of this section, if the corporation does any of the following: 55651
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(1) Fails to pay its franchise permit fee or fails to pay the fee promptly; 55655
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(2) Fails to pay a penalty imposed under division (F)(1)(a) of this section or fails to pay the penalty promptly; 55657
55658

(3) Fails to cooperate with an audit conducted under division (E) of this section. 55659
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(I) At the request of a medicaid health insuring corporation, the department shall grant the corporation a hearing in accordance with Chapter 119. of the Revised Code, if either of the following is the case: 55661
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(1) The department has determined that the corporation owes an additional franchise permit fee or penalty as the result of an audit conducted under division (E) of this section. 55665
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(2) The department is proposing to terminate the 55668

corporation's medicaid provider agreement and the provisions of 55669
section 5111.06 of the Revised Code requiring an adjudication in 55670
accordance with Chapter 119. of the Revised Code are applicable. 55671

(J)(1) At the request of a medicaid corporation, the 55672
department shall grant the corporation a reconsideration of any 55673
issue that arises out of the provisions of this section and is not 55674
subject to division (I) of this section. The department's decision 55675
at the conclusion of the reconsideration is not subject to appeal 55676
under Chapter 119. of the Revised Code or any other provision of 55677
the Revised Code. 55678

(2) In conducting a reconsideration, the department shall do 55679
at least the following: 55680

(a) Specify the time frames within which a corporation must 55681
act in order to exercise its opportunity for a reconsideration; 55682

(b) Permit the corporation to present written arguments or 55683
other materials that support the corporation's position. 55684

(K) There is hereby created in the state treasury the managed 55685
care assessment fund. Money collected from the franchise permit 55686
fees and penalties imposed under this section shall be credited to 55687
the fund. The department shall use the money in the fund to pay 55688
for medicaid services, the department's administrative costs, and 55689
contracts with medicaid health insuring corporations. 55690

(L) The director of job and family services may adopt rules 55691
to implement and administer this section. The rules shall be 55692
adopted in accordance with Chapter 119. of the Revised Code. 55693

Sec. 5111.19. The director of job and family services shall 55694
adopt rules governing the calculation and payment of graduate 55695
medical education costs associated with services rendered to 55696
medicaid recipients of the medical assistance program after June 55697
30, 1994. The Subject to section 5111.191 of the Revised Code, the 55698

rules shall provide for reimbursement of graduate medical 55699
education costs associated with services rendered to ~~medical~~ 55700
~~assistance~~ medicaid recipients, including recipients enrolled in 55701
~~health insuring corporations~~ a managed care organization under 55702
contract with the department under section 5111.17 of the Revised 55703
Code, that the department determines are allowable and reasonable. 55704

If the department requires a ~~health insuring corporation~~ 55705
managed care organization to pay a provider for graduate medical 55706
education costs associated with the delivery of services to 55707
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 55708
organization, the department shall include in its payment to the 55709
~~corporation~~ organization an amount sufficient for the ~~corporation~~ 55710
organization to pay such costs. If the department does not include 55711
in its payments to the ~~health insuring corporation~~ managed care 55712
organization amounts for graduate medical education costs of 55713
providers, all of the following apply: 55714

(A) The Except as provided in section 5111.191 of the Revised 55715
Code, the department shall pay the provider for graduate medical 55716
education costs associated with the delivery of services to 55717
~~medical assistance~~ medicaid recipients enrolled in the ~~corporation~~ 55718
organization; 55719

(B) No provider shall seek reimbursement from the ~~corporation~~ 55720
organization for such costs; 55721

(C) The ~~corporation~~ organization is not required to pay 55722
providers for such costs. 55723

Sec. 5111.191. (A) Except as provided in division (B) of this 55724
section, the department of job and family services may deny 55725
payment to a hospital for direct graduate medical education costs 55726
associated with the delivery of services to any medicaid recipient 55727
if the hospital refuses without good cause to contract with a 55728
managed care organization that serves participants in the care 55729

management system established under section 5111.16 of the Revised Code who are required to be enrolled in a managed care organization and the managed care organization serves the area in which the hospital is located. 55730
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(B) A hospital is not subject to division (A) of this section if all of the following are the case: 55734
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(1) The hospital is located in a county in which participants in the care management system are required before January 1, 2006, to be enrolled in a medicaid managed care organization that is a health insuring corporation. 55736
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(2) The hospital has entered into a contract before January 1, 2006, with at least one health insuring corporation serving the participants specified in division (B)(1) of this section. 55740
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(3) The hospital remains under contract with at least one health insuring corporation serving participants in the care management system who are required to be enrolled in a health insuring corporation. 55743
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(C) The director of job and family services shall specify in the rules adopted under section 5111.19 of the Revised Code what constitutes good cause for a hospital to refuse to contract with a managed care organization. 55747
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Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.33 of the Revised Code: 55751
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(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code. 55753
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(B) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs or 55757
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capital costs. "Ancillary and support costs" includes, but is not 55759
limited to, costs of activities, social services, pharmacy 55760
consultants, medical and habilitation records, program supplies, 55761
incontinence supplies, food, enterals, dietary supplies and 55762
personnel, laundry, housekeeping, security, administration, 55763
medical equipment, utilities, liability insurance, bookkeeping, 55764
purchasing department, human resources, communications, travel, 55765
dues, license fees, subscriptions, home office costs not otherwise 55766
allocated, legal services, accounting services, minor equipment, 55767
maintenance and repairs, help-wanted advertising, informational 55768
advertising, start-up costs, organizational expenses, other 55769
interest, property insurance, employee training and staff 55770
development, employee benefits, payroll taxes, and workers' 55771
compensation premiums or costs for self-insurance claims and 55772
related costs as specified in rules adopted by the director of job 55773
and family services under section 5111.02 of the Revised Code, for 55774
personnel listed in this division. "Ancillary and support costs" 55775
also means the cost of equipment, including vehicles, acquired by 55776
operating lease executed before December 1, 1992, if the costs are 55777
reported as administrative and general costs on the facility's 55778
cost report for the cost reporting period ending December 31, 55779
1992. 55780

(C) "Capital costs" means costs of ownership and, in the case 55781
of an intermediate care facility for the mentally retarded, costs 55782
of nonextensive renovation. 55783

(1) "Cost of ownership" means the actual expense incurred for 55784
all of the following: 55785

(a) Depreciation and interest on any capital assets that cost 55786
five hundred dollars or more per item, including the following: 55787

(i) Buildings; 55788

(ii) Building improvements that are not approved as 55789

nonextensive renovations under section 5111.25 or 5111.251 of the Revised Code;	55790 55791
(iii) Equipment <u>Except as provided in division (B) of this section, equipment;</u>	55792 55793
(iv) Extensive <u>In the case of an intermediate care facility for the mentally retarded, extensive</u> renovations;	55794 55795
(v) Transportation equipment.	55796
(b) Amortization and interest on land improvements and leasehold improvements;	55797 55798
(c) Amortization of financing costs;	55799
(d) Except as provided in division (I) <u>(K)</u> of this section, lease and rent of land, building, and equipment.	55800 55801
The costs of capital assets of less than five hundred dollars per item may be considered <u>capital</u> costs of ownership in accordance with a provider's practice.	55802 55803 55804
(2) "Costs of nonextensive renovation" means the actual expense incurred <u>by an intermediate care facility for the mentally retarded</u> for depreciation or amortization and interest on renovations that are not extensive renovations.	55805 55806 55807 55808
(C) <u>(D)</u> "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.	55809 55810 55811
(D) <u>(E)</u> "Case-mix score" means the measure determined under section 5111.231 <u>5111.232</u> of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.	55812 55813 55814 55815 55816
(E) <u>(F)</u> "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised	55817 55818

Code, means the date specific beds were originally licensed as 55819
nursing home beds under that chapter, regardless of whether they 55820
were subsequently licensed as residential facility beds under 55821
section 5123.19 of the Revised Code. For a facility originally 55822
licensed as a residential facility under section 5123.19 of the 55823
Revised Code, "date of licensure" means the date specific beds 55824
were originally licensed as residential facility beds under that 55825
section. 55826

(1) If nursing home beds licensed under Chapter 3721. of the 55827
Revised Code or residential facility beds licensed under section 55828
5123.19 of the Revised Code were not required by law to be 55829
licensed when they were originally used to provide nursing home or 55830
residential facility services, "date of licensure" means the date 55831
the beds first were used to provide nursing home or residential 55832
facility services, regardless of the date the present provider 55833
obtained licensure. 55834

(2) If a facility adds nursing home beds or residential 55835
facility beds or extensively renovates all or part of the facility 55836
after its original date of licensure, it will have a different 55837
date of licensure for the additional beds or extensively renovated 55838
portion of the facility, unless the beds are added in a space that 55839
was constructed at the same time as the previously licensed beds 55840
but was not licensed under Chapter 3721. or section 5123.19 of the 55841
Revised Code at that time. 55842

~~(F)~~(G) "Desk-reviewed" means that costs as reported on a cost 55843
report submitted under section 5111.26 of the Revised Code have 55844
been subjected to a desk review under division (A) of section 55845
5111.27 of the Revised Code and preliminarily determined to be 55846
allowable costs. 55847

~~(G)~~(H) "Direct care costs" means all of the following: 55848

(1)(a) Costs for registered nurses, licensed practical 55849

nurses, and nurse aides employed by the facility;	55850
(b) Costs for direct care staff, administrative nursing staff, medical directors, social services staff, activities staff, psychologists and psychology assistants, social workers and counselors, habilitation staff, qualified mental retardation professionals, program directors, respiratory therapists, habilitation supervisors, and except as provided in division (G)(2) of this section, other persons holding degrees qualifying them to provide therapy;	55851 55852 55853 55854 55855 55856 55857 55858
(c) Costs of purchased nursing services;	55859
(d) Costs of quality assurance;	55860
(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (G) (H)(1)(a), (b), and (d) of this section;	55861 55862 55863 55864 55865 55866
(f) Costs of consulting and management fees related to direct care;	55867 55868
(g) Allocated direct care home office costs.	55869
(2) <u>In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include medical supplies, emergency oxygen, habilitation supplies, and universal precautions supplies.</u>	55870 55871 55872 55873
(3) In addition to the costs specified in division (G) (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:	55874 55875 55876
(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, and <u>audiologists, social services</u>	55877 55878 55879

<u>staff, activities staff, psychologists and psychology assistants,</u>	55880
<u>and social workers and counselors;</u>	55881
(b) Costs of training and staff development, employee	55882
benefits, payroll taxes, and workers' compensation premiums or	55883
costs for self-insurance claims and related costs as specified in	55884
rules adopted by the director of job and family services in	55885
accordance with Chapter 119. under section 5111.02 of the Revised	55886
Code, for personnel listed in division (G)(2) <u>(H)(3)</u> (a) of this	55887
section.	55888
(3) <u>(4)</u> Costs of other direct-care resources that are	55889
specified as direct care costs in rules adopted by the director of	55890
job and family services in accordance with Chapter 119. under	55891
<u>section 5111.02</u> of the Revised Code.	55892
(H) <u>(I)</u> "Fiscal year" means the fiscal year of this state, as	55893
specified in section 9.34 of the Revised Code.	55894
(I) <u>(J)</u> "Franchise permit fee" means the fee imposed by	55895
<u>sections 3721.50 to 3721.58</u> of the Revised Code.	55896
<u>(K)</u> "Indirect care costs" means all reasonable costs <u>incurred</u>	55897
<u>by an intermediate care facility for the mentally retarded</u> other	55898
than direct care costs, other protected costs, or capital costs.	55899
"Indirect care costs" includes but is not limited to costs of	55900
habilitation supplies, pharmacy consultants, medical and	55901
habilitation records, program supplies, incontinence supplies,	55902
food, enterals, dietary supplies and personnel, laundry,	55903
housekeeping, security, administration, liability insurance,	55904
bookkeeping, purchasing department, human resources,	55905
communications, travel, dues, license fees, subscriptions, home	55906
office costs not otherwise allocated, legal services, accounting	55907
services, minor equipment, maintenance and repairs, help-wanted	55908
advertising, informational advertising, start-up costs,	55909
organizational expenses, other interest, property insurance,	55910

employee training and staff development, employee benefits, 55911
payroll taxes, and workers' compensation premiums or costs for 55912
self-insurance claims and related costs as specified in rules 55913
~~adopted by the director of job and family services in accordance~~ 55914
~~with Chapter 119. under section 5111.02~~ of the Revised Code, for 55915
personnel listed in this division. Notwithstanding division 55916
~~(B)~~(C)(1) of this section, "indirect care costs" also means the 55917
cost of equipment, including vehicles, acquired by operating lease 55918
executed before December 1, 1992, if the costs are reported as 55919
administrative and general costs on the facility's cost report for 55920
the cost reporting period ending December 31, 1992. 55921

~~(J)~~(L) "Inpatient days" means all days during which a 55922
resident, regardless of payment source, occupies a bed in a 55923
nursing facility or intermediate care facility for the mentally 55924
retarded that is included in the facility's certified capacity 55925
under Title XIX ~~of the "Social Security Act," 49 Stat. 610 (1935),~~ 55926
~~42 U.S.C.A. 301, as amended.~~ Therapeutic or hospital leave days 55927
for which payment is made under section 5111.33 of the Revised 55928
Code are considered inpatient days proportionate to the percentage 55929
of the facility's per resident per day rate paid for those days. 55930

~~(K)~~(M) "Intermediate care facility for the mentally retarded" 55931
means an intermediate care facility for the mentally retarded 55932
certified as in compliance with applicable standards for the 55933
~~medical assistance~~ medicaid program by the director of health in 55934
accordance with Title XIX ~~of the "Social Security Act."~~ 55935

~~(L)~~(N) "Maintenance and repair expenses" means, except as 55936
provided in division ~~(X)~~(BB)(2) of this section, expenditures that 55937
are necessary and proper to maintain an asset in a normally 55938
efficient working condition and that do not extend the useful life 55939
of the asset two years or more. "Maintenance and repair expenses" 55940
includes but is not limited to the cost of ordinary repairs such 55941
as painting and wallpapering. 55942

~~(M)~~(O) "Medicaid days" means all days during which a resident who is a Medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 of the Revised Code are considered Medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(P) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX ~~of the "Social Security Act,"~~ and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX ~~of the "Social Security Act,"~~ and is certified as a skilled nursing facility by the director in accordance with Title XVIII ~~of the "Social Security Act."~~

~~(N)~~(O) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.

(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted ~~by the director of job and family services in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code.

~~(O)~~(S)(1) "Owner" means any person or government entity that 55974
has at least five per cent ownership or interest, either directly, 55975
indirectly, or in any combination, in any of the following 55976
regarding a nursing facility or intermediate care facility for the 55977
mentally retarded: 55978

(a) The land on which the facility is located; 55979

(b) The structure in which the facility is located; 55980

(c) Any mortgage, contract for deed, or other obligation 55981
secured in whole or in part by the land or structure on or in 55982
which the facility is located; 55983

(d) Any lease or sublease of the land or structure on or in 55984
which the facility is located. 55985

(2) "Owner" does not mean a holder of a debenture or bond 55986
related to the nursing facility or intermediate care facility for 55987
the mentally retarded and purchased at public issue or a regulated 55988
lender that has made a loan related to the facility unless the 55989
holder or lender operates the facility directly or through a 55990
subsidiary. 55991

~~(P)~~(T) "Patient" includes "resident." 55992

~~(Q)~~(U) Except as provided in divisions ~~(Q)~~(U)(1) and (2) of 55993
this section, "per diem" means a nursing facility's or 55994
intermediate care facility for the mentally retarded's actual, 55995
allowable costs in a given cost center in a cost reporting period, 55996
divided by the facility's inpatient days for that cost reporting 55997
period. 55998

(1) When calculating indirect care costs for the purpose of 55999
establishing rates under section ~~5111.24~~ or 5111.241 of the 56000
Revised Code, "per diem" means ~~a facility's~~ an intermediate care 56001
facility for the mentally retarded's actual, allowable indirect 56002
care costs in a cost reporting period divided by the greater of 56003

the facility's inpatient days for that period or the number of 56004
inpatient days the facility would have had during that period if 56005
its occupancy rate had been eighty-five per cent. 56006

(2) When calculating capital costs for the purpose of 56007
establishing rates under section ~~5111.25~~ or 5111.251 of the 56008
Revised Code, "per diem" means a facility's actual, allowable 56009
capital costs in a cost reporting period divided by the greater of 56010
the facility's inpatient days for that period or the number of 56011
inpatient days the facility would have had during that period if 56012
its occupancy rate had been ninety-five per cent. 56013

~~(R)~~(V) "Provider" means ~~a person or government entity that~~ 56014
~~operates a nursing facility or intermediate care facility for the~~ 56015
~~mentally retarded under an operator with~~ a provider agreement. 56016

~~(S)~~(W) "Provider agreement" means a contract between the 56017
department of job and family services and the operator of a 56018
nursing facility or intermediate care facility for the mentally 56019
retarded for the provision of nursing facility services or 56020
intermediate care facility services for the mentally retarded 56021
under the ~~medical assistance~~ medicaid program. 56022

~~(T)~~(X) "Purchased nursing services" means services that are 56023
provided in a nursing facility by registered nurses, licensed 56024
practical nurses, or nurse aides who are not employees of the 56025
facility. 56026

~~(U)~~(Y) "Reasonable" means that a cost is an actual cost that 56027
is appropriate and helpful to develop and maintain the operation 56028
of patient care facilities and activities, including normal 56029
standby costs, and that does not exceed what a prudent buyer pays 56030
for a given item or services. Reasonable costs may vary from 56031
provider to provider and from time to time for the same provider. 56032

~~(V)~~(Z) "Related party" means an individual or organization 56033
that, to a significant extent, has common ownership with, is 56034

associated or affiliated with, has control of, or is controlled 56035
by, the provider. 56036

(1) An individual who is a relative of an owner is a related 56037
party. 56038

(2) Common ownership exists when an individual or individuals 56039
possess significant ownership or equity in both the provider and 56040
the other organization. Significant ownership or equity exists 56041
when an individual or individuals possess five per cent ownership 56042
or equity in both the provider and a supplier. Significant 56043
ownership or equity is presumed to exist when an individual or 56044
individuals possess ten per cent ownership or equity in both the 56045
provider and another organization from which the provider 56046
purchases or leases real property. 56047

(3) Control exists when an individual or organization has the 56048
power, directly or indirectly, to significantly influence or 56049
direct the actions or policies of an organization. 56050

(4) An individual or organization that supplies goods or 56051
services to a provider shall not be considered a related party if 56052
all of the following conditions are met: 56053

(a) The supplier is a separate bona fide organization. 56054

(b) A substantial part of the supplier's business activity of 56055
the type carried on with the provider is transacted with others 56056
than the provider and there is an open, competitive market for the 56057
types of goods or services the supplier furnishes. 56058

(c) The types of goods or services are commonly obtained by 56059
other nursing facilities or intermediate care facilities for the 56060
mentally retarded from outside organizations and are not a basic 56061
element of patient care ordinarily furnished directly to patients 56062
by the facilities. 56063

(d) The charge to the provider is in line with the charge for 56064

the goods or services in the open market and no more than the
charge made under comparable circumstances to others by the
supplier.

~~(W)~~(AA) "Relative of owner" means an individual who is
related to an owner of a nursing facility or intermediate care
facility for the mentally retarded by one of the following
relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) ~~Step parent~~ Stepparent, ~~step child~~ stepchild,
~~step brother~~ stepbrother, or ~~step sister~~ stepsister;

(5) Father-in-law, mother-in-law, son-in-law,
daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster
sister.

~~(X)~~(BB) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of ~~a nursing
facility or an~~ intermediate care facility for the mentally
retarded started before July 1, 1993, that meets the definition of
a renovation or extensive renovation established in rules adopted
by the director of job and family services in effect on December
22, 1992.

(2) In the case of betterments, improvements, and
restorations of ~~nursing facilities and~~ intermediate care
facilities for the mentally retarded started on or after July 1,
1993:

(a) "Renovation" means the betterment, improvement, or

restoration of a ~~nursing facility or~~ an intermediate care facility 56094
for the mentally retarded beyond its current functional capacity 56095
through a structural change that costs at least five hundred 56096
dollars per bed. A renovation may include betterment, improvement, 56097
restoration, or replacement of assets that are affixed to the 56098
building and have a useful life of at least five years. A 56099
renovation may include costs that otherwise would be considered 56100
maintenance and repair expenses if they are an integral part of 56101
the structural change that makes up the renovation project. 56102
"Renovation" does not mean construction of additional space for 56103
beds that will be added to a facility's licensed or certified 56104
capacity. 56105

(b) "Extensive renovation" means a renovation that costs more 56106
than sixty-five per cent and no more than eighty-five per cent of 56107
the cost of constructing a new bed and that extends the useful 56108
life of the assets for at least ten years. 56109

For the purposes of division ~~(X)~~(BB)(2) of this section, the 56110
cost of constructing a new bed shall be considered to be forty 56111
thousand dollars, adjusted for the estimated rate of inflation 56112
from January 1, 1993, to the end of the calendar year during which 56113
the renovation is completed, using the consumer price index for 56114
shelter costs for all urban consumers for the north central 56115
region, as published by the United States bureau of labor 56116
statistics. 56117

The department of job and family services may treat a 56118
renovation that costs more than eighty-five per cent of the cost 56119
of constructing new beds as an extensive renovation if the 56120
department determines that the renovation is more prudent than 56121
construction of new beds. 56122

(CC) "Title XIX" means Title XIX of the "Social Security 56123
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended. 56124

(DD) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 56125
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Sec. 5111.204. (A) As used in this section ~~and in section 5111.205 of the Revised Code~~, "representative" means a person acting on behalf of an applicant for or recipient of ~~medical assistance~~ medicaid. A representative may be a family member, attorney, hospital social worker, or any other person chosen to act on behalf of an applicant or recipient. 56127
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(B) The department of job and family services may require ~~an~~ each applicant for or recipient of ~~medical assistance~~ medicaid who applies or intends to apply for admission to a nursing facility or resides in a nursing facility to undergo an assessment to determine whether the applicant or recipient needs the level of care provided by a nursing facility. ~~To~~ The assessment may be performed concurrently with a long-term care consultation provided under section 173.42 of the Revised Code. 56133
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To the maximum extent possible, the assessment shall be based on information from the resident assessment instrument specified in rules adopted by the director of job and family services under division ~~(A)(E)~~ of section ~~5111.231~~ 5111.232 of the Revised Code. The assessment shall also be based on criteria and procedures established in rules adopted under division ~~(H)(F)~~ of this section and information provided by the person being assessed or the person's representative. ~~The~~ 56141
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The department of job and family services, or if the assessment is performed by ~~another~~ an agency ~~designated~~ under contract with the department pursuant to division (G) of this section 5101.754 of the Revised Code, the agency, shall, not later than the time the ~~assessment~~ level of care determination based on the assessment is required to be ~~performed~~ provided under division (C) of this section, give written notice of its conclusions and 56149
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the basis for them to the person assessed and, if the department 56156
of job and family services or ~~designated entity~~ agency under 56157
contract with the department has been informed that the person has 56158
a representative, to the representative. 56159

(C) The department of job and family services or ~~designated~~ 56160
agency under contract with the department, whichever performs the 56161
assessment, shall ~~perform a complete assessment, or, if~~ 56162
~~circumstances provided by rules adopted under division (H) of this~~ 56163
~~section exist, a partial assessment,~~ provide a level of care 56164
determination based on the assessment as follows: 56165

(1) In the case of a person applying or intending to apply 56166
for admission to a nursing facility while hospitalized, not later 56167
than one of the following: 56168

(a) One working day after the person or the person's 56169
representative submits ~~an~~ the application ~~for admission to the~~ 56170
~~nursing facility~~ or notifies the department of the person's 56171
intention to apply and submits all information required for 56172
providing the level of care determination, as specified in rules 56173
adopted under division (F)(2) of this section; 56174

(b) A later date requested by the person or the person's 56175
representative. 56176

(2) In the case of ~~an emergency as determined in accordance~~ 56177
~~with rules adopted under division (H) of this section, not later~~ 56178
~~than one calendar day after the person or the person's~~ 56179
~~representative submits the application or notifies the department~~ 56180
~~of the person's intention to apply.~~ 56181

~~(3) In all other cases a person applying or intending to~~ 56182
apply for admission to a nursing facility who is not hospitalized, 56183
not later than one of the following: 56184

(a) Five calendar days after the person or the person's 56185
representative submits the application or notifies the department 56186

of the person's intention to apply and submits all information 56187
required for providing the level of care determination, as 56188
specified in rules adopted under division (F)(2) of this section; 56189

(b) A later date requested by the person or the person's 56190
representative. 56191

(3) In the case of a person who resides in a nursing 56192
facility, not later than one of the following: 56193

(a) Five calendar days after the person or the person's 56194
representative submits an application for medical assistance and 56195
submits all information required for providing the level of care 56196
determination, as specified in rules adopted under division (F)(2) 56197
of this section; 56198

(b) A later date requested by the person or the person's 56199
representative. 56200

(4) In the case of an emergency, as specified in rules 56201
adopted under division (F)(4) of this section, within the number 56202
of days specified in the rules. 56203

~~(D) If the department of job and family services or~~ 56204
~~designated agency conducts a partial assessment under division (C)~~ 56205
~~of this section, it shall complete the rest of the assessment not~~ 56206
~~later than one hundred eighty days after the date the person is~~ 56207
~~admitted to the nursing facility unless the department or~~ 56208
~~designated agency determines the person should be exempt from the~~ 56209
~~assessment.~~ 56210

~~(E) A person is not required to be assessed under this~~ 56211
~~section if the circumstances specified by rule adopted under~~ 56212
~~division (H) of this section exist or the department of job and~~ 56213
~~family services or designated agency determines after a partial~~ 56214
~~assessment that the person should be exempt from the assessment.~~ 56215

~~(F) A person assessed under this section or the person's~~ 56216

representative may ~~appeal~~ request a state hearing to dispute the 56217
conclusions reached by the department of job and family services 56218
or ~~designated~~ agency under contract with the department on the 56219
basis of the assessment. The ~~appeal~~ request for a state hearing 56220
shall be made in accordance with section 5101.35 of the Revised 56221
Code. The department of job and family services or ~~designated~~ 56222
agency, ~~whichever performs the assessment,~~ under contract with the 56223
department shall provide to the person or the person's 56224
representative and the nursing facility written notice of the 56225
person's right to ~~appeal~~ request a state hearing. The notice shall 56226
include an explanation of the procedure for ~~filing an appeal~~ 56227
requesting a state hearing. If a state hearing is requested, the 56228
state shall be represented in the hearing by the department of job 56229
and family services or the agency under contract with the 56230
department, whichever performed the assessment. 56231

~~(G)~~(E) A nursing facility that admits or retains a person 56232
determined pursuant to an assessment required under ~~division (B)~~ 56233
~~or (C)~~ of this section not to need the level of care provided by 56234
the nursing facility shall not be reimbursed under the ~~medical~~ 56235
~~assistance~~ medicaid program for the person's care. 56236

~~(H)~~(F) The director of job and family services shall adopt 56237
rules in accordance with Chapter 119. of the Revised Code to 56238
implement and administer this section. The rules shall include all 56239
of the following: 56240

(1) Criteria and procedures to be used in determining whether 56241
admission to a nursing facility or continued stay in a nursing 56242
facility is appropriate for the person being assessed. ~~The~~ 56243
~~criteria shall include consideration of whether the person is in~~ 56244
~~need of any of the following:~~ 56245

~~(a) Nursing or rehabilitation services;~~ 56246

~~(b) Assistance with two or more of the activities of daily~~ 56247

living; 56248

~~(c) Continuous supervision to prevent harm to the person as a result of cognitive impairment.;~~ 56249
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(2) Information the person being assessed or the person's representative must provide to the department or ~~designated~~ agency under contract with the department for purposes of the assessment and providing a level of care determination based on the assessment; 56251
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~~(3) Circumstances under which the department of job and family services or designated agency may perform a partial assessment under division (C) of this section;~~ 56256
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~~(4) Circumstances under which a person is not required to be assessed;~~ 56259
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(4) Circumstances that constitute an emergency for purposes of division (C)(4) of this section and the number of days within which a level of care determination must be provided in the case of an emergency. 56261
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(G) Pursuant to section 5111.91 of the Revised Code, the department of job and family services may enter into contracts in the form of interagency agreements with one or more other state agencies to perform the assessments required under this section. The interagency agreements shall specify the responsibilities of each agency in the performance of the assessments. 56265
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Sec. 5111.21. ~~(A) Subject to sections 5111.01, 5111.011, 5111.012, 5111.02, and 5111.211 of the Revised Code, the department of job and family services shall pay, as provided in sections 5111.20 to 5111.32 of the Revised Code, the reasonable costs of services provided to an eligible medicaid recipient by an eligible nursing facility or intermediate care facility for the mentally retarded.~~ 56271
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In order to be eligible for ~~medical assistance~~ medicaid 56278
payments, the operator of a nursing facility or intermediate care 56279
facility for the mentally retarded shall do all of the following: 56280

(1) Enter into a provider agreement with the department as 56281
provided in section 5111.22, 5111.671, or 5111.672 of the Revised 56282
Code; 56283

(2) Apply for and maintain a valid license to operate if so 56284
required by law; 56285

(3) Comply with all applicable state and federal laws and 56286
rules. 56287

(B) ~~A (1) Except as provided in division (B)(2) of this~~ 56288
~~section, the operator of a nursing facility that elects to obtain~~ 56289
~~and maintain eligibility for payments under the medicaid program~~ 56290
~~shall qualify all of the facility's medicaid-certified beds in the~~ 56291
~~medicare program established by Title XVIII of the "Social~~ 56292
~~Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395. The director~~ 56293
~~of job and family services may adopt rules in accordance with~~ 56294
~~Chapter 119. under section 5111.02 of the Revised Code to~~ 56295
~~establish the time frame in which a nursing facility must comply~~ 56296
~~with this requirement.~~ 56297

(2) The Ohio veteran's home agency is not required to qualify 56298
all of the medicaid-certified beds in a nursing facility the 56299
agency maintains and operates under section 5907.01 of the Revised 56300
Code in the medicare program. 56301

Sec. 5111.22. A provider agreement between the department of 56302
job and family services and the provider of a nursing facility or 56303
intermediate care facility for the mentally retarded shall contain 56304
the following provisions: 56305

(A) The department agrees to make payments to the ~~nursing~~ 56306
~~facility or intermediate care facility for the mentally retarded~~ 56307

~~for patients eligible for services under the medical assistance~~ 56308
~~program provider,~~ as provided in sections 5111.20 to ~~5111.32~~ 56309
5111.33 of the Revised Code, for medicaid-covered services the 56310
facility provides to a resident of the facility who is a medicaid 56311
recipient. No payment shall be made for the day a medicaid 56312
recipient is discharged from the facility. 56313

(B) The provider agrees to: 56314

(1) Maintain eligibility as provided in section 5111.21 of 56315
the Revised Code; 56316

(2) Keep records relating to a cost reporting period for the 56317
greater of seven years after the cost report is filed or, if the 56318
department issues an audit report in accordance with division (B) 56319
of section 5111.27 of the Revised Code, six years after all appeal 56320
rights relating to the audit report are exhausted; 56321

(3) File reports as required by the department; 56322

(4) Open all records relating to the costs of its services 56323
for inspection and audit by the department; 56324

(5) Open its premises for inspection by the department, the 56325
department of health, and any other state or local authority 56326
having authority to inspect; 56327

(6) Supply to the department such information as it requires 56328
concerning the facility's services to ~~patients~~ residents who are 56329
or are eligible to be medicaid recipients; 56330

(7) Comply with section 5111.31 of the Revised Code. 56331

The provider agreement may contain other provisions that are 56332
consistent with law and considered necessary by the department. 56333

A provider agreement shall be effective for no longer than 56334
twelve months, except that if federal statute or regulations 56335
authorize a longer term, it may be effective for a longer term so 56336
authorized. A provider agreement may be renewed only if the 56337

facility is certified by the department of health for 56338
participation in the medicaid program. 56339

The department of job and family services, in accordance with 56340
rules adopted ~~by the director pursuant to Chapter 119.~~ under 56341
section 5111.02 of the Revised Code, may elect not to enter into, 56342
not to renew, or to terminate a provider agreement when the 56343
department determines that such an agreement would not be in the 56344
best interests of ~~the~~ medicaid recipients or of the state. 56345

Sec. 5111.221. The department of job and family services 56346
shall make its best efforts each year to calculate rates under 56347
sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 5111.33 of the Revised Code in 56348
time to use them to make the payments due to ~~nursing facilities~~ 56349
~~and intermediate care facilities for the mentally retarded~~ 56350
providers by the fifteenth day of August. If the department is 56351
unable to calculate the rates so that they can be paid by that 56352
date, the department shall pay each ~~facility~~ provider the rate 56353
calculated for ~~it~~ the provider's nursing facilities and 56354
intermediate care facilities for the mentally retarded under those 56355
sections at the end of the previous fiscal year. If the department 56356
also is unable to calculate the rates to make the payments due by 56357
the fifteenth day of September and the fifteenth day of October, 56358
the department shall pay the previous fiscal year's rate to make 56359
those payments. The department may increase by five per cent the 56360
previous fiscal year's rate paid ~~to~~ for any facility pursuant to 56361
this section at the request of the ~~facility~~ provider. The 56362
department shall use rates calculated for the current fiscal year 56363
to make the payments due by the fifteenth day of November. 56364

If the rate paid to a provider for a facility pursuant to 56365
this section is lower than the rate calculated for ~~it~~ the facility 56366
for the current fiscal year, the department shall pay the ~~facility~~ 56367
provider the difference between the two rates for the number of 56368

days for which the ~~faeility~~ provider was paid for the facility 56369
pursuant to this section. If the rate paid ~~to~~ for a facility 56370
pursuant to this section is higher than the rate calculated for it 56371
for the current fiscal year, the ~~faeility~~ provider shall refund to 56372
the department the difference between the two rates for the number 56373
of days for which the ~~faeility~~ provider was paid for the facility 56374
pursuant to this section. 56375

Sec. 5111.222. (A) Except as otherwise provided by sections 56376
5111.20 to 5111.33 of the Revised Code and by division (B) of this 56377
section, the payments that the department of job and family 56378
services shall agree to make to the provider of a nursing facility 56379
pursuant to a provider agreement shall equal the sum of all of the 56380
following: 56381

(1) The rate for direct care costs determined for the nursing 56382
facility under section 5111.231 of the Revised Code; 56383

(2) The rate for ancillary and support costs determined for 56384
the nursing facility's ancillary and support cost peer group under 56385
section 5111.24 of the Revised Code; 56386

(3) The rate for tax costs determined for the nursing 56387
facility under section 5111.242 of the Revised Code; 56388

(4) The rate for franchise permit fees determined for the 56389
nursing facility under section 5111.243 of the Revised Code; 56390

(5) The quality incentive payment paid to the nursing 56391
facility's quality tier group under section 5111.244 of the 56392
Revised Code; 56393

(6) The median rate for capital costs for the nursing 56394
facilities in the nursing facility's capital costs peer group as 56395
determined under section 5111.25 of the Revised Code. 56396

(B) The department shall adjust the payment otherwise 56397
determined under division (A) of this section as directed by the 56398

<u>general assembly through the enactment of law governing medicaid</u>	56399
<u>payments to providers of nursing facilities, including any law</u>	56400
<u>that does either of the following:</u>	56401
<u>(1) Establishes factors by which the payments are to be</u>	56402
<u>adjusted;</u>	56403
<u>(2) Establishes a methodology for transitioning payments from</u>	56404
<u>the rates determined for fiscal year 2007 under uncodified law the</u>	56405
<u>general assembly enacts to rates determined for subsequent fiscal</u>	56406
<u>years under sections 5111.20 to 5111.33 of the Revised Code.</u>	56407
<u>Sec. 5111.223. The operator of a nursing facility or</u>	56408
<u>intermediate care facility for the mentally retarded may enter</u>	56409
<u>into provider agreements for more than one nursing facility or</u>	56410
<u>intermediate care facility for the mentally retarded.</u>	56411
<u>Sec. 5111.23. (A) The department of job and family services</u>	56412
<u>shall pay a provider for each of the provider's eligible nursing</u>	56413
<u>facility and intermediate care facility facilities for the</u>	56414
<u>mentally retarded a per resident per day rate for direct care</u>	56415
<u>costs established prospectively for each facility. The department</u>	56416
<u>shall establish each facility's rate for direct care costs</u>	56417
<u>quarterly.</u>	56418
(B) Each facility's rate for direct care costs shall be based	56419
on the facility's cost per case-mix unit, subject to the maximum	56420
costs per case-mix unit established under division (B)(2) of this	56421
section, from the calendar year preceding the fiscal year in which	56422
the rate is paid. To determine the rate, the department shall do	56423
all of the following:	56424
(1) Determine each facility's cost per case-mix unit for the	56425
calendar year preceding the fiscal year in which the rate will be	56426
paid by dividing the facility's desk-reviewed, actual, allowable,	56427
per diem direct care costs for that year by its average case-mix	56428

score determined under section ~~5111.231~~ 5111.232 of the Revised Code for the same calendar year. 56429
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~~(2)(a) Set the maximum cost per case-mix unit for each peer group of nursing facilities specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(1) of this section.~~ 56431
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~~(b)~~ Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(2) of this section. 56439
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~~(e)~~(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (E) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division (D)(3) of this section. 56448
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~~(d)~~(c) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) to ~~(e)~~(b) of this section for each peer group, the department shall exclude from its calculations the cost 56457
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per case-mix unit of any facility in the group that participated 56460
in the ~~medical-assistance~~ medicaid program under the same operator 56461
for less than twelve months during the calendar year preceding the 56462
fiscal year in which the rate will be paid. 56463

(3) Estimate the rate of inflation for the eighteen-month 56464
period beginning on the first day of July of the calendar year 56465
preceding the fiscal year in which the rate will be paid and 56466
ending on the thirty-first day of December of the fiscal year in 56467
which the rate will be paid, using the employment cost index for 56468
total compensation, health services component, published by the 56469
United States bureau of labor statistics. If the estimated 56470
inflation rate for the eighteen-month period is different from the 56471
actual inflation rate for that period, as measured using the same 56472
index, the difference shall be added to or subtracted from the 56473
inflation rate estimated under division (B)(3) of this section for 56474
the following fiscal year. 56475

(4) The department shall not recalculate a maximum cost per 56476
case-mix unit under division (B)(2) of this section or a 56477
percentage under division (D) of this section based on additional 56478
information that it receives after the maximum costs per case-mix 56479
unit or percentages are set. The department shall recalculate a 56480
maximum cost per case-mix units or percentage only if it made an 56481
error in computing the maximum cost per case-mix unit or 56482
percentage based on information available at the time of the 56483
original calculation. 56484

(C) Each facility's rate for direct care costs shall be 56485
determined as follows for each calendar quarter within a fiscal 56486
year: 56487

(1) Multiply the lesser of the following by the facility's 56488
average case-mix score determined under section ~~5111.231~~ 5111.232 56489
of the Revised Code for the calendar quarter that preceded the 56490
immediately preceding calendar quarter: 56491

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division (C)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

~~(D)(1) The department shall calculate the percentage above the median cost per case mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all nursing facilities that would result in payment of all desk reviewed, actual, allowable direct care costs for eighty five per cent of the medicaid inpatient days for nursing facilities for calendar year 1992.~~

~~(2)~~ The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

~~(3)~~(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that

would result in payment of all desk-reviewed, actual, allowable 56523
direct care costs for eighty and one-half per cent of the medicaid 56524
inpatient days for such facilities for calendar year 1992. 56525

(E) The director of job and family services shall adopt rules 56526
~~in accordance with Chapter 119.~~ under section 5111.02 of the 56527
Revised Code that specify peer groups of ~~nursing facilities,~~ 56528
intermediate care facilities for the mentally retarded with more 56529
than eight beds, and intermediate care facilities for the mentally 56530
retarded with eight or fewer beds, based on findings of 56531
significant per diem direct care cost differences due to geography 56532
and facility bed-size. The rules also may specify peer groups 56533
based on findings of significant per diem direct care cost 56534
differences due to other factors which may include, ~~in the case of~~ 56535
~~intermediate care facilities for the mentally retarded,~~ case-mix. 56536

(F) The department, in accordance with division ~~(C)~~(D) of 56537
section ~~5111.231~~ 5111.232 of the Revised Code and rules adopted 56538
under division ~~(D)~~(E) of that section, may assign case-mix scores 56539
or costs per case-mix unit if a facility provider fails to submit 56540
assessment ~~information~~ data necessary to calculate ~~its~~ an 56541
intermediate care facility for the mentally retarded's case-mix 56542
score in accordance with that section. 56543

Sec. 5111.231. (A) As used in this section, "applicable 56544
calendar year" means the following: 56545

(1) For the purpose of the department of job and family 56546
services' initial determination under division (D) of this section 56547
of each peer group's cost per case-mix unit, calendar year 2003; 56548

(2) For the purpose of the department's subsequent 56549
determinations under division (D) of this section of each peer 56550
group's cost per case-mix unit, the calendar year the department 56551
selects. 56552

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semi-annually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(D)(1) At least once every ten years, the department shall determine a cost per case-mix unit for each peer group established

under division (C) of this section. A cost per case-mix unit 56584
determined under this division for a peer group shall be used for 56585
subsequent years until the department redetermines it. To 56586
determine a peer group's cost per case-mix unit, the department 56587
shall do all of the following: 56588

(a) Determine the cost per case-mix unit for each nursing 56589
facility in the peer group for the applicable calendar year by 56590
dividing each facility's desk-reviewed, actual, allowable, per 56591
diem direct care costs for the applicable calendar year by the 56592
facility's annual average case-mix score determined under section 56593
5111.232 of the Revised Code for the applicable calendar year. 56594

(b) Subject to division (D)(2) of this section, identify 56595
which nursing facility in the peer group is at the twenty-fifth 56596
percentile of the cost per case-mix units determined under 56597
division (D)(1)(a) of this section. 56598

(c) Calculate the amount that is seven per cent above the 56599
cost per case-mix unit determined under division (D)(1)(a) of this 56600
section for the nursing facility identified under division 56601
(D)(1)(b) of this section. 56602

(d) Multiply the amount calculated under division (D)(1)(c) 56603
of this section by the rate of inflation for the eighteen-month 56604
period beginning on the first day of July of the applicable 56605
calendar year and ending the last day of December of the calendar 56606
year immediately following the applicable calendar year using the 56607
employment cost index for total compensation, health services 56608
component, published by the United States bureau of labor 56609
statistics. 56610

(2) In making the identification under division (D)(1)(b) of 56611
this section, the department shall exclude both of the following: 56612

(a) Nursing facilities that participated in the medicaid 56613
program under the same provider for less than twelve months in the 56614

applicable calendar year; 56615

(b) Nursing facilities whose direct care costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem direct care cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year. 56616
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(3) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination. 56621
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Sec. ~~5111.231~~ 5111.232. (A)(1) The department of job and family services shall determine semiannual and annual average case-mix scores for nursing facilities by using data for each resident, regardless of payment source, all of the following: 56629
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(a) Data from a resident assessment instrument specified in rules adopted in accordance with Chapter 119, under section 5111.02 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, and for the following residents: 56633
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(i) When determining semi-annual case-mix scores, each resident who is a medicaid recipient; 56638
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(ii) When determining annual average case-mix scores, each resident regardless of payment source. 56640
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(b) Except as provided in rules authorized by division (A)(2)(a) and (b) of this section, the case-mix values established by the United States department of health and human services- 56642
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Except; 56645

(c) Except as modified in rules ~~adopted under~~ authorized by 56646
division (A)~~(1)~~(2)(c) of this section, ~~the department also shall~~ 56647
~~use~~ the grouper methodology used on June 30, 1999, by the United 56648
States department of health and human services for prospective 56649
payment of skilled nursing facilities under the medicare program 56650
established by Title XVIII of the "Social Security Act," 49 Stat. 56651
620 (1935), 42 U.S.C.A. 301, as amended. The 56652

(2) The director of job and family services may adopt rules 56653
~~in accordance with Chapter 119.~~ under section 5111.02 of the 56654
Revised Code that do any of the following: 56655

(a) Adjust the case-mix values specified in division 56656
(A)(1)(b) of this section to reflect changes in relative wage 56657
differentials that are specific to this state; 56658

(b) Express all of ~~the~~ those case-mix values in numeric terms 56659
that are different from the terms specified by the United States 56660
department of health and human services but that do not alter the 56661
relationship of the case-mix values to one another; 56662

(c) Modify the grouper methodology specified in division 56663
(A)(1)(c) of this section as follows: 56664

(i) Establish a different hierarchy for assigning residents 56665
to case-mix categories under the methodology; 56666

(ii) Prohibit the use of the index maximizer element of the 56667
methodology; 56668

(iii) Incorporate changes to the methodology the United 56669
States department of health and human services makes after June 56670
30, 1999; 56671

(iv) Make other changes the ~~nursing facility reimbursement~~ 56672
~~study council established by section 5111.34 of the Revised Code~~ 56673
~~approves~~ department determines are necessary. 56674

~~(2)(B)~~ The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted ~~in accordance with Chapter 119.~~ under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules.

~~(B)~~ ~~Not later than fifteen days after the end of each (C)~~ Each calendar quarter, each ~~nursing facility and intermediate care facility for the mentally retarded~~ provider shall ~~submit to the department the~~ compile complete assessment data, from the resident assessment instrument specified in rules ~~adopted under~~ authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled.

Except as provided in division ~~(C)(D)~~ of this section, the department, every six months and after the end of each calendar year ~~and pursuant to procedures specified in rules adopted in accordance with Chapter 119.~~ of the Revised Code, shall calculate ~~an~~ a semiannual and annual average case-mix score for each nursing facility ~~and intermediate care facility for the mentally retarded~~ using the facility's quarterly case-mix scores for that six-month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar

year, shall calculate an annual average case-mix score for each 56707
intermediate care facility for the mentally retarded using the 56708
facility's quarterly case-mix scores for that calendar year. The 56709
department shall make the calculations pursuant to procedures 56710
specified in rules adopted under section 5111.02 of the Revised 56711
Code. 56712

~~(C)~~(D)(1) If a faecility provider does not timely submit 56713
information for a calendar quarter necessary to calculate ~~its~~ a 56714
facility's case-mix score, or submits incomplete or inaccurate 56715
information for a calendar quarter, the department may assign the 56716
facility a quarterly average case-mix score that is five per cent 56717
less than the facility's quarterly average case-mix score for the 56718
preceding calendar quarter. If the facility was subject to an 56719
exception review under division (C) of section 5111.27 of the 56720
Revised Code for the preceding calendar quarter, the department 56721
may assign a quarterly average case-mix score that is five per 56722
cent less than the score determined by the exception review. If 56723
the facility was assigned a quarterly average case-mix score for 56724
the preceding quarter, the department may assign a quarterly 56725
average case-mix score that is five per cent less than that score 56726
assigned for the preceding quarter. 56727

The department may use a quarterly average case-mix score 56728
assigned under division ~~(C)~~(D)(1) of this section, instead of a 56729
quarterly average case-mix score calculated based on the 56730
~~facility's provider's~~ submitted information, to calculate the 56731
facility's rate for direct care costs being established under 56732
section 5111.23 or 5111.231 of the Revised Code for one or more 56733
months, as specified in rules ~~adopted under~~ authorized by division 56734
~~(D)~~(E) of this section, of the quarter for which the rate 56735
established under section 5111.23 or 5111.231 of the Revised Code 56736
will be paid. 56737

Before taking action under division ~~(C)~~(D)(1) of this 56738

section, the department shall permit the facility provider a 56739
reasonable period of time, specified in rules ~~adopted under~~ 56740
authorized by division ~~(D)~~(E) of this section, to correct the 56741
information. In the case of an intermediate care facility for the 56742
mentally retarded, the department shall not assign a quarterly 56743
average case-mix score due to late submission of corrections to 56744
assessment information unless the facility provider fails to 56745
submit corrected information prior to the eighty-first day after 56746
the end of the calendar quarter to which the information pertains. 56747
In the case of a nursing facility, the department shall not assign 56748
a quarterly average case-mix score due to late submission of 56749
corrections to assessment information unless the facility provider 56750
fails to submit corrected information prior to the earlier of the 56751
eighty-first day after the end of the calendar quarter to which 56752
the information pertains or the deadline for submission of such 56753
corrections established by regulations adopted by the United 56754
States department of health and human services under Titles XVIII 56755
and XIX ~~of the Social Security Act.~~ 56756

(2) If a facility provider is paid a rate for a facility 56757
calculated using a quarterly average case-mix score assigned under 56758
division ~~(C)~~(D)(1) of this section for more than six months in a 56759
calendar year, the department may assign the facility a cost per 56760
case-mix unit that is five per cent less than the facility's 56761
actual or assigned cost per case-mix unit for the preceding 56762
calendar year. The department may use the assigned cost per 56763
case-mix unit, instead of calculating the facility's actual cost 56764
per case-mix unit in accordance with section 5111.23 or 5111.231 56765
of the Revised Code, to establish the facility's rate for direct 56766
care costs for the following fiscal year. 56767

(3) The department shall take action under division ~~(C)~~(D)(1) 56768
or (2) of this section only in accordance with rules ~~adopted under~~ 56769
authorized by division ~~(D)~~(E) of this section. The department 56770

shall not take an action that affects rates for prior payment 56771
periods except in accordance with sections 5111.27 and 5111.28 of 56772
the Revised Code. 56773

~~(D)(E)~~ The director ~~may shall~~ adopt rules ~~in accordance with~~ 56774
~~Chapter 119. under section 5111.02~~ of the Revised Code that do ~~any~~ 56775
all of the following: 56776

(1) Specify whether providers of a nursing facility must 56777
submit the assessment data to the department of job and family 56778
services; 56779

(2) Specify the medium or media through which the completed 56780
assessment ~~information data~~ shall be submitted; 56781

~~(2)(3)~~ Establish procedures under which the ~~department will~~ 56782
~~review assessment information data shall be reviewed~~ for accuracy 56783
and ~~notify the facility providers shall be notified~~ of any 56784
~~information data~~ that requires correction; 56785

~~(3)(4)~~ Establish procedures for ~~facilities providers~~ to 56786
correct assessment ~~information~~. The ~~procedures may prohibit an~~ 56787
~~intermediate care facility for the mentally retarded from~~ 56788
~~submitting corrected assessment information, for the purpose of~~ 56789
~~calculating its annual average case mix score, more than two~~ 56790
~~calendar quarters after the end of the quarter to which the~~ 56791
~~information pertains or, if the information pertains to the~~ 56792
~~quarter ending the thirty first day of December, after the~~ 56793
~~thirty first day of the following March data and specify a~~ 56794
reasonable period of time by which providers shall submit the 56795
corrections. The procedures may limit the content of corrections 56796
by providers of nursing facilities in the manner required by 56797
regulations adopted by the United States department of health and 56798
human services under Titles XVIII and XIX ~~of the Social Security~~ 56799
~~Act and prohibit a nursing facility from submitting corrected~~ 56800
~~assessment information, for the purpose of calculating its annual~~ 56801

~~average case mix score, more than the earlier of the following:~~ 56802

~~(a) Two calendar quarters after the end of the quarter to~~ 56803

~~which the information pertains or, if the information pertains to~~ 56804

~~the quarter ending the thirty first day of December, after the~~ 56805

~~thirty first day of the following March;~~ 56806

~~(b) The deadline for submission of such corrections~~ 56807

~~established by regulations adopted by the United States department~~ 56808

~~of health and human services under Titles XVIII and XIX of the~~ 56809

~~Social Security Act.~~ 56810

~~(4)(5) Specify when and how the department will assign~~ 56811

~~case-mix scores or costs per case-mix unit under division (C)(D)~~ 56812

~~of this section if information necessary to calculate the~~ 56813

~~facility's average annual or quarterly case-mix score is not~~ 56814

~~provided or corrected in accordance with the procedures~~ 56815

~~established by the rules. Notwithstanding any other provision of~~ 56816

~~sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, the rules~~ 56817

~~also may provide for ~~exclusion~~ the following:~~ 56818

~~(a) Exclusion of case-mix scores assigned under division~~ 56819

~~(C)(D) of this section from calculation of ~~the facility's an~~~~ 56820

~~intermediate care facility for the mentally retarded's annual~~ 56821

~~average case-mix score and the maximum cost per case-mix unit for~~ 56822

~~the facility's peer group;~~ 56823

~~(b) Exclusion of case-mix scores assigned under division (D)~~ 56824

~~of this section from calculation of a nursing facility's~~ 56825

~~semiannual or annual average case-mix score and the cost per~~ 56826

~~case-mix unit for the facility's peer group.~~ 56827

Sec. 5111.235. The department of job and family services 56828

shall pay a provider for each of the provider's eligible ~~nursing~~ 56829

~~facility and~~ intermediate care ~~facility~~ facilities for the 56830

mentally retarded a per resident per day rate for other protected 56831

costs established prospectively each fiscal year for each 56832
facility. The rate for each facility shall be the facility's 56833
desk-reviewed, actual, allowable, per diem other protected costs 56834
from the calendar year preceding the fiscal year in which the rate 56835
will be paid, all adjusted, ~~except for franchise permit fees paid~~ 56836
~~under section 3721.53 of the Revised Code,~~ for the estimated 56837
inflation rate for the eighteen-month period beginning on the 56838
first day of July of the calendar year preceding the fiscal year 56839
in which the rate will be paid and ending on the thirty-first day 56840
of December of that fiscal year. The department shall estimate 56841
inflation using the consumer price index for all urban consumers 56842
for nonprescription drugs and medical supplies, as published by 56843
the United States bureau of labor statistics. If the estimated 56844
inflation rate for the eighteen-month period is different from the 56845
actual inflation rate for that period, the difference shall be 56846
added to or subtracted from the inflation rate estimated for the 56847
following year. 56848

Sec. 5111.24. (A) As used in this section, "applicable 56849
calendar year" means the following: 56850

(1) For the purpose of the department of job and family 56851
services' initial determination under division (D) of this section 56852
of each peer group's rate for ancillary and support costs, 56853
calendar year 2003; 56854

(2) For the purpose of the department's subsequent 56855
determinations under division (D) of this section of each peer 56856
group's rate for ancillary and support costs, the calendar year 56857
the department selects. 56858

(B) The department of job and family services shall pay a 56859
provider for each of the provider's eligible nursing facilities a 56860
per resident per day rate for ancillary and support costs 56861
determined for the nursing facility's peer group under division 56862

(D) of this section. 56863

(C) For the purpose of determining nursing facilities' rate for ancillary and support costs, the department shall establish six peer groups. 56864
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Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two. 56867
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Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four. 56874
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Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility 56885
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located in any of those counties that has fewer than one hundred 56894
beds shall be placed in peer group five. Each nursing facility 56895
located in any of those counties that has one hundred or more beds 56896
shall be placed in peer group six. 56897

(D)(1) At least once every ten years, the department shall 56898
determine the rate for ancillary and support costs for each peer 56899
group established under division (C) of this section. The rate for 56900
ancillary and support costs determined under this division for a 56901
peer group shall be used for subsequent years until the department 56902
redetermines it. To determine a peer group's rate for ancillary 56903
and support costs, the department shall do all of the following: 56904

(a) Determine the rate for ancillary and support costs for 56905
each nursing facility in the peer group for the applicable 56906
calendar year by using the greater of the nursing facility's 56907
actual inpatient days for the applicable calendar year or the 56908
inpatient days the nursing facility would have had for the 56909
applicable calendar year if its occupancy rate had been ninety per 56910
cent. For the purpose of determining a nursing facility's 56911
occupancy rate under division (D)(1)(a) of this section, the 56912
department shall include any beds that the nursing facility 56913
removes from its medicaid-certified capacity unless the nursing 56914
facility also removes the beds from its licensed bed capacity. 56915

(b) Subject to division (D)(2) of this section, identify 56916
which nursing facility in the peer group is at the twenty-fifth 56917
percentile of the rate for ancillary and support costs for the 56918
applicable calendar year determined under division (D)(1)(a) of 56919
this section. 56920

(c) Calculate the amount that is three per cent above the 56921
rate for ancillary and support costs determined under division 56922
(D)(1)(a) of this section for the nursing facility identified 56923
under division (D)(1)(b) of this section. 56924

(d) Multiply the amount calculated under division (D)(1)(c) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics. 56925
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(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following: 56933
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(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year; 56935
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(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year. 56938
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(3) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if it made an error in determining the rate based on information available to the department at the time of the original determination. 56943
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Sec. 5111.241. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care ~~facility~~ facilities for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for 56950
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each intermediate care facility for the mentally retarded shall be 56955
the sum of the following, but shall not exceed the maximum rate 56956
established for the facility's peer group under division (B) of 56957
this section: 56958

(1) The facility's desk-reviewed, actual, allowable, per diem 56959
indirect care costs from the calendar year preceding the fiscal 56960
year in which the rate will be paid, adjusted for the inflation 56961
rate estimated under division (C)(1) of this section; 56962

(2) An efficiency incentive in the following amount: 56963

(a) For fiscal years ending in even-numbered calendar years: 56964

(i) In the case of intermediate care facilities for the 56965
mentally retarded with more than eight beds, seven and one-tenth 56966
per cent of the maximum rate established for the facility's peer 56967
group under division (B) of this section; 56968

(ii) In the case of intermediate care facilities for the 56969
mentally retarded with eight or fewer beds, seven per cent of the 56970
maximum rate established for the facility's peer group under 56971
division (B) of this section; 56972

(b) For fiscal years ending in odd-numbered calendar years, 56973
the amount calculated for the preceding fiscal year under division 56974
(A)(2)(a) of this section. 56975

(B)(1) The maximum rate for indirect care costs for each peer 56976
group of intermediate care facilities for the mentally retarded 56977
with more than eight beds specified in rules adopted under 56978
division (D) of this section shall be determined as follows: 56979

(a) For fiscal years ending in even-numbered calendar years, 56980
the maximum rate for each peer group shall be the rate that is no 56981
less than twelve and four-tenths per cent above the median 56982
desk-reviewed, actual, allowable, per diem indirect care cost for 56983
all intermediate care facilities for the mentally retarded with 56984

more than eight beds in the group, excluding facilities in the
group whose indirect care costs for that period are more than
three standard deviations from the mean desk-reviewed, actual,
allowable, per diem indirect care cost for all intermediate care
facilities for the mentally retarded with more than eight beds,
for the calendar year preceding the fiscal year in which the rate
will be paid, adjusted by the inflation rate estimated under
division (C)(1) of this section.

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(b) For fiscal years ending in odd-numbered calendar years,
the maximum rate for each peer group is the group's maximum rate
for the previous fiscal year, adjusted for the inflation rate
estimated under division (C)(2) of this section.

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(2) The maximum rate for indirect care costs for each peer
group of intermediate care facilities for the mentally retarded
with eight or fewer beds specified in rules adopted under division
(D) of this section shall be determined as follows:

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(a) For fiscal years ending in even-numbered calendar years,
the maximum rate for each peer group shall be the rate that is no
less than ten and three-tenths per cent above the median
desk-reviewed, actual, allowable, per diem indirect care cost for
all intermediate care facilities for the mentally retarded with
eight or fewer beds in the group, excluding facilities in the
group whose indirect care costs are more than three standard
deviations from the mean desk-reviewed, actual, allowable, per
diem indirect care cost for all intermediate care facilities for
the mentally retarded with eight or fewer beds, for the calendar
year preceding the fiscal year in which the rate will be paid,
adjusted by the inflation rate estimated under division (C)(1) of
this section.

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(b) For fiscal years that end in odd-numbered calendar years,
the maximum rate for each peer group is the group's maximum rate

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for the previous fiscal year, adjusted for the inflation rate 57016
estimated under division (C)(2) of this section. 57017

(3) The department shall not recalculate a maximum rate for 57018
indirect care costs under division (B)(1) or (2) of this section 57019
based on additional information that it receives after the maximum 57020
rate is set. The department shall recalculate the maximum rate for 57021
indirect care costs only if it made an error in computing the 57022
maximum rate based on the information available at the time of the 57023
original calculation. 57024

(C)(1) When adjusting rates for inflation under divisions 57025
(A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department 57026
shall estimate the rate of inflation for the eighteen-month period 57027
beginning on the first day of July of the calendar year preceding 57028
the fiscal year in which the rate will be paid and ending on the 57029
thirty-first day of December of the fiscal year in which the rate 57030
will be paid, using the consumer price index for all items for all 57031
urban consumers for the north central region, published by the 57032
United States bureau of labor statistics. 57033

(2) When adjusting rates for inflation under divisions 57034
(B)(1)(b) and (B)(2)(b) of this section, the department shall 57035
estimate the rate of inflation for the twelve-month period 57036
beginning on the first day of January of the fiscal year preceding 57037
the fiscal year in which the rate will be paid and ending on the 57038
thirty-first day of December of the fiscal year in which the rate 57039
will be paid, using the consumer price index for all items for all 57040
urban consumers for the north central region, published by the 57041
United States bureau of labor statistics. 57042

(3) If an inflation rate estimated under division (C)(1) or 57043
(2) of this section is different from the actual inflation rate 57044
for the relevant time period, as measured using the same index, 57045
the difference shall be added to or subtracted from the inflation 57046

rate estimated pursuant to this division for the following fiscal year. 57047
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(D) The director of job and family services shall adopt rules 57049
~~in accordance with Chapter 119.~~ under section 5111.02 of the 57050
Revised Code that specify peer groups of intermediate care 57051
facilities for the mentally retarded with more than eight beds, 57052
and peer groups of intermediate care facilities for the mentally 57053
retarded with eight or fewer beds, based on findings of 57054
significant per diem indirect care cost differences due to 57055
geography and facility bed-size. The rules also may specify peer 57056
groups based on findings of significant per diem indirect care 57057
cost differences due to other factors, including case-mix. 57058

Sec. 5111.242. (A) As used in this section: 57059

(1) "Applicable calendar year" means the following: 57060

(a) For the purpose of the department of job and family 57061
services' initial determination under this section of nursing 57062
facilities' rate for tax costs, calendar year 2003; 57063

(b) For the purpose of the department's subsequent 57064
determinations under division (D) of this section of nursing 57065
facilities' rate for tax costs, the calendar year the department 57066
selects. 57067

(2) "Tax costs" means the costs of taxes imposed under 57068
Chapter 5751. of the Revised Code, real estate taxes, personal 57069
property taxes, and corporate franchise taxes. 57070

(B) The department of job and family services shall pay a 57071
provider for each of the provider's eligible nursing facilities a 57072
per resident per day rate for tax costs determined under division 57073
(C) of this section. 57074

(C) At least once every ten years, the department shall 57075
determine the rate for tax costs for each nursing facility. The 57076

rate for tax costs determined under this division for a nursing facility shall be used for subsequent years until the department redetermines it. To determine a nursing facility's rate for tax costs, the department shall divide the nursing facility's desk-reviewed, actual, allowable tax costs paid for the applicable calendar year by the number of inpatient days the nursing facility would have had if its occupancy rate had been one hundred per cent during the applicable calendar year.

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Sec. 5111.243. The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for the franchise permit fees paid for the nursing facility. The rate shall be equal to the franchise permit fee for the fiscal year for which the rate is paid.

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Sec. 5111.244. (A) As used in this section, "deficiency" and "standard survey" have the same meanings as in section 5111.35 of the Revised Code.

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(B) Each year, the department of job and family services shall pay each nursing facility placed in the first, second, and third quality tier groups established under division (C) of this section a quality incentive payment. Nursing facilities placed in the first group shall receive the highest payment. Nursing facilities placed in the second group shall receive the second highest payment. Nursing facilities placed in the third group shall receive the third highest payment. Nursing facilities placed in the fourth group shall receive no payment. The mean payment, weighted by medicaid days, shall be two per cent of the average rate for all nursing facilities calculated under sections 5111.20 to 5111.33 of the Revised Code, excluding this section. Nursing facilities placed in the fourth group shall be included for the

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purpose of determining the mean payment. 57107

(C) Each year, the department shall establish four quality tier groups. Each group shall consist of one quarter of all nursing facilities participating in the medicaid program. The first group shall consist of the quarter of nursing facilities individually awarded the most number of points under division (D) of this section. The second group shall consist of the quarter of nursing facilities individually awarded the second most number of points under division (D) of this section. The third group shall consist of the quarter of nursing facilities individually awarded the third most number of points under division (D) of this section. The fourth group shall consist of the quarter of nursing facilities individually awarded the least number of points under division (D) of this section. 57108
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(D) Each year, the department shall award each nursing facility participating in the medicaid program one point for each of the following accountability measures the facility meets: 57121
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(1) The facility had no health deficiencies on the facility's most recent standard survey. 57124
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(2) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey. 57126
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(3) The facility's resident satisfaction is above the statewide average. 57130
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(4) The facility's family satisfaction is above the statewide average. 57132
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(5) The number of hours the facility employs nurses is above the statewide average. 57134
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(6) The facility's employee retention rate is above the 57136

<u>average for the facility's peer group established in division (C)</u>	57137
<u>of section 5111.231 of the Revised Code.</u>	57138
<u>(7) The facility's occupancy rate is above the statewide</u>	57139
<u>average.</u>	57140
<u>(8) The facility's medicaid utilization rate is above the</u>	57141
<u>statewide average.</u>	57142
<u>(9) The facility's case-mix score is above the statewide</u>	57143
<u>average.</u>	57144
<u>(E) The director of job and family services shall adopt rules</u>	57145
<u>under section 5111.02 of the Revised Code as necessary to</u>	57146
<u>implement this section. The rules shall include rules establishing</u>	57147
<u>the system for awarding points under division (D) of this section.</u>	57148
Sec. 5111.25. (A) <u>As used in this section, "applicable</u>	57149
<u>calendar year" means the following:</u>	57150
<u>(1) For the purpose of the department of job and family</u>	57151
<u>services' initial determination under division (D) of this section</u>	57152
<u>of each peer group's median rate for capital costs, calendar year</u>	57153
<u>2003;</u>	57154
<u>(2) For the purpose of the department's subsequent</u>	57155
<u>determinations under division (D) of this section of each peer</u>	57156
<u>group's median rate for capital costs, the calendar year the</u>	57157
<u>department selects.</u>	57158
<u>(B) The department of job and family services shall pay a</u>	57159
<u>provider for each of the provider's eligible nursing facility</u>	57160
<u>facilities a per resident per day rate for its reasonable capital</u>	57161
<u>costs established prospectively each fiscal year for each</u>	57162
<u>facility. Except as otherwise provided in sections 5111.20 to</u>	57163
<u>5111.32 of the Revised Code, the <u>A nursing facility's rate for</u></u>	57164
<u>capital costs shall be based on the facility's median rate for</u>	57165
<u>capital costs for the ealendar year preceding the fiscal year in</u>	57166

~~which the rate will be paid nursing facilities in the nursing facility's peer group as determined under division (D) of this section. The rate shall equal the sum of divisions (A)(1) to (3) of this section:~~ 57167
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~~(1) The lesser of the following:~~ 57171

~~(a) Eighty eight and sixty five one hundredths per cent of the facility's desk reviewed, actual, allowable, per diem cost of ownership and eighty five per cent of the facility's actual, allowable, per diem cost of nonextensive renovation determined under division (F) of this section:~~ 57172
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~~(b) Eighty eight and sixty five one hundredths per cent of the following limitation:~~ 57177
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~~(i) For the fiscal year beginning July 1, 1993, sixteen dollars per resident day:~~ 57179
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~~(ii) For the fiscal year beginning July 1, 1994, sixteen dollars per resident day, adjusted to reflect the rate of inflation for the twelve month period beginning July 1, 1992, and ending June 30, 1993, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics:~~ 57181
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~~(iii) For subsequent fiscal years, the limitation in effect during the previous fiscal year, adjusted to reflect the rate of inflation for the twelve month period beginning on the first day of July for the calendar year preceding the calendar year that precedes the fiscal year and ending on the following thirtieth day of June, using the consumer price index for shelter costs for all urban consumers for the north central region, published by the United States bureau of labor statistics.~~ 57187
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~~(2) Any efficiency incentive determined under division (D) of this section:~~ 57195
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~~(3) Any amounts for return on equity determined under~~ 57197
~~division (H) of this section (C) For the purpose of determining~~ 57198
~~nursing facilities' rate for capital costs, the department shall~~ 57199
~~establish six peer groups.~~ 57200

Each nursing facility located in any of the following 57201
counties shall be placed in peer group one or two: Brown, Butler, 57202
Clermont, Clinton, Hamilton, and Warren. Each nursing facility 57203
located in any of those counties that has fewer than one hundred 57204
beds shall be placed in peer group one. Each nursing facility 57205
located in any of those counties that has one hundred or more beds 57206
shall be placed in peer group two. 57207

Each nursing facility located in any of the following 57208
counties shall be placed in peer group three or four: Ashtabula, 57209
Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, 57210
Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, 57211
Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, 57212
Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, 57213
Union, and Wood. Each nursing facility located in any of those 57214
counties that has fewer than one hundred beds shall be placed in 57215
peer group three. Each nursing facility located in any of those 57216
counties that has one hundred or more beds shall be placed in peer 57217
group four. 57218

Each nursing facility located in any of the following 57219
counties shall be placed in peer group five or six: Adams, Allen, 57220
Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, 57221
Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, 57222
Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, 57223
Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, 57224
Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, 57225
Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, 57226
Washington, Wayne, Williams, and Wyandot. Each nursing facility 57227
located in any of those counties that has fewer than one hundred 57228

beds shall be placed in peer group five. Each nursing facility 57229
located in any of those counties that has one hundred or more beds 57230
shall be placed in peer group six. 57231

(D)(1) At least once every ten years, the department shall 57232
determine the median rate for capital costs for each peer group 57233
established under division (C) of this section. The median rate 57234
for capital costs determined under this division for a peer group 57235
shall be used for subsequent years until the department 57236
redetermines it. To determine a peer group's median rate for 57237
capital costs, the department shall do both of the following: 57238

(a) Subject to division (D)(2) of this section, use the 57239
greater of each nursing facility's actual inpatient days for the 57240
applicable calendar year or the inpatient days the nursing 57241
facility would have had for the applicable calendar year if its 57242
occupancy rate had been one hundred per cent. 57243

(b) Exclude both of the following: 57244

(i) Nursing facilities that participated in the medicaid 57245
program under the same provider for less than twelve months in the 57246
applicable calendar year; 57247

(ii) Nursing facilities whose capital costs are more than one 57248
standard deviation from the mean desk-reviewed, actual, allowable, 57249
per diem capital cost for all nursing facilities in the nursing 57250
facility's peer group for the applicable calendar year. 57251

(2) For the purpose of determining a nursing facility's 57252
occupancy rate under division (D)(1)(a) of this section, the 57253
department shall include any beds that the nursing facility 57254
removes from its medicaid-certified capacity after June 30, 2005, 57255
unless the nursing facility also removes the beds from its 57256
licensed bed capacity. 57257

(E) Buildings shall be depreciated using the straight line 57258

method over forty years or over a different period approved by the 57259
department. Components and equipment shall be depreciated using 57260
the straight-line method over a period designated in rules adopted 57261
~~by the director of job and family services in accordance with~~ 57262
~~Chapter 119. under section 5111.02~~ of the Revised Code, consistent 57263
with the guidelines of the American hospital association, or over 57264
a different period approved by the department. Any rules ~~adopted~~ 57265
~~under authorized by~~ this division that specify useful lives of 57266
buildings, components, or equipment apply only to assets acquired 57267
on or after July 1, 1993. Depreciation for costs paid or 57268
reimbursed by any government agency shall not be included in ~~cost~~ 57269
~~of ownership or renovation capital costs~~ unless that part of the 57270
payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 57271
Code is used to reimburse the government agency. 57272

~~(B)(F)~~ The capital cost basis of nursing facility assets 57273
shall be determined in the following manner: 57274

~~(1) For purposes of calculating the rate to be paid for the~~ 57275
~~fiscal year beginning July 1, 1993, for facilities with dates of~~ 57276
~~licensure on or before June 30, 1993, the capital cost basis shall~~ 57277
~~be equal to the following:~~ 57278

~~(a) For facilities that have not had a change of ownership~~ 57279
~~during the period beginning January 1, 1993, and ending June 30,~~ 57280
~~1993, the desk reviewed, actual, allowable capital cost basis that~~ 57281
~~is listed on the facility's cost report for the cost reporting~~ 57282
~~period ending December 31, 1992, plus the actual, allowable~~ 57283
~~capital cost basis of any assets constructed or acquired after~~ 57284
~~December 31, 1992, but before July 1, 1993, if the aggregate~~ 57285
~~capital costs of those assets would increase the facility's rate~~ 57286
~~for capital costs by twenty or more cents per resident per day.~~ 57287

~~(b) For facilities that have a date of licensure or had a~~ 57288
~~change of ownership during the period beginning January 1, 1993,~~ 57289
~~and ending June 30, 1993, the actual, allowable capital cost basis~~ 57290

~~of the person or government entity that owns the facility on June 30, 1993.~~ 57291
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~~Capital cost basis shall be calculated as provided in division (B)(1) of this section subject to approval by the United States health care financing administration of any necessary amendment to the state plan for providing medical assistance.~~ 57293
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~~The department shall include the actual, allowable capital cost basis of assets constructed or acquired during the period beginning January 1, 1993, and ending June 30, 1993, in the calculation for the facility's rate effective July 1, 1993, if the aggregate capital costs of the assets would increase the facility's rate by twenty or more cents per resident per day and the facility provides the department with sufficient documentation of the costs before June 1, 1993. If the facility provides the documentation after that date, the department shall adjust the facility's rate to reflect the costs of the assets one month after the first day of the month after the department receives the documentation.~~ 57297
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~~(2) Except as provided in division (B)(4)(F)(3) of this section, for purposes of calculating the rates to be paid for fiscal years beginning after June 30, 1994, for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.~~ 57309
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~~(3)(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, except as otherwise provided in sections~~ 57317
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5111.20 to ~~5111.32~~ 5111.33 of the Revised Code. 57322

~~(4)(3)~~ Except as provided in division ~~(B)(5)(F)(4)~~ of this 57323
section, if a provider transfers an interest in a facility to 57324
another provider after June 30, 1993, there shall be no increase 57325
in the capital cost basis of the asset if the providers are 57326
related parties or the provider to which the interest is 57327
transferred authorizes the provider that transferred the interest 57328
to continue to operate the facility under a lease, management 57329
agreement, or other arrangement. If the ~~providers are not related~~ 57330
~~parties or if they are related parties and division (B)(5) of this~~ 57331
~~section requires previous sentence does not prohibit~~ the 57332
adjustment of the capital cost basis under this division, the 57333
basis of the asset shall be adjusted by the lesser of the 57334
following: 57335

(a) One-half of the change in construction costs during the 57336
time that the transferor held the asset, as calculated by the 57337
department of job and family services using the "Dodge building 57338
cost indexes, northeastern and north central states," published by 57339
Marshall and Swift; 57340

(b) One-half of the change in the consumer price index for 57341
all items for all urban consumers, as published by the United 57342
States bureau of labor statistics, during the time that the 57343
transferor held the asset. 57344

~~(5)(4)~~ If a provider transfers an interest in a facility to 57345
another provider who is a related party, the capital cost basis of 57346
the asset shall be adjusted as specified in division ~~(B)(4)(F)(3)~~ 57347
of this section ~~for a transfer to a provider that is not a related~~ 57348
~~party~~ if all of the following conditions are met: 57349

(a) The related party is a relative of owner; 57350

(b) Except as provided in division ~~(B)(5)(F)(4)(c)(ii)~~ of 57351
this section, the provider making the transfer retains no 57352

ownership interest in the facility; 57353

(c) The department of job and family services determines that 57354
the transfer is an arm's length transaction pursuant to rules ~~the~~ 57355
~~department shall adopt in accordance with Chapter 119. adopted~~ 57356
~~under section 5111.02 of the Revised Code no later than December~~ 57357
~~31, 2000.~~ The rules shall provide that a transfer is an arm's 57358
length transaction if all of the following apply: 57359

(i) Once the transfer goes into effect, the provider that 57360
made the transfer has no direct or indirect interest in the 57361
provider that acquires the facility or the facility itself, 57362
including interest as an owner, officer, director, employee, 57363
independent contractor, or consultant, but excluding interest as a 57364
creditor. 57365

(ii) The provider that made the transfer does not reacquire 57366
an interest in the facility except through the exercise of a 57367
creditor's rights in the event of a default. If the provider 57368
reacquires an interest in the facility in this manner, the 57369
department shall treat the facility as if the transfer never 57370
occurred when the department calculates its reimbursement rates 57371
for capital costs. 57372

(iii) The transfer satisfies any other criteria specified in 57373
the rules. 57374

(d) Except in the case of hardship caused by a catastrophic 57375
event, as determined by the department, or in the case of a 57376
provider making the transfer who is at least sixty-five years of 57377
age, not less than twenty years have elapsed since, for the same 57378
facility, the capital cost basis was adjusted most recently under 57379
division ~~(B)(5)(F)(4)~~ of this section or actual, allowable cost of 57380
ownership was determined most recently under division ~~(C)(G)(9)~~ of 57381
this section. 57382

~~(C)(G)~~ As used in this division, "lease; 57383

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent. 57384
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"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease. ~~As used in this division, "new~~ 57386
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"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease. 57389
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(1) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost of ownership during the term of the existing lease. 57391
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The entire lease expense also is an actual, allowable capital cost of ownership if a lease in existence on May 27, 1992, is renewed under either of the following circumstances: 57395
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(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992; 57398
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(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992. 57400
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(2) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by the lesser of the following amounts: 57403
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(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost 57411
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indexes, northeastern and north central states," published by 57414
Marshall and Swift; 57415

(b) One-half of the change in the consumer price index for 57416
all items for all urban consumers, as published by the United 57417
States bureau of labor statistics, during the time the lessor held 57418
each asset until the beginning of the lease. 57419

(3) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57420
of this section, for a lease of a facility with a date of 57421
licensure on or after May 27, 1992, that is initially operated 57422
under a lease, actual, allowable ~~cost of ownership~~ capital costs 57423
shall include the annual lease expense if there was a substantial 57424
commitment of money for construction of the facility after 57425
December 22, 1992, and before July 1, 1993. If there was not a 57426
substantial commitment of money after December 22, 1992, and 57427
before July 1, 1993, actual, allowable ~~cost of ownership~~ capital 57428
costs shall include the lesser of the annual lease expense or the 57429
sum of the following: 57430

(a) The annual depreciation expense that would be calculated 57431
at the inception of the lease using the lessor's entire historical 57432
capital asset cost basis; 57433

(b) The greater of the lessor's actual annual amortization of 57434
financing costs and interest expense at the inception of the lease 57435
or the imputed interest expense calculated at the inception of the 57436
lease using seventy per cent of the lessor's historical capital 57437
asset cost basis. 57438

(4) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57439
of this section, for a lease of a facility with a date of 57440
licensure on or after May 27, 1992, that was not initially 57441
operated under a lease and has been in existence for ten years, 57442
actual, allowable ~~cost of ownership~~ capital costs shall include 57443
the lesser of the annual lease expense or the annual depreciation 57444

expense and imputed interest expense that would be calculated at 57445
the inception of the lease using the entire historical capital 57446
asset cost basis of the lessor, adjusted by the lesser of the 57447
following: 57448

(a) One-half of the change in construction costs during the 57449
time the lessor held each asset until the beginning of the lease, 57450
as calculated by the department using the "Dodge building cost 57451
indexes, northeastern and north central states," published by 57452
Marshall and Swift; 57453

(b) One-half of the change in the consumer price index for 57454
all items for all urban consumers, as published by the United 57455
States bureau of labor statistics, during the time the lessor held 57456
each asset until the beginning of the lease. 57457

(5) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57458
of this section, for a new lease of a facility that was operated 57459
under a lease on May 27, 1992, actual, allowable ~~cost of ownership~~ 57460
capital costs shall include the lesser of the annual new lease 57461
expense or the annual old lease payment. If the old lease was in 57462
effect for ten years or longer, the old lease payment from the 57463
beginning of the old lease shall be adjusted by the lesser of the 57464
following: 57465

(a) One-half of the change in construction costs from the 57466
beginning of the old lease to the beginning of the new lease, as 57467
calculated by the department using the "Dodge building cost 57468
indexes, northeastern and north central states," published by 57469
Marshall and Swift; 57470

(b) One-half of the change in the consumer price index for 57471
all items for all urban consumers, as published by the United 57472
States bureau of labor statistics, from the beginning of the old 57473
lease to the beginning of the new lease. 57474

(6) Subject to ~~the limitation specified in~~ division ~~(A)(1)(B)~~ 57475

of this section, for a new lease of a facility that was not in 57476
existence or that was in existence but not operated under a lease 57477
on May 27, 1992, actual, allowable ~~cost of ownership~~ capital costs 57478
shall include the lesser of annual new lease expense or the annual 57479
amount calculated for the old lease under division ~~(C)~~(G)(2), (3), 57480
(4), or (6) of this section, as applicable. If the old lease was 57481
in effect for ten years or longer, the lessor's historical capital 57482
asset cost basis shall be adjusted by the lesser of the following 57483
for purposes of calculating the annual amount under division 57484
~~(C)~~(G)(2), (3), (4), or (6) of this section: 57485

(a) One-half of the change in construction costs from the 57486
beginning of the old lease to the beginning of the new lease, as 57487
calculated by the department using the "Dodge building cost 57488
indexes, northeastern and north central states," published by 57489
Marshall and Swift; 57490

(b) One-half of the change in the consumer price index for 57491
all items for all urban consumers, as published by the United 57492
States bureau of labor statistics, from the beginning of the old 57493
lease to the beginning of the new lease. 57494

In the case of a lease under division ~~(C)~~(G)(3) of this 57495
section of a facility for which a substantial commitment of money 57496
was made after December 22, 1992, and before July 1, 1993, the old 57497
lease payment shall be adjusted for the purpose of determining the 57498
annual amount. 57499

(7) For any revision of a lease described in division 57500
~~(C)~~(G)(1), (2), (3), (4), (5), or (6) of this section, or for any 57501
subsequent lease of a facility operated under such a lease, other 57502
than execution of a new lease, the portion of actual, allowable 57503
~~cost of ownership~~ capital costs attributable to the lease shall be 57504
the same as before the revision or subsequent lease. 57505

(8) Except as provided in division ~~(C)~~(G)(9) of this section, 57506

if a provider leases an interest in a facility to another provider 57507
who is a related party or previously operated the facility, the 57508
related party's or previous operator's actual, allowable ~~cost of~~ 57509
~~ownership~~ capital costs shall include the lesser of the annual 57510
lease expense or the reasonable cost to the lessor. 57511

(9) If a provider leases an interest in a facility to another 57512
provider who is a related party, regardless of the date of the 57513
lease, the related party's actual, allowable ~~cost of ownership~~ 57514
capital costs shall include the annual lease expense, subject to 57515
the limitations specified in divisions ~~(C)(G)~~(1) to (7) of this 57516
section, if all of the following conditions are met: 57517

(a) The related party is a relative of owner; 57518

(b) If the lessor retains an ownership interest, it is, 57519
except as provided in division ~~(C)(G)~~(9)(c)(ii) of this section, 57520
in only the real property and any improvements on the real 57521
property; 57522

(c) The department of job and family services determines that 57523
the lease is an arm's length transaction pursuant to rules ~~the~~ 57524
~~department shall adopt in accordance with Chapter 119. adopted~~ 57525
under section 5111.02 of the Revised Code ~~no later than December~~ 57526
~~31, 2000~~. The rules shall provide that a lease is an arm's length 57527
transaction if all of the following apply: 57528

(i) Once the lease goes into effect, the lessor has no direct 57529
or indirect interest in the lessee or, except as provided in 57530
division ~~(C)(G)~~(9)(b) of this section, the facility itself, 57531
including interest as an owner, officer, director, employee, 57532
independent contractor, or consultant, but excluding interest as a 57533
lessor. 57534

(ii) The lessor does not reacquire an interest in the 57535
facility except through the exercise of a lessor's rights in the 57536
event of a default. If the lessor reacquires an interest in the 57537

facility in this manner, the department shall treat the facility 57538
as if the lease never occurred when the department calculates its 57539
reimbursement rates for capital costs. 57540

(iii) The lease satisfies any other criteria specified in the 57541
rules. 57542

(d) Except in the case of hardship caused by a catastrophic 57543
event, as determined by the department, or in the case of a lessor 57544
who is at least sixty-five years of age, not less than twenty 57545
years have elapsed since, for the same facility, the capital cost 57546
basis was adjusted most recently under division ~~(B)(5)~~(F)(4) of 57547
this section or actual, allowable ~~cost of ownership was~~ capital
costs were determined most recently under division ~~(C)(G)~~(9) of 57548
this section. 57549
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(10) This division does not apply to leases of specific items 57551
of equipment. 57552

~~(D)(1) Subject to division (D)(2) of this section, the 57553
department shall pay each nursing facility an efficiency incentive 57554
that is equal to fifty per cent of the difference between the 57555
following: 57556~~

~~(a) Eighty eight and sixty five one hundredths per cent of 57557
the facility's desk reviewed, actual, allowable, per diem cost of 57558
ownership; 57559~~

~~(b) The applicable amount specified in division (E) of this 57560
section. 57561~~

~~(2) The efficiency incentive paid to a nursing facility shall 57562
not exceed the greater of the following: 57563~~

~~(a) The efficiency incentive the facility was paid during the 57564
fiscal year ending June 30, 1994; 57565~~

~~(b) Three dollars per resident per day, adjusted annually for 57566
rates paid beginning July 1, 1994, for the inflation rate for the 57567~~

~~twelve month period beginning on the first day of July of the
calendar year preceding the calendar year that precedes the fiscal
year for which the efficiency incentive is determined and ending
on the thirtieth day of the following June, using the consumer
price index for shelter costs for all urban consumers for the
north central region, as published by the United States bureau of
labor statistics.~~

~~(3) For purposes of calculating the efficiency incentive,
depreciation for costs that are paid or reimbursed by any
government agency shall be considered as costs of ownership, and
renovation costs that are paid under division (F) of this section
shall not be considered costs of ownership.~~

~~(E) The following amounts shall be used to calculate
efficiency incentives for nursing facilities under this section:~~

~~(1) For facilities with dates of licensure prior to January
1, 1958, four dollars and twenty four cents per patient day;~~

~~(2) For facilities with dates of licensure after December 31,
1957, but prior to January 1, 1968:~~

~~(a) Five dollars and twenty four cents per patient day if the
cost of construction was three thousand five hundred dollars or
more per bed;~~

~~(b) Four dollars and twenty four cents per patient day if the
cost of construction was less than three thousand five hundred
dollars per bed.~~

~~(3) For facilities with dates of licensure after December 31,
1967, but prior to January 1, 1976:~~

~~(a) Six dollars and twenty four cents per patient day if the
cost of construction was five thousand one hundred fifty dollars
or more per bed;~~

~~(b) Five dollars and twenty four cents per patient day if the~~

~~cost of construction was less than five thousand one hundred fifty
dollars per bed, but exceeded three thousand five hundred dollars
per bed;~~ 57598
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~~(c) Four dollars and twenty four cents per patient day if the
cost of construction was three thousand five hundred dollars or
less per bed.~~ 57601
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~~(4) For facilities with dates of licensure after December 31,
1975, but prior to January 1, 1979:~~ 57604
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~~(a) Seven dollars and twenty four cents per patient day if
the cost of construction was six thousand eight hundred dollars or
more per bed;~~ 57606
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~~(b) Six dollars and twenty four cents per patient day if the
cost of construction was less than six thousand eight hundred
dollars per bed but exceeded five thousand one hundred fifty
dollars per bed;~~ 57609
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~~(c) Five dollars and twenty four cents per patient day if the
cost of construction was five thousand one hundred fifty dollars
or less per bed, but exceeded three thousand five hundred dollars
per bed;~~ 57613
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~~(d) Four dollars and twenty four cents per patient day if the
cost of construction was three thousand five hundred dollars or
less per bed.~~ 57617
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~~(5) For facilities with dates of licensure after December 31,
1978, but prior to January 1, 1981:~~ 57620
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~~(a) Seven dollars and seventy four cents per patient day if
the cost of construction was seven thousand six hundred
twenty five dollars or more per bed;~~ 57622
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~~(b) Seven dollars and twenty four cents per patient day if
the cost of construction was less than seven thousand six hundred
twenty five dollars per bed but exceeded six thousand eight~~ 57625
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hundred dollars per bed;	57628
(c) Six dollars and twenty four cents per patient day if the	57629
cost of construction was six thousand eight hundred dollars or	57630
less per bed but exceeded five thousand one hundred fifty dollars	57631
per bed;	57632
(d) Five dollars and twenty four cents per patient day if the	57633
cost of construction was five thousand one hundred fifty dollars	57634
or less but exceeded three thousand five hundred dollars per bed;	57635
(e) Four dollars and twenty four cents per patient day if the	57636
cost of construction was three thousand five hundred dollars or	57637
less per bed.	57638
(6) For facilities with dates of licensure in 1981 or any	57639
year thereafter prior to December 22, 1992, the following amount:	57640
(a) For facilities with construction costs less than seven	57641
thousand six hundred twenty five dollars per bed, the applicable	57642
amounts for the construction costs specified in divisions	57643
(E)(5)(b) to (e) of this section;	57644
(b) For facilities with construction costs of seven thousand	57645
six hundred twenty five dollars or more per bed, six dollars per	57646
patient day, provided that for 1981 and annually thereafter prior	57647
to December 22, 1992, department shall do both of the following to	57648
the six dollar amount:	57649
(i) Adjust the amount for fluctuations in construction costs	57650
calculated by the department using the "Dodge building cost	57651
indexes, northeastern and north central states," published by	57652
Marshall and Swift, using 1980 as the base year;	57653
(ii) Increase the amount, as adjusted for inflation under	57654
division (E)(6)(b)(i) of this section, by one dollar and	57655
seventy four cents.	57656
(7) For facilities with dates of licensure on or after	57657

~~January 1, 1992, seven dollars and ninety seven cents, adjusted
for fluctuations in construction costs between 1991 and 1993 as
calculated by the department using the "Dodge building cost
indexes, northeastern and north central states," published by
Marshall and Swift, and then increased by one dollar and
seventy four cents.~~

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~~For the fiscal year that begins July 1, 1994, each of the
amounts listed in divisions (E)(1) to (7) of this section shall be
increased by twenty five cents. For the fiscal year that begins
July 1, 1995, each of those amounts shall be increased by an
additional twenty five cents. For subsequent fiscal years, each of
those amounts, as increased for the prior fiscal year, shall be
adjusted to reflect the rate of inflation for the twelve month
period beginning on the first day of July of the calendar year
preceding the calendar year that precedes the fiscal year and
ending on the following thirtieth day of June, using the consumer
price index for shelter costs for all urban consumers for the
north central region, as published by the United States bureau of
labor statistics.~~

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~~If the amount established for a nursing facility under this
division is less than the amount that applied to the facility
under division (B) of former section 5111.25 of the Revised Code,
as the former section existed immediately prior to December 22,
1992, the amount used to calculate the efficiency incentive for
the facility under division (D)(2) of this section shall be the
amount that was calculated under division (B) of the former
section.~~

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~~(F) Beginning July 1, 1993, regardless of the facility's date
of licensure or the date of the nonextensive renovations, the rate
for the costs of nonextensive renovations for nursing facilities
shall be eighty five per cent of the desk reviewed, actual,
allowable, per diem, nonextensive renovation costs. This division~~

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~~applies to nonextensive renovations regardless of whether they are
made by an owner or a lessee. If the tenancy of a lessee that has
made nonextensive renovations ends before the depreciation expense
for the renovation costs has been fully reported, the former
lessee shall not report the undepreciated balance as an expense.~~

~~(1) For a nonextensive renovation made after July 1, 1993, to
qualify for payment under this division, both of the following
conditions must be met:~~

~~(a) At least five years have elapsed since the date of
licensure of the portion of the facility that is proposed to be
renovated, except that this condition does not apply if the
renovation is necessary to meet the requirements of federal,
state, or local statutes, ordinances, rules, or policies.~~

~~(b) The provider has obtained prior approval from the
department of job and family services, and if required the
director of health has granted a certificate of need for the
renovation under section 3702.52 of the Revised Code. The provider
shall submit a plan that describes in detail the changes in
capital assets to be accomplished by means of the renovation and
the timetable for completing the project. The time for completion
of the project shall be no more than eighteen months after the
renovation begins. The department of job and family services shall
adopt rules in accordance with Chapter 119. of the Revised Code
that specify criteria and procedures for prior approval of
renovation projects. No provider shall separate a project with the
intent to evade the characterization of the project as a
renovation or as an extensive renovation. No provider shall
increase the scope of a project after it is approved by the
department of job and family services unless the increase in scope
is approved by the department.~~

~~(2) The payment provided for in this division is the only~~

~~payment that shall be made for the costs of a nonextensive
renovation. Nonextensive renovation costs shall not be included in
costs of ownership, and a nonextensive renovation shall not affect
the date of licensure for purposes of calculating the efficiency
incentive under divisions (D) and (E) of this section.~~

~~(G) The owner of a nursing facility operating under a
provider agreement shall provide written notice to the department
of job and family services at least forty five days prior to
entering into any contract of sale for the facility or voluntarily
terminating participation in the medical assistance program. (H)
After the date on which a transaction of sale is closed, the ~~owner~~
provider shall refund to the department the amount of excess
depreciation paid to the provider for the facility by the
department for each year the ~~owner~~ provider has operated the
facility under a provider agreement and prorated according to the
number of medicaid patient days for which the ~~facility~~ provider
has received payment for the facility. ~~If a nursing facility is
sold after five or fewer years of operation under a provider
agreement, the refund to the department shall be equal to the
excess depreciation paid to the facility. If a nursing facility is
sold after more than five years but less than ten years of
operation under a provider agreement, the refund to the department
shall equal the excess depreciation paid to the facility
multiplied by twenty per cent, multiplied by the difference
between ten and the number of years that the facility was operated
under a provider agreement. If a nursing facility is sold after
ten or more years of operation under a provider agreement, the
owner shall not refund any excess depreciation to the department.~~
The ~~owner~~ provider of a facility that is sold or that voluntarily
terminates participation in the ~~medical assistance~~ medicaid
program also shall refund any other amount that the department
properly finds to be due after the audit conducted under this~~

division. For the purposes of this division, "depreciation paid to 57753
the provider for the facility" means the amount paid to the 57754
provider for the nursing facility for ~~cost of ownership~~ capital 57755
costs pursuant to this section less any amount paid for interest 57756
costs, amortization of financing costs, and lease expenses. For 57757
the purposes of this division, "excess depreciation" is the 57758
nursing facility's depreciated basis, which is the ~~owner's~~ 57759
provider's cost less accumulated depreciation, subtracted from the 57760
purchase price net of selling costs but not exceeding the amount 57761
of depreciation paid to the provider for the facility. 57762

~~A cost report shall be filed with the department within 57763
ninety days after the date on which the transaction of sale is 57764
closed or participation is voluntarily terminated. The report 57765
shall show the accumulated depreciation, the sales price, and 57766
other information required by the department. The department shall 57767
provide for a bank, trust company, or savings and loan association 57768
to hold in escrow the amount of the last two monthly payments to a 57769
nursing facility made pursuant to division (A)(1) of section 57770
5111.22 of the Revised Code before a sale or termination of 57771
participation or, if the owner fails, within the time required by 57772
this division, to notify the department before entering into a 57773
contract of sale for the facility, the amount of the first two 57774
monthly payments made to the facility after the department learns 57775
of the contract, regardless of whether a new owner is in 57776
possession of the facility. If the amount the owner will be 57777
required to refund under this section is likely to be less than 57778
the amount of the two monthly payments otherwise put into escrow 57779
under this division, the department shall take one of the 57780
following actions instead of withholding the amount of the two 57781
monthly payments:~~ 57782

~~(1) In the case of an owner that owns other facilities that 57783
participate in the medical assistance program, obtain a promissory 57784~~

~~note in an amount sufficient to cover the amount likely to be
refunded;~~ 57785
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~~(2) In the case of all other owners, withhold the amount of
the last monthly payment to the nursing facility or, if the owner
fails, within the time required by this division, to notify the
department before entering into a contract of sale for the
facility, the amount of the first monthly payment made to the
facility after the department learns of the contract, regardless
of whether a new owner is in possession of the facility.~~ 57787
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~~The department shall, within ninety days following the filing
of the cost report, audit the cost report and issue an audit
report to the owner. The department also may audit any other cost
report that the facility has filed during the previous three
years. In the audit report, the department shall state its
findings and the amount of any money owed to the department by the
nursing facility. The findings shall be subject to adjudication
conducted in accordance with Chapter 119. of the Revised Code. No
later than fifteen days after the owner agrees to a settlement,
any funds held in escrow less any amounts due to the department
shall be released to the owner and amounts due to the department
shall be paid to the department. If the amounts in escrow are less
than the amounts due to the department, the balance shall be paid
to the department within fifteen days after the owner agrees to a
settlement. If the department does not issue its audit report
within the ninety day period, the department shall release any
money held in escrow to the owner. For the purposes of this
section, a transfer of corporate stock, the merger of one
corporation into another, or a consolidation does not constitute a
sale.~~ 57794
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~~If a nursing facility is not sold or its participation is not
terminated after notice is provided to the department under this
division, the department shall order any payments held in escrow~~ 57814
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~~released to the facility upon receiving written notice from the
owner that there will be no sale or termination. After written
notice is received from a nursing facility that a sale or
termination will not take place, the facility shall provide notice
to the department at least forty five days prior to entering into
any contract of sale or terminating participation at any future
time.~~

~~(H) The department shall pay each eligible proprietary
nursing facility a return on the facility's net equity computed at
the rate of one and one half times the average interest rate on
special issues of public debt obligations issued to the federal
hospital insurance trust fund for the cost reporting period,
except that no facility's return on net equity shall exceed fifty
cents per patient day.~~

~~When calculating the rate for return on net equity, the
department shall use the greater of the facility's inpatient days
during the applicable cost reporting period or the number of
inpatient days the facility would have had during that period if
its occupancy rate had been ninety five per cent.~~

~~(I) If a nursing facility would receive a lower rate for
capital costs for assets in the facility's possession on July 1,
1993, under this section than it would receive under former
section 5111.25 of the Revised Code, as the former section existed
immediately prior to December 22, 1992, the facility shall receive
for those assets the rate it would have received under the former
section for each fiscal year beginning on or after July 1, 1993,
until the rate it would receive under this section exceeds the
rate it would have received under the former section. Any facility
that receives a rate calculated under the former section 5111.25
of the Revised Code for assets in the facility's possession on
July 1, 1993, also shall receive a rate calculated under this
section for costs of any assets it constructs or acquires after~~

July 1, 1993. 57849

Sec. 5111.251. (A) The department of job and family services 57850
shall pay a provider for each of the provider's eligible 57851
intermediate care ~~facility~~ facilities for the mentally retarded 57852
for its reasonable capital costs, a per resident per day rate 57853
established prospectively each fiscal year for each intermediate 57854
care facility for the mentally retarded. Except as otherwise 57855
provided in sections 5111.20 to ~~5111.32~~ 5111.33 of the Revised 57856
Code, the rate shall be based on the facility's capital costs for 57857
the calendar year preceding the fiscal year in which the rate will 57858
be paid. The rate shall equal the sum of the following: 57859

(1) The facility's desk-reviewed, actual, allowable, per diem 57860
cost of ownership for the preceding cost reporting period, limited 57861
as provided in divisions (C) and (F) of this section; 57862

(2) Any efficiency incentive determined under division (B) of 57863
this section; 57864

(3) Any amounts for renovations determined under division (D) 57865
of this section; 57866

(4) Any amounts for return on equity determined under 57867
division (I) of this section. 57868

Buildings shall be depreciated using the straight line method 57869
over forty years or over a different period approved by the 57870
department. Components and equipment shall be depreciated using 57871
the straight line method over a period designated by the director 57872
of job and family services in rules adopted ~~in accordance with~~ 57873
~~Chapter 119.~~ under section 5111.02 of the Revised Code, consistent 57874
with the guidelines of the American hospital association, or over 57875
a different period approved by the department of job and family 57876
services. Any rules ~~adopted under~~ authorized by this division that 57877
specify useful lives of buildings, components, or equipment apply 57878

only to assets acquired on or after July 1, 1993. Depreciation for 57879
costs paid or reimbursed by any government agency shall not be 57880
included in costs of ownership or renovation unless that part of 57881
the payment under sections 5111.20 to ~~5111.32~~ 5111.33 of the 57882
Revised Code is used to reimburse the government agency. 57883

(B) The department of job and family services shall pay to a 57884
provider for each of the provider's eligible intermediate care 57885
~~facility~~ facilities for the mentally retarded an efficiency 57886
incentive equal to fifty per cent of the difference between any 57887
desk-reviewed, actual, allowable cost of ownership and the 57888
applicable limit on cost of ownership payments under division (C) 57889
of this section. For purposes of computing the efficiency 57890
incentive, depreciation for costs paid or reimbursed by any 57891
government agency shall be considered as a cost of ownership, and 57892
the applicable limit under division (C) of this section shall 57893
apply both to facilities with more than eight beds and facilities 57894
with eight or fewer beds. The efficiency incentive paid to a 57895
provider for a facility with eight or fewer beds shall not exceed 57896
three dollars per patient day, adjusted annually for the inflation 57897
rate for the twelve-month period beginning on the first day of 57898
July of the calendar year preceding the calendar year that 57899
precedes the fiscal year for which the efficiency incentive is 57900
determined and ending on the thirtieth day of the following June, 57901
using the consumer price index for shelter costs for all urban 57902
consumers for the north central region, as published by the United 57903
States bureau of labor statistics. 57904

(C) Cost of ownership payments ~~to~~ for intermediate care 57905
facilities for the mentally retarded with more than eight beds 57906
shall not exceed the following limits: 57907

(1) For facilities with dates of licensure prior to January 57908
1, 1958, not exceeding two dollars and fifty cents per patient 57909
day; 57910

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:	57911
	57912
(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;	57913
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	57915
(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.	57916
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(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:	57919
	57920
(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;	57921
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(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;	57924
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(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.	57928
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(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:	57931
	57932
(a) Five dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or more per bed;	57933
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(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;	57936
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(c) Three dollars and fifty cents per patient day if the cost	57940

of construction was five thousand one hundred fifty dollars or
less per bed, but exceeds three thousand five hundred dollars per
bed;

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(d) Two dollars and fifty cents per patient day if the cost
of construction was three thousand five hundred dollars or less
per bed.

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(5) For facilities with dates of licensure after December 31,
1978, but prior to January 1, 1980, not exceeding:

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(a) Six dollars per patient day if the cost of construction
was seven thousand six hundred twenty-five dollars or more per
bed;

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(b) Five dollars and fifty cents per patient day if the cost
of construction was less than seven thousand six hundred
twenty-five dollars per bed but exceeds six thousand eight hundred
dollars per bed;

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(c) Four dollars and fifty cents per patient day if the cost
of construction was six thousand eight hundred dollars or less per
bed but exceeds five thousand one hundred fifty dollars per bed;

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(d) Three dollars and fifty cents per patient day if the cost
of construction was five thousand one hundred fifty dollars or
less but exceeds three thousand five hundred dollars per bed;

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(e) Two dollars and fifty cents per patient day if the cost
of construction was three thousand five hundred dollars or less
per bed.

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(6) For facilities with dates of licensure after December 31,
1979, but prior to January 1, 1981, not exceeding:

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(a) Twelve dollars per patient day if the beds were
originally licensed as residential facility beds by the department
of mental retardation and developmental disabilities;

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(b) Six dollars per patient day if the beds were originally

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licensed as nursing home beds by the department of health. 57971

(7) For facilities with dates of licensure after December 31, 57972
1980, but prior to January 1, 1982, not exceeding: 57973

(a) Twelve dollars per patient day if the beds were 57974
originally licensed as residential facility beds by the department 57975
of mental retardation and developmental disabilities; 57976

(b) Six dollars and forty-five cents per patient day if the 57977
beds were originally licensed as nursing home beds by the 57978
department of health. 57979

(8) For facilities with dates of licensure after December 31, 57980
1981, but prior to January 1, 1983, not exceeding: 57981

(a) Twelve dollars per patient day if the beds were 57982
originally licensed as residential facility beds by the department 57983
of mental retardation and developmental disabilities; 57984

(b) Six dollars and seventy-nine cents per patient day if the 57985
beds were originally licensed as nursing home beds by the 57986
department of health. 57987

(9) For facilities with dates of licensure after December 31, 57988
1982, but prior to January 1, 1984, not exceeding: 57989

(a) Twelve dollars per patient day if the beds were 57990
originally licensed as residential facility beds by the department 57991
of mental retardation and developmental disabilities; 57992

(b) Seven dollars and nine cents per patient day if the beds 57993
were originally licensed as nursing home beds by the department of 57994
health. 57995

(10) For facilities with dates of licensure after December 57996
31, 1983, but prior to January 1, 1985, not exceeding: 57997

(a) Twelve dollars and twenty-four cents per patient day if 57998
the beds were originally licensed as residential facility beds by 57999

the department of mental retardation and developmental	58000
disabilities;	58001
(b) Seven dollars and twenty-three cents per patient day if	58002
the beds were originally licensed as nursing home beds by the	58003
department of health.	58004
(11) For facilities with dates of licensure after December	58005
31, 1984, but prior to January 1, 1986, not exceeding:	58006
(a) Twelve dollars and fifty-three cents per patient day if	58007
the beds were originally licensed as residential facility beds by	58008
the department of mental retardation and developmental	58009
disabilities;	58010
(b) Seven dollars and forty cents per patient day if the beds	58011
were originally licensed as nursing home beds by the department of	58012
health.	58013
(12) For facilities with dates of licensure after December	58014
31, 1985, but prior to January 1, 1987, not exceeding:	58015
(a) Twelve dollars and seventy cents per patient day if the	58016
beds were originally licensed as residential facility beds by the	58017
department of mental retardation and developmental disabilities;	58018
(b) Seven dollars and fifty cents per patient day if the beds	58019
were originally licensed as nursing home beds by the department of	58020
health.	58021
(13) For facilities with dates of licensure after December	58022
31, 1986, but prior to January 1, 1988, not exceeding:	58023
(a) Twelve dollars and ninety-nine cents per patient day if	58024
the beds were originally licensed as residential facility beds by	58025
the department of mental retardation and developmental	58026
disabilities;	58027
(b) Seven dollars and sixty-seven cents per patient day if	58028
the beds were originally licensed as nursing home beds by the	58029

department of health.	58030
(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;	58031 58032 58033
(15) For facilities with dates of licensure after December 31, 1988, but prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;	58034 58035 58036
(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;	58037 58038 58039
(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;	58040 58041 58042
(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;	58043 58044 58045
(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.	58046 58047 58048
(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive	58049 58050 58051 58052 58053 58054 58055 58056 58057 58058 58059

renovation of an intermediate care facility for the mentally 58060
retarded. Nonextensive renovation costs shall not be included in 58061
cost of ownership, and a nonextensive renovation shall not affect 58062
the date of licensure for purposes of division (C) of this 58063
section. This division applies to nonextensive renovations 58064
regardless of whether they are made by an owner or a lessee. If 58065
the tenancy of a lessee that has made renovations ends before the 58066
depreciation expense for the renovation costs has been fully 58067
reported, the former lessee shall not report the undepreciated 58068
balance as an expense. 58069

For a nonextensive renovation to qualify for payment under 58070
this division, both of the following conditions must be met: 58071

(1) At least five years have elapsed since the date of 58072
licensure or date of an extensive renovation of the portion of the 58073
facility that is proposed to be renovated, except that this 58074
condition does not apply if the renovation is necessary to meet 58075
the requirements of federal, state, or local statutes, ordinances, 58076
rules, or policies. 58077

(2) The provider has obtained prior approval from the 58078
department of job and family services. The provider shall submit a 58079
plan that describes in detail the changes in capital assets to be 58080
accomplished by means of the renovation and the timetable for 58081
completing the project. The time for completion of the project 58082
shall be no more than eighteen months after the renovation begins. 58083
The director of job and family services shall adopt rules ~~in~~ 58084
~~accordance with Chapter 119.~~ under section 5111.02 of the Revised 58085
Code that specify criteria and procedures for prior approval of 58086
renovation projects. No provider shall separate a project with the 58087
intent to evade the characterization of the project as a 58088
renovation or as an extensive renovation. No provider shall 58089
increase the scope of a project after it is approved by the 58090
department of job and family services unless the increase in scope 58091

is approved by the department. 58092

(E) The amounts specified in divisions (C) and (D) of this 58093
section shall be adjusted beginning July 1, 1993, for the 58094
estimated inflation for the twelve-month period beginning on the 58095
first day of July of the calendar year preceding the calendar year 58096
that precedes the fiscal year for which rate will be paid and 58097
ending on the thirtieth day of the following June, using the 58098
consumer price index for shelter costs for all urban consumers for 58099
the north central region, as published by the United States bureau 58100
of labor statistics. 58101

(F)(1) For facilities of eight or fewer beds that have dates 58102
of licensure or have been granted project authorization by the 58103
department of mental retardation and developmental disabilities 58104
before July 1, 1993, and for facilities of eight or fewer beds 58105
that have dates of licensure or have been granted project 58106
authorization after that date if the providers of the facilities 58107
demonstrate that they made substantial commitments of funds on or 58108
before that date, cost of ownership shall not exceed eighteen 58109
dollars and thirty cents per resident per day. The eighteen-dollar 58110
and thirty-cent amount shall be increased by the change in the 58111
"Dodge building cost indexes, northeastern and north central 58112
states," published by Marshall and Swift, during the period 58113
beginning June 30, 1990, and ending July 1, 1993, and by the 58114
change in the consumer price index for shelter costs for all urban 58115
consumers for the north central region, as published by the United 58116
States bureau of labor statistics, annually thereafter. 58117

(2) For facilities with eight or fewer beds that have dates 58118
of licensure or have been granted project authorization by the 58119
department of mental retardation and developmental disabilities on 58120
or after July 1, 1993, for which substantial commitments of funds 58121
were not made before that date, cost of ownership payments shall 58122
not exceed the applicable amount calculated under division (F)(1) 58123

of this section, if the department of job and family services 58124
gives prior approval for construction of the facility. If the 58125
department does not give prior approval, cost of ownership 58126
payments shall not exceed the amount specified in division (C) of 58127
this section. 58128

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this 58129
section, the total payment for cost of ownership, cost of 58130
ownership efficiency incentive, and capitalized costs of 58131
renovations for an intermediate care facility for the mentally 58132
retarded with eight or fewer beds shall not exceed the sum of the 58133
limitations specified in divisions (C) and (D) of this section. 58134

(G) Notwithstanding any provision of this section or section 58135
~~5111.24~~ 5111.241 of the Revised Code, the director of job and 58136
family services may adopt rules ~~in accordance with Chapter 119.~~ 58137
under section 5111.02 of the Revised Code that provide for a 58138
calculation of a combined maximum payment limit for indirect care 58139
costs and cost of ownership for intermediate care facilities for 58140
the mentally retarded with eight or fewer beds. 58141

(H) ~~After June 30, 1980, the owner of an intermediate care 58142
facility for the mentally retarded operating under a provider 58143
agreement shall provide written notice to the department of job 58144
and family services at least forty five days prior to entering 58145
into any contract of sale for the facility or voluntarily 58146
terminating participation in the medical assistance program. After 58147
the date on which a transaction of sale is closed, the ~~owner~~ 58148
provider shall refund to the department the amount of excess 58149
depreciation paid to the provider for the facility by the 58150
department for each year the ~~owner~~ provider has operated the 58151
facility under a provider agreement and prorated according to the 58152
number of medicaid patient days for which the facility provider 58153
has received payment for the facility. ~~If an intermediate care 58154
facility for the mentally retarded is sold after five or fewer 58155~~~~

~~years of operation under a provider agreement, the refund to the~~ 58156
~~department shall be equal to the excess depreciation paid to the~~ 58157
~~facility. If an intermediate care facility for the mentally~~ 58158
~~retarded is sold after more than five years but less than ten~~ 58159
~~years of operation under a provider agreement, the refund to the~~ 58160
~~department shall equal the excess depreciation paid to the~~ 58161
~~facility multiplied by twenty per cent, multiplied by the number~~ 58162
~~of years less than ten that a facility was operated under a~~ 58163
~~provider agreement. If an intermediate care facility for the~~ 58164
~~mentally retarded is sold after ten or more years of operation~~ 58165
~~under a provider agreement, the owner shall not refund any excess~~ 58166
~~depreciation to the department. For the purposes of this division,~~ 58167
~~"depreciation paid to the provider for the facility" means the~~ 58168
~~amount paid to the provider for the intermediate care facility for~~ 58169
~~the mentally retarded for cost of ownership pursuant to this~~ 58170
~~section less any amount paid for interest costs. For the purposes~~ 58171
~~of this division, "excess depreciation" is the intermediate care~~ 58172
~~facility for the mentally retarded's depreciated basis, which is~~ 58173
~~the ~~owner's~~ provider's cost less accumulated depreciation,~~ 58174
~~subtracted from the purchase price but not exceeding the amount of~~ 58175
~~depreciation paid to the provider for the facility.~~ 58176

~~A cost report shall be filed with the department within~~ 58177
~~ninety days after the date on which the transaction of sale is~~ 58178
~~closed or participation is voluntarily terminated for an~~ 58179
~~intermediate care facility for the mentally retarded subject to~~ 58180
~~this division. The report shall show the accumulated depreciation,~~ 58181
~~the sales price, and other information required by the department.~~ 58182
~~The department shall provide for a bank, trust company, or savings~~ 58183
~~and loan association to hold in escrow the amount of the last two~~ 58184
~~monthly payments to an intermediate care facility for the mentally~~ 58185
~~retarded made pursuant to division (A)(1) of section 5111.22 of~~ 58186
~~the Revised Code before a sale or voluntary termination of~~ 58187
~~participation or, if the owner fails, within the time required by~~ 58188

~~this division, to notify the department before entering into a
contract of sale for the facility, the amount of the first two
monthly payments made to the facility after the department learns
of the contract, regardless of whether a new owner is in
possession of the facility. If the amount the owner will be
required to refund under this section is likely to be less than
the amount of the two monthly payments otherwise put into escrow
under this division, the department shall take one of the
following actions instead of withholding the amount of the two
monthly payments:~~

~~(1) In the case of an owner that owns other facilities that
participate in the medical assistance program, obtain a promissory
note in an amount sufficient to cover the amount likely to be
refunded;~~

~~(2) In the case of all other owners, withhold the amount of
the last monthly payment to the intermediate care facility for the
mentally retarded or, if the owner fails, within the time required
by this division, to notify the department before entering into a
contract of sale for the facility, the amount of the first monthly
payment made to the facility after the department learns of the
contract, regardless of whether a new owner is in possession of
the facility.~~

~~The department shall, within ninety days following the filing
of the cost report, audit the report and issue an audit report to
the owner. The department also may audit any other cost reports
for the facility that have been filed during the previous three
years. In the audit report, the department shall state its
findings and the amount of any money owed to the department by the
intermediate care facility for the mentally retarded. The findings
shall be subject to an adjudication conducted in accordance with
Chapter 119. of the Revised Code. No later than fifteen days after
the owner agrees to a settlement, any funds held in escrow less~~

~~any amounts due to the department shall be released to the owner 58221
and amounts due to the department shall be paid to the department. 58222
If the amounts in escrow are less than the amounts due to the 58223
department, the balance shall be paid to the department within 58224
fifteen days after the owner agrees to a settlement. If the 58225
department does not issue its audit report within the ninety day 58226
period, the department shall release any money held in escrow to 58227
the owner. For the purposes of this section, a transfer of 58228
corporate stock, the merger of one corporation into another, or a 58229
consolidation does not constitute a sale. 58230~~

~~If an intermediate care facility for the mentally retarded is 58231
not sold or its participation is not terminated after notice is 58232
provided to the department under this division, the department 58233
shall order any payments held in escrow released to the facility 58234
upon receiving written notice from the owner that there will be no 58235
sale or termination of participation. After written notice is 58236
received from an intermediate care facility for the mentally 58237
retarded that a sale or termination of participation will not take 58238
place, the facility shall provide notice to the department at 58239
least forty five days prior to entering into any contract of sale 58240
or terminating participation at any future time. 58241~~

(I) The department of job and family services shall pay a 58242
provider for each of the provider's eligible proprietary 58243
intermediate care ~~facility~~ facilities for the mentally retarded a 58244
return on the facility's net equity computed at the rate of one 58245
and one-half times the average of interest rates on special issues 58246
of public debt obligations issued to the federal hospital 58247
insurance trust fund for the cost reporting period. No facility's 58248
return on net equity paid under this division shall exceed one 58249
dollar per patient day. 58250

In calculating the rate for return on net equity, the 58251
department shall use the greater of the facility's inpatient days 58252

during the applicable cost reporting period or the number of 58253
inpatient days the facility would have had during that period if 58254
its occupancy rate had been ninety-five per cent. 58255

(J)(1) Except as provided in division (J)(2) of this section, 58256
if a provider leases or transfers an interest in a facility to 58257
another provider who is a related party, the related party's 58258
allowable cost of ownership shall include the lesser of the 58259
following: 58260

(a) The annual lease expense or actual cost of ownership, 58261
whichever is applicable; 58262

(b) The reasonable cost to the lessor or provider making the 58263
transfer. 58264

(2) If a provider leases or transfers an interest in a 58265
facility to another provider who is a related party, regardless of 58266
the date of the lease or transfer, the related party's allowable 58267
cost of ownership shall include the annual lease expense or actual 58268
cost of ownership, whichever is applicable, subject to the 58269
limitations specified in divisions (B) to (I) of this section, if 58270
all of the following conditions are met: 58271

(a) The related party is a relative of owner; 58272

(b) In the case of a lease, if the lessor retains any 58273
ownership interest, it is, except as provided in division 58274
(J)(2)(d)(ii) of this section, in only the real property and any 58275
improvements on the real property; 58276

(c) In the case of a transfer, the provider making the 58277
transfer retains, except as provided in division (J)(2)(d)(iv) of 58278
this section, no ownership interest in the facility; 58279

(d) The department of job and family services determines that 58280
the lease or transfer is an arm's length transaction pursuant to 58281
~~rules the department shall adopt in accordance with Chapter 119.~~ 58282

adopted under section 5111.02 of the Revised Code ~~no later than~~ 58283
~~December 31, 2000~~. The rules shall provide that a lease or 58284
transfer is an arm's length transaction if all of the following, 58285
as applicable, apply: 58286

(i) In the case of a lease, once the lease goes into effect, 58287
the lessor has no direct or indirect interest in the lessee or, 58288
except as provided in division (J)(2)(b) of this section, the 58289
facility itself, including interest as an owner, officer, 58290
director, employee, independent contractor, or consultant, but 58291
excluding interest as a lessor. 58292

(ii) In the case of a lease, the lessor does not reacquire an 58293
interest in the facility except through the exercise of a lessor's 58294
rights in the event of a default. If the lessor reacquires an 58295
interest in the facility in this manner, the department shall 58296
treat the facility as if the lease never occurred when the 58297
department calculates its reimbursement rates for capital costs. 58298

(iii) In the case of a transfer, once the transfer goes into 58299
effect, the provider that made the transfer has no direct or 58300
indirect interest in the provider that acquires the facility or 58301
the facility itself, including interest as an owner, officer, 58302
director, employee, independent contractor, or consultant, but 58303
excluding interest as a creditor. 58304

(iv) In the case of a transfer, the provider that made the 58305
transfer does not reacquire an interest in the facility except 58306
through the exercise of a creditor's rights in the event of a 58307
default. If the provider reacquires an interest in the facility in 58308
this manner, the department shall treat the facility as if the 58309
transfer never occurred when the department calculates its 58310
reimbursement rates for capital costs. 58311

(v) The lease or transfer satisfies any other criteria 58312
specified in the rules. 58313

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently under this division.

Sec. 5111.254. (A) The department of job and family services shall establish initial rates for a nursing facility with a first date of licensure that is on or after July 1, 2007, including a facility that replaces one or more existing facilities, or for a nursing facility with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section 5111.231 of the Revised Code for the facility's peer group and the nursing facility's case-mix score. For the purpose of division (A)(1) of this section, the nursing facility's case-mix score shall be the following:

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group;

(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and

replacement nursing facilities. 58345

(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code. 58346
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(3) The rate for capital costs shall be the median rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code. 58349
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(4) The rate for tax costs as defined in section 5111.242 of the Revised Code shall be the median rate for tax costs for the facility's peer group in which the facility is placed under division (C) of section 5111.24 of the Revised Code. 58352
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(5) The quality incentive payment shall be the mean payment specified in division (B) of section 5111.244 of the Revised Code. 58356
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(B) Subject to division (C) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under sections 5111.20 to 5111.33 of the Revised Code. 58358
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(C) If a rate for direct care costs is determined under this section for a nursing facility using the median annual average case-mix score for the nursing facility's peer group, the rate shall be redetermined to reflect the replacement nursing facility's actual semiannual case-mix score determined under section 5111.232 of the Revised Code after the nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If the nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the nursing facility's peer group in lieu of the nursing 58363
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facility's semiannual case-mix score until the nursing facility 58376
submits two consecutive quarterly assessment data that qualify for 58377
use in calculating a case-mix score. 58378

Sec. 5111.255. (A) The department of job and family services 58379
shall establish initial rates for ~~a nursing facility or an~~ 58380
intermediate care facility for the mentally retarded with a first 58381
date of licensure that is on or after January 1, 1993, including a 58382
facility that replaces one or more existing facilities, or for a 58383
~~nursing facility or an~~ intermediate care facility for the mentally 58384
retarded with a first date of licensure before that date that was 58385
initially certified for the ~~medical assistance~~ medicaid program on 58386
or after that date, in the following manner: 58387

(1) The rate for direct care costs shall be determined as 58388
follows: 58389

(a) If there are no cost or resident assessment data as 58390
necessary to calculate a rate under section 5111.23 of the Revised 58391
Code, the rate shall be the median cost per case-mix unit 58392
calculated under division (B)(1) of that section for the relevant 58393
peer group for the calendar year preceding the fiscal year in 58394
which the rate will be paid, multiplied by the median annual 58395
average case-mix score for the peer group for that period and by 58396
the rate of inflation estimated under division (B)~~(5)~~(3) of that 58397
section. This rate shall be recalculated to reflect the facility's 58398
actual quarterly average case-mix score, in accordance with that 58399
section, after it submits its first quarterly assessment 58400
~~information data~~ data that qualifies for use in calculating a case-mix 58401
score in accordance with rules ~~adopted under~~ authorized by 58402
division ~~(D)~~(E) of section ~~5111.231~~ 5111.232 of the Revised Code. 58403
If the facility's first two quarterly submissions do not contain 58404
assessment ~~information data~~ data that qualifies for use in calculating 58405
a case-mix score, the department shall continue to calculate the 58406

rate using the median annual case-mix score for the peer group in 58407
lieu of an assigned quarterly case-mix score. The department shall 58408
assign a case-mix score or, if necessary, a cost per case-mix unit 58409
under division ~~(C)~~(D) of section ~~5111.231~~ 5111.232 of the Revised 58410
Code for any subsequent submissions that do not contain assessment 58411
~~information~~ data that qualifies for use in calculating a case-mix 58412
score. 58413

(b) If the facility is a replacement facility and the 58414
facility or facilities that are being replaced are in operation 58415
immediately before the replacement facility opens, the rate shall 58416
be the same as the rate for the replaced facility or facilities, 58417
proportionate to the number of beds in each replaced facility. If 58418
one or more of the replaced facilities is not in operation 58419
immediately before the replacement facility opens, its proportion 58420
shall be determined under division (A)(1)(a) of this section. 58421

(2) The rate for other protected costs shall be one hundred 58422
fifteen per cent of the median rate for ~~the applicable type of~~ 58423
~~facility~~ intermediate care facilities for the mentally retarded 58424
calculated for the fiscal year under section 5111.235 of the 58425
Revised Code. 58426

(3) The rate for indirect care costs shall be the applicable 58427
maximum rate for the facility's peer group as specified in 58428
division (B) of section ~~5111.24~~ or division (B) of section 58429
5111.241 of the Revised Code. 58430

(4) The rate for capital costs shall be determined under 58431
section ~~5111.25~~ or 5111.251 of the Revised Code using the greater 58432
of actual inpatient days or an imputed occupancy rate of eighty 58433
per cent. 58434

(B) The department shall adjust the rates established under 58435
division (A) of this section at both of the following times: 58436

(1) Effective the first day of July, to reflect new rate 58437

calculations for all facilities under sections ~~5111.23~~ 5111.20 to 58438
~~5111.25 and 5111.251~~ 5111.33 of the Revised Code; 58439

(2) Following the ~~facility's~~ provider's submission of ~~its~~ the 58440
facility's cost report under division (A)(1)(b) of section 5111.26 58441
of the Revised Code. 58442

The department shall pay the rate adjusted based on the cost 58443
report beginning the first day of the calendar quarter that begins 58444
more than ninety days after the department receives the cost 58445
report. 58446

Sec. 5111.257. If a provider of a nursing facility adds or 58447
replaces one or more medicaid certified beds to or at the nursing 58448
facility, or renovates one or more of the nursing facility's beds, 58449
the rate for the added, replaced, or renovated beds shall be the 58450
same as the rate for the nursing facility's existing beds. 58451

~~Sec. 5111.257~~ 5111.258. (A) Notwithstanding sections ~~5111.23,~~ 58452
~~5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, and~~ 58453
~~5111.255~~ 5111.20 to 5111.33 of the Revised Code, the director of 58454
job and family services shall adopt rules ~~in accordance with~~ 58455
~~Chapter 119.~~ under section 5111.02 of the Revised Code that 58456
establish a methodology for calculating the prospective rates ~~for~~ 58457
~~direct care costs, other protected costs, indirect care costs, and~~ 58458
~~capital costs~~ that will be paid each fiscal year to a provider for 58459
each of the provider's eligible nursing facilities and 58460
intermediate care facilities for the mentally retarded, and 58461
discrete units of the provider's nursing facilities or 58462
intermediate care facilities for the mentally retarded, that serve 58463
residents who have diagnoses or special care needs that require 58464
direct care resources that are not measured adequately by the 58465
applicable assessment instrument specified in rules ~~adopted under~~ 58466
authorized by section ~~5111.231~~ 5111.232 of the Revised Code, or 58467

who have diagnoses or special care needs specified in the rules as 58468
otherwise qualifying for consideration under this section. The 58469
facilities and units of facilities whose rates are established 58470
under this division may include, but shall not be limited to, any 58471
of the following: 58472

(1) In the case of nursing facilities, facilities and units 58473
of facilities that serve medically fragile pediatric residents, 58474
residents who are dependent on ventilators, or residents who have 58475
severe traumatic brain injury, end-stage Alzheimer's disease, or 58476
end-stage acquired immunodeficiency syndrome; 58477

(2) In the case of intermediate care facilities for the 58478
mentally retarded, facilities and units of facilities that serve 58479
residents who have complex medical conditions or severe behavioral 58480
problems. 58481

The department shall use the methodology established under 58482
this division to pay for services rendered by such facilities and 58483
units after June 30, 1993. 58484

The rules ~~adopted under~~ authorized by this division shall 58485
specify the criteria and procedures the department will apply when 58486
designating facilities and units that qualify for calculation of 58487
rates under this division. The criteria shall include 58488
consideration of whether all of the allowable costs of the 58489
facility or unit would be paid by rates established under sections 58490
~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251,~~ 58491
~~and 5111.255~~ 5111.20 to 5111.33 of the Revised Code, and shall 58492
establish a minimum bed size for a facility or unit to qualify to 58493
have its rates established under this division. The criteria shall 58494
not be designed to require that residents be served only in 58495
facilities located in large cities. The methodology established by 58496
the rules shall consider the historical costs of providing care to 58497
the residents of the facilities or units. 58498

The rules may require that a facility designated under this 58499
division or containing a unit designated under this division 58500
receive authorization from the department to admit or retain a 58501
resident to the facility or unit and shall specify the criteria 58502
and procedures the department will apply when granting that 58503
authorization. 58504

Notwithstanding any other provision of sections 5111.20 to 58505
~~5111.32~~ 5111.33 of the Revised Code, the costs incurred by 58506
facilities or units whose rates are established under this 58507
division shall not be considered in establishing payment rates for 58508
other facilities or units. 58509

(B) The director may adopt rules ~~in accordance with Chapter~~ 58510
~~119-~~ under section 5111.02 of the Revised Code under which the 58511
department, notwithstanding any other provision of sections 58512
5111.20 to ~~5111.32~~ 5111.33 of the Revised Code, may adjust the 58513
rates determined under sections ~~5111.23~~ 5111.20 to ~~5111.255~~ 58514
5111.33 of the Revised Code for a facility that serves a resident 58515
who has a diagnosis or special care need that, in the rules 58516
~~adopted under~~ authorized by division (A) of this section, would 58517
qualify a facility or unit of a facility to have its rate 58518
determined under that division, but who is not in such a unit. The 58519
rules may require that a facility that qualifies for a rate 58520
adjustment under this division receive authorization from the 58521
department to admit or retain a resident who qualifies the 58522
facility for the rate adjustment and shall specify the criteria 58523
and procedures the department will apply when granting that 58524
authorization. 58525

Sec. 5111.26. (A)(1)(a) Except as provided in division 58526
(A)(1)(b) of this section, each ~~nursing facility and intermediate~~ 58527
~~care facility for the mentally retarded~~ provider shall file with 58528
the department of job and family services an annual cost report 58529

~~prepared for each of the provider's nursing facilities and~~ 58530
~~intermediate care facilities for the mentally retarded that~~ 58531
~~participate in the medicaid program. A provider shall prepare the~~ 58532
~~reports~~ in accordance with guidelines established by the 58533
department. ~~The~~ A report shall cover a calendar year or the 58534
portion of a calendar year during which the facility participated 58535
in the ~~medical assistance~~ medicaid program. ~~All facilities~~ A 58536
provider shall file the reports within ninety days after the end 58537
of the calendar year. The department, for good cause, may grant a 58538
fourteen-day extension of the time for filing cost reports upon 58539
written request from a ~~facility~~ provider. The director of job and 58540
family services shall prescribe, in rules adopted ~~in accordance~~ 58541
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, the 58542
cost reporting form and a uniform chart of accounts for the 58543
purpose of cost reporting, and shall distribute cost reporting 58544
forms or computer software for electronic submission of the cost 58545
report to each ~~nursing facility and intermediate care facility for~~ 58546
~~the mentally retarded~~ provider at least sixty days before the 58547
~~facility's~~ reporting date. 58548

(b) ~~A facility for which~~ If rates are for a provider's 58549
nursing facility or intermediate care facility for the mentally 58550
retarded were most recently established under section 5111.254 or 58551
5111.255 of the Revised Code, the provider shall submit a cost 58552
report for that facility no later than ninety days after the end 58553
of the facility's first three full calendar months of operation. A 58554
If a nursing facility or intermediate care facility for the 58555
mentally retarded undergoes a change of provider that the 58556
department determines, in accordance with rules adopted under 58557
section 5111.02 of the Revised Code, is an arm's length 58558
transaction, the new provider shall submit a cost report for that 58559
facility not later than ninety days after the end of the 58560
facility's first three full calendar months of operation under the 58561
new provider. The provider of a facility that opens or undergoes a 58562

change of provider that is an arm's length transaction after the 58563
first day of October in any calendar year is not required to file 58564
a cost report for that calendar year. 58565

(c) If a nursing facility undergoes a change of provider that 58566
the department determines, in accordance with rules adopted under 58567
section 5111.02 of the Revised Code, is not an arms length 58568
transaction, the new provider shall file a cost report under 58569
division (A)(1)(a) of this section for the facility. The cost 58570
report shall cover the portion of the calendar year during which 58571
the new provider operated the nursing facility and the portion of 58572
the calendar year during which the previous provider operated the 58573
nursing facility. 58574

(2) If a ~~nursing facility or intermediate care facility for~~ 58575
~~the mentally retarded~~ provider required to submit a cost reports 58576
report for a nursing facility or intermediate care facility for 58577
the mentally retarded does not file the ~~reports~~ report within the 58578
required time ~~periods~~ period or within fourteen days thereafter if 58579
an extension is granted under division (A)(1)(a) of this section, 58580
or files an incomplete or inadequate report for the facility, the 58581
department shall provide immediate written notice to the facility 58582
provider that ~~its~~ the provider agreement for the facility will be 58583
terminated in thirty days unless the facility provider submits a 58584
complete and adequate cost report for the facility within thirty 58585
days. During the thirty-day termination period or any additional 58586
time allowed for an appeal of the proposed termination of a 58587
provider agreement, the facility provider shall be paid ~~its~~ the 58588
facility's then current per resident per day rate, minus two 58589
dollars. On July 1, 1994, the department shall adjust the 58590
two-dollar reduction to reflect the rate of inflation during the 58591
preceding twelve months, as shown in the consumer price index for 58592
all items for all urban consumers for the north central region, 58593
published by the United States bureau of labor statistics. On July 58594

1, 1995, and the first day of July of each year thereafter, the 58595
department shall adjust the amount of the reduction in effect 58596
during the previous twelve months to reflect the rate of inflation 58597
during the preceding twelve months, as shown in the same index. 58598

(B) No ~~nursing facility or intermediate care facility for the~~ 58599
~~mentally retarded~~ provider shall report fines paid under sections 58600
5111.35 to 5111.62 or section 5111.99 of the Revised Code in any 58601
cost report filed under this section. 58602

(C) The department shall develop an addendum to the cost 58603
report form that a ~~nursing facility or intermediate care facility~~ 58604
~~for the mentally retarded~~ provider may use to set forth costs that 58605
the ~~facility~~ provider believes may be disputed by the department. 58606
Any costs reported by the ~~facility~~ provider on the addendum may be 58607
considered by the department in setting the facility's rate. If 58608
the department does not consider the costs listed on the addendum 58609
in setting the facility's rate, the ~~facility~~ provider may seek 58610
reconsideration of that determination under section 5111.29 of the 58611
Revised Code. If the department subsequently includes the costs 58612
listed in the addendum in the facility's rate, the department 58613
shall pay the ~~facility~~ provider interest at a reasonable rate 58614
established in rules adopted ~~in accordance with Chapter 119.~~ under 58615
section 5111.02 of the Revised Code for the time that the rate 58616
paid excluded the costs. 58617

Sec. 5111.261. Except as otherwise provided in ~~sections~~ 58618
~~5111.262 to~~ section 5111.264 of the Revised Code, the department 58619
of job and family services, in determining whether an intermediate 58620
care facility for the mentally retarded's direct care costs and 58621
indirect care costs are allowable, shall place no limit on 58622
specific categories of reasonable costs other than compensation of 58623
owners, compensation of relatives of owners, compensation of 58624
administrators and costs for resident meals that are prepared and 58625

consumed outside the facility. 58626

Compensation cost limits for owners and relatives of owners 58627
shall be based on compensation costs for individuals who hold 58628
comparable positions but who are not owners or relatives of 58629
owners, as reported on facility cost reports. As used in this 58630
section, "comparable position" means the position that is held by 58631
the owner or the owner's relative, if that position is listed 58632
separately on the cost report form, or if the position is not 58633
listed separately, the group of positions that is listed on the 58634
cost report form and that includes the position held by the owner 58635
or the owner's relative. In the case of an owner or owner's 58636
relative who serves the facility in a capacity such as corporate 58637
officer, proprietor, or partner for which no comparable position 58638
or group of positions is listed on the cost report form, the 58639
compensation cost limit shall be based on civil service 58640
equivalents and shall be specified in rules adopted ~~by the~~ 58641
~~director of job and family services in accordance with Chapter~~ 58642
~~119. under section 5111.02~~ of the Revised Code. 58643

Compensation cost limits for administrators shall be based on 58644
compensation costs for administrators who are not owners or 58645
relatives of owners, as reported on facility cost reports. 58646
Compensation cost limits for administrators of four or more 58647
intermediate care facilities for the mentally retarded shall be 58648
the same as the limits for administrators of ~~nursing facilities or~~ 58649
intermediate care facilities for the mentally retarded with one 58650
hundred fifty or more beds. 58651

~~For nursing facilities, cost limits for resident meals that~~ 58652
~~are prepared and consumed outside the facility shall be based on~~ 58653
~~the statewide average cost of serving and preparing meals in all~~ 58654
~~nursing facilities, as reported on the facility cost reports. For~~ 58655
~~intermediate care facilities for the mentally retarded, cost~~ 58656
~~limits for resident meals that are prepared and consumed outside~~ 58657

~~the facility shall be based on the statewide average cost of
serving and preparing meals in all intermediate care facilities
for the mentally retarded, as reported on the facility cost
reports.~~

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Sec. 5111.263. (A) As used in this section, "covered therapy services" means physical therapy, occupational therapy, audiology, and speech therapy services that are provided by appropriately licensed therapists or therapy assistants and that are covered for nursing facility residents either by the medicare program established under Title XVIII ~~of the "Social Security Act,"~~ 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, or the ~~medical assistance~~ medicaid program as specified in rules adopted by the director of job and family services ~~in accordance with Chapter 119- under section 5111.02~~ of the Revised Code.

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(B) Except as provided in division (G) of this section, the costs of therapy are not allowable costs for nursing facilities for the purpose of determining rates under sections ~~5111.23, 5111.231, 5111.235, 5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 5111.20 to 5111.33 of the Revised Code.

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(C) The department of job and family services shall process no claims for payment under the ~~medical assistance~~ medicaid program for covered therapy services rendered to a resident of a nursing facility other than such claims submitted, in accordance with this section, by a nursing facility that has a valid provider agreement with the department.

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(D) ~~Nursing Providers of nursing facilities that have entered into a provider agreement~~ may bill the department of job and family services for covered therapy services ~~it provides~~ the nursing facilities provide to residents of any nursing facility who are medicaid recipients ~~of the medical assistance program~~ and not eligible for the medicare program.

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(E) The department shall not process any claim for a covered therapy service provided to a nursing facility resident who is eligible for the medicare program unless the claim is for a copayment or deductible or the conditions in division (E)(1) or (2) of this section apply:

(1) The covered therapy service provided is, under the federal statutes, regulations, or policies governing the medicare program, not covered by the medicare program and the service is, under the provisions of this chapter or the rules adopted under this chapter, covered by the ~~medical assistance~~ medicaid program.

(2) All of the following apply:

(a) The individual or entity who provided the covered therapy service was eligible to bill the medicare program for the service.

(b) A complete, accurate, and timely claim was submitted to the medicare program and the program denied payment for the service as not medically necessary for the resident. For the purposes of division (E)(2)(b) of this section, a claim is not considered to have been denied by the medicare program until either a denial has been issued following a medicare fair hearing or six months have elapsed since the request for a fair hearing was filed.

(c) The facility is required to provide or arrange for the provision of the service by a licensed therapist or therapy assistant to be in compliance with federal or state nursing facility certification requirements for the ~~medical assistance~~ medicaid program.

(d) The claim for payment for the services under the ~~medical assistance~~ medicaid program is accompanied by documentation that divisions (E)(2)(b) and (c) of this section apply to the service.

(F) The reimbursement allowed by the department for covered

therapy services provided to nursing facility residents and billed 58719
under division (D) or (E) of this section shall be fifteen per 58720
cent less than the fees it pays for the same services rendered to 58721
hospital outpatients. The director may adopt rules ~~in accordance~~ 58722
~~with Chapter 119.~~ under section 5111.02 of the Revised Code 58723
establishing comparable fees for covered therapy services that are 58724
not included in its schedule of fees paid for services rendered to 58725
hospital outpatients. 58726

(G) A nursing facility's reasonable costs for rehabilitative, 58727
restorative, or maintenance therapy services rendered to facility 58728
residents by nurses or nurse aides, and the facility's overhead 58729
costs to support provision of therapy services provided to nursing 58730
facility residents, are allowable costs for the purposes of 58731
establishing rates under sections ~~5111.23, 5111.231, 5111.235,~~ 58732
~~5111.24, 5111.241, 5111.25, 5111.251, 5111.255, and 5111.257~~ 58733
5111.20 to 5111.33 of the Revised Code. 58734

Sec. 5111.264. Except as provided in section 5111.25 or 58735
~~5111.264~~ 5111.251 of the Revised Code, the costs of goods, 58736
services, and facilities, furnished to a provider by a related 58737
party are includable in the allowable costs of the provider at the 58738
reasonable cost to the related party. 58739

Sec. 5111.265. If one or more medicaid-certified beds are 58740
relocated from one nursing facility to another nursing facility 58741
owned by a different person or government entity and the 58742
application for the certificate of need authorizing the relocation 58743
is filed with the director of health on or after the effective 58744
date of this section, amortization of the cost of acquiring 58745
operating rights for the relocated beds is not an allowable cost 58746
for the purpose of determining the nursing facility's medicaid 58747
reimbursement rate. 58748

Sec. 5111.266. A provider of a nursing facility filing the 58749
facility's cost report with the department of job and family 58750
services under section 5111.26 of the Revised Code shall report as 58751
a nonreimbursable expense the cost of the nursing facility's 58752
franchise permit fee. 58753

Sec. 5111.27. (A) The department of job and family services 58754
shall conduct a desk review of each cost report it receives under 58755
section 5111.26 of the Revised Code. Based on the desk review, the 58756
department shall make a preliminary determination of whether the 58757
reported costs are allowable costs. The department shall notify 58758
each ~~nursing facility and intermediate care facility for the~~ 58759
~~mentally retarded~~ provider of whether any of ~~its~~ the reported 58760
costs are preliminarily determined not to be allowable, the rate 58761
calculation under sections ~~5111.23~~ 5111.20 to ~~5111.257~~ 5111.33 of 58762
the Revised Code that results from that determination, and the 58763
reasons for the determination and resulting rate. The department 58764
shall allow the ~~facility~~ provider to verify the calculation and 58765
submit additional information. 58766

(B) The department may conduct an audit, as defined by rule 58767
~~adopted by the director of job and family services in accordance~~ 58768
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, of 58769
any cost report and shall notify the ~~nursing facility or~~ 58770
~~intermediate care facility for the mentally retarded~~ provider of 58771
its findings. 58772

Audits shall be conducted by auditors under contract with or 58773
employed by the department. The decision whether to conduct an 58774
audit and the scope of the audit, which may be a desk or field 58775
audit, shall be determined based on prior performance of the 58776
provider and may be based on a risk analysis or other evidence 58777
that gives the department reason to believe that the provider has 58778

reported costs improperly. A desk or field audit may be performed 58779
annually, but is required whenever a provider does not pass the 58780
risk analysis tolerance factors. The department shall issue the 58781
audit report no later than three years after the cost report is 58782
filed, or upon the completion of a desk or field audit on the 58783
report or a report for a subsequent cost reporting period, 58784
whichever is earlier. During the time within which the department 58785
may issue an audit report, the provider may amend the cost report 58786
upon discovery of a material error or material additional 58787
information. The department shall review the amended cost report 58788
for accuracy and notify the provider of its determination. 58789

The department may establish a contract for the auditing of 58790
facilities by outside firms. Each contract entered into by bidding 58791
shall be effective for one to two years. The department shall 58792
establish an audit manual and program which shall require that all 58793
field audits, conducted either pursuant to a contract or by 58794
department employees: 58795

(1) Comply with the applicable rules prescribed pursuant to 58796
Titles XVIII and XIX ~~of the "Social Security Act," 49 Stat. 620~~ 58797
~~(1935), 42 U.S.C.A. 301, as amended;~~ 58798

(2) Consider generally accepted auditing standards prescribed 58799
by the American institute of certified public accountants; 58800

(3) Include a written summary as to whether the costs 58801
included in the report examined during the audit are allowable and 58802
are presented fairly in accordance with generally accepted 58803
accounting principles and department rules, and whether, in all 58804
material respects, allowable costs are documented, reasonable, and 58805
related to patient care; 58806

(4) Are conducted by accounting firms or auditors who, during 58807
the period of the auditors' professional engagement or employment 58808
and during the period covered by the cost reports, do not have nor 58809

are committed to acquire any direct or indirect financial interest 58810
in the ownership, financing, or operation of a nursing facility or 58811
intermediate care facility for the mentally retarded in this 58812
state; 58813

(5) Are conducted by accounting firms or auditors who, as a 58814
condition of the contract or employment, shall not audit any 58815
facility that has been a client of the firm or auditor; 58816

(6) Are conducted by auditors who are otherwise independent 58817
as determined by the standards of independence established by the 58818
American institute of certified public accountants; 58819

(7) Are completed within the time period specified by the 58820
department; 58821

(8) Provide to the ~~nursing facility or intermediate care~~ 58822
~~facility for the mentally retarded~~ provider complete written 58823
interpretations that explain in detail the application of all 58824
relevant contract provisions, regulations, auditing standards, 58825
rate formulae, and departmental policies, with explanations and 58826
examples, that are sufficient to permit the ~~facility~~ provider to 58827
calculate with reasonable certainty those costs that are allowable 58828
and the rate to which the provider's facility is entitled. 58829

For the purposes of division (B)(4) of this section, 58830
employment of a member of an auditor's family by a nursing 58831
facility or intermediate care facility for the mentally retarded 58832
that the auditor does not review does not constitute a direct or 58833
indirect financial interest in the ownership, financing, or 58834
operation of the facility. 58835

(C) The department, pursuant to rules adopted ~~in accordance~~ 58836
~~with Chapter 119.~~ under section 5111.02 of the Revised Code, may 58837
conduct an exception review of assessment ~~information data~~ 58838
submitted under section ~~5111.231~~ 5111.232 of the Revised Code. The 58839
department may conduct an exception review based on the findings 58840

of a certification survey conducted by the department of health, a 58841
risk analysis, or prior performance of the provider. 58842

Exception reviews shall be conducted at the facility by 58843
appropriate health professionals under contract with or employed 58844
by the department of job and family services. The professionals 58845
may review resident assessment forms and supporting documentation, 58846
conduct interviews, and observe residents to identify any patterns 58847
or trends of inaccurate assessments and resulting inaccurate 58848
case-mix scores. 58849

The rules shall establish an exception review program that 58850
requires that exception reviews do all of the following: 58851

(1) Comply with Titles XVIII and XIX ~~of the "Social Security~~ 58852
~~Act";~~ 58853

(2) Provide a written summary that states whether the 58854
resident assessment forms have been completed accurately; 58855

(3) Are conducted by health professionals who, during the 58856
period of their professional engagement or employment with the 58857
department, neither have nor are committed to acquire any direct 58858
or indirect financial interest in the ownership, financing, or 58859
operation of a nursing facility or intermediate care facility for 58860
the mentally retarded in this state; 58861

(4) Are conducted by health professionals who, as a condition 58862
of their engagement or employment with the department, shall not 58863
review any ~~facility~~ provider that has been a client of the 58864
professional. 58865

For the purposes of division (C)(3) of this section, 58866
employment of a member of a health professional's family by a 58867
nursing facility or intermediate care facility for the mentally 58868
retarded that the professional does not review does not constitute 58869
a direct or indirect financial interest in the ownership, 58870
financing, or operation of the facility. 58871

If an exception review is conducted before the effective date of the rate that is based on the case-mix ~~information~~ data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case-mix scores, quarterly average facility case-mix scores, and annual average facility case-mix scores. The department may use the recalculated quarterly and annual facility average case-mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(D) The department shall prepare a written summary of any audit disallowance or exception review finding that is made after the effective date of the rate that is based on the cost or case-mix ~~information~~ data. Where the facility provider is pursuing judicial or administrative remedies in good faith regarding the disallowance or finding, the department shall not withhold from the ~~facility's~~ provider's current payments any amounts the department claims to be due from the facility provider pursuant to section 5111.28 of the Revised Code.

(E) The department shall not reduce rates calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code on the basis that the facility provider charges a lower rate to any resident who is not eligible for the ~~medical assistance~~ medicaid program.

(F) The department shall adjust the rates calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code to account for reasonable additional costs that must be incurred by nursing facilities and intermediate care facilities for the mentally retarded to comply with requirements of federal or state statutes, rules, or policies enacted or amended after January 1, 1992, or with orders issued by state or local fire authorities.

Sec. 5111.28. (A) If a provider properly amends its cost report under section 5111.27 of the Revised Code and the amended report shows that the provider received a lower rate under the original cost report than it was entitled to receive, the department of job and family services shall adjust the provider's rate prospectively to reflect the corrected information. The department shall pay the adjusted rate beginning two months after the first day of the month after the provider files the amended cost report. If the department finds, from an exception review of resident assessment information conducted after the effective date of the rate for direct care costs that is based on the assessment information, that inaccurate assessment information resulted in the provider receiving a lower rate than it was entitled to receive, the department prospectively shall adjust the provider's rate accordingly and shall make payments using the adjusted rate for the remainder of the calendar quarter for which the assessment information is used to determine the rate, beginning one month after the first day of the month after the exception review is completed.

(B) If the provider properly amends its cost report under section 5111.27 of the Revised Code, the department makes a finding based on an audit under that section, or the department makes a finding based on an exception review of resident assessment information conducted under that section after the effective date of the rate for direct care costs that is based on the assessment information, any of which results in a determination that the provider has received a higher rate than it was entitled to receive, the department shall recalculate the provider's rate using the revised information. The department shall apply the recalculated rate to the periods when the provider received the incorrect rate to determine the amount of the overpayment. The provider shall refund the amount of the

overpayment. 58936

In addition to requiring a refund under this division, the 58937
department may charge the provider interest at the applicable rate 58938
specified in this division from the time the overpayment was made. 58939

(1) If the overpayment resulted from costs reported for 58940
calendar year 1993, the interest shall be no greater than one and 58941
one-half times the average bank prime rate. 58942

(2) If the overpayment resulted from costs reported for 58943
subsequent calendar years: 58944

(a) The interest shall be no greater than two times the 58945
average bank prime rate if the overpayment was equal to or less 58946
than one per cent of the total medicaid payments to the provider 58947
for the fiscal year for which the incorrect information was used 58948
to establish a rate. 58949

(b) The interest shall be no greater than two and one-half 58950
times the current average bank prime rate if the overpayment was 58951
greater than one per cent of the total medicaid payments to the 58952
provider for the fiscal year for which the incorrect information 58953
was used to establish a rate. 58954

(C) The department also may impose the following penalties: 58955

(1) If a provider does not furnish invoices or other 58956
documentation that the department requests during an audit within 58957
sixty days after the request, no more than the greater of one 58958
thousand dollars per audit or twenty-five per cent of the 58959
cumulative amount by which the costs for which documentation was 58960
not furnished increased the total medicaid payments to the 58961
provider during the fiscal year for which the costs were used to 58962
establish a rate; 58963

(2) If an exiting operator or owner fails to provide notice 58964
of ~~sale of the~~ a facility or closure, voluntary termination, or 58965

voluntary withdrawal of participation in the ~~medical assistance~~ 58966
medicaid program, as required by section ~~5111.25 or 5111.251~~ 58967
5111.66 of the Revised Code, or an exiting operator or owner and 58968
entering operator fail to provide notice of a change of operator 58969
as required by section 5111.67 of the Revised Code, no more than 58970
the current average bank prime rate plus four per cent of the last 58971
two monthly payments. 58972

(D) If the provider continues to participate in the ~~medical~~ 58973
~~assistance~~ medicaid program, the department shall deduct any 58974
amount that the provider is required to refund under this section, 58975
and the amount of any interest charged or penalty imposed under 58976
this section, from the next available payment from the department 58977
to the provider. The department and the provider may enter into an 58978
agreement under which the amount, together with interest, is 58979
deducted in installments from payments from the department to the 58980
provider. 58981

(E) The department shall transmit refunds and penalties to 58982
the treasurer of state for deposit in the general revenue fund. 58983

(F) For the purpose of this section, the department shall 58984
determine the average bank prime rate using statistical release 58985
H.15, "selected interest rates," a weekly publication of the 58986
federal reserve board, or any successor publication. If 58987
statistical release H.15, or its successor, ceases to contain the 58988
bank prime rate information or ceases to be published, the 58989
department shall request a written statement of the average bank 58990
prime rate from the federal reserve bank of Cleveland or the 58991
federal reserve board. 58992

Sec. 5111.29. (A) The director of job and family services 58993
shall adopt rules ~~in accordance with Chapter 119.~~ under section 58994
5111.02 of the Revised Code that establish a process under which a 58995
~~nursing facility or intermediate care facility for the mentally~~ 58996

~~retarded provider~~, or a group or association of ~~facilities~~ 58997
~~providers~~, may seek reconsideration of rates established under 58998
sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code, 58999
including a rate for direct care costs recalculated before the 59000
effective date of the rate as a result of an exception review of 59001
resident assessment information conducted under section 5111.27 of 59002
the Revised Code. 59003

(1) Except as provided in divisions (A)(2) to (4) of this 59004
section, the only issue that a ~~facility~~ provider, group, or 59005
association may raise in the rate reconsideration shall be whether 59006
the rate was calculated in accordance with sections ~~5111.23~~ 59007
5111.20 to ~~5111.28~~ 5111.33 of the Revised Code and the rules 59008
adopted under ~~those sections~~ section 5111.02 of the Revised Code. 59009
The rules shall permit a ~~facility~~ provider, group, or association 59010
to submit written arguments or other materials that support its 59011
position. The rules shall specify time frames within which the 59012
~~facility~~ provider, group, or association and the department must 59013
act. If the department determines, as a result of the rate 59014
reconsideration, that the rate established for one or more 59015
facilities of a provider is less than the rate to which ~~it~~ the 59016
facility is entitled, the department shall increase the rate. If 59017
the department has paid the incorrect rate for a period of time, 59018
the department shall pay the ~~facility~~ provider the difference 59019
between the amount ~~it~~ the provider was paid for that period for 59020
the facility and the amount ~~it~~ the provider should have been paid 59021
for the facility. 59022

(2) The rules shall provide that during a fiscal year, the 59023
department, by means of the rate reconsideration process, may 59024
increase a ~~facility's~~ the rate determined for an intermediate care 59025
facility for the mentally retarded as calculated under sections 59026
~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the Revised Code if the 59027
provider of the facility demonstrates that ~~its~~ the facility's 59028

actual, allowable costs have increased because of extreme 59029
circumstances. A facility may qualify for a rate increase only if 59030
~~its~~ the facility's per diem, actual, allowable costs have 59031
increased to a level that exceeds its total rate, ~~including any~~ 59032
~~efficiency incentive and return on equity payment.~~ The rules shall 59033
specify the circumstances that would justify a rate increase under 59034
division (A)(2) of this section. ~~In the case of nursing~~ 59035
~~facilities, the~~ The rules shall provide that the extreme 59036
circumstances include ~~increased security costs for an inner-city~~ 59037
~~nursing facility and an increase in workers' compensation~~ 59038
~~experience rating of greater than five per cent for a facility~~ 59039
~~that has an appropriate claims management program but do not~~ 59040
~~include a change of ownership that results from bankruptcy,~~ 59041
~~foreclosure, or findings of violations of certification~~ 59042
~~requirements by the department of health. In the case of~~ 59043
~~intermediate care facilities for the mentally retarded, the rules~~ 59044
~~shall provide that the extreme circumstances include, but are not~~ 59045
~~limited to, natural disasters,~~ renovations approved under division 59046
(D) of section 5111.251 of the Revised Code, an increase in 59047
workers' compensation experience rating of greater than five per 59048
cent for a facility that has an appropriate claims management 59049
program, increased security costs for an inner-city facility, and 59050
a change of ownership that results from bankruptcy, foreclosure, 59051
or findings of violations of certification requirements by the 59052
department of health. An increase under division (A)(2) of this 59053
section is subject to any rate limitations or maximum rates 59054
established by sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of the 59055
Revised Code for specific cost centers. Any rate increase granted 59056
under division (A)(2) of this section shall take effect on the 59057
first day of the first month after the department receives the 59058
request. 59059

(3) The rules shall provide that the department, through the 59060
rate reconsideration process, may increase ~~a facility's~~ an 59061

intermediate care facility for the mentally retarded's rate as 59062
calculated under sections ~~5111.23~~ 5111.20 to ~~5111.28~~ 5111.33 of 59063
the Revised Code if the department, in ~~its~~ the department's sole 59064
discretion, determines that the rate as calculated under those 59065
sections works an extreme hardship on the facility. 59066

(4) The rules shall provide that when beds certified for the 59067
~~medical assistance~~ medicaid program are added to an existing 59068
intermediate care facility, ~~for the mentally retarded or~~ replaced 59069
at the same site, ~~or subject to a change of ownership or lease,~~ 59070
the department, through the rate reconsideration process, shall 59071
increase the ~~facility's~~ intermediate care facility for the 59072
mentally retarded's rate for capital costs proportionately, as 59073
limited by any applicable limitation under section ~~5111.25~~ or 59074
5111.251 of the Revised Code, to account for the costs of the beds 59075
that are added, or replaced, ~~or subject to a change of ownership~~ 59076
~~or lease.~~ The department shall make this increase one month after 59077
the first day of the month after the department receives 59078
sufficient documentation of the costs. Any rate increase granted 59079
under division (A)(4) of this section after June 30, 1993, shall 59080
remain in effect until the effective date of a rate calculated 59081
under section ~~5111.25~~ or 5111.251 of the Revised Code that 59082
includes costs incurred for a full calendar year for the bed 59083
addition, or bed replacement, ~~or change of ownership or lease.~~ The 59084
facility shall report double accumulated depreciation in an amount 59085
equal to the depreciation included in the rate adjustment on its 59086
cost report for the first year of operation. During the term of 59087
any loan used to finance a project for which a rate adjustment is 59088
granted under division (A)(4) of this section, if the facility is 59089
operated by the same provider, the ~~facility~~ provider shall 59090
subtract from the interest costs it reports on its cost report an 59091
amount equal to the difference between the following: 59092

(a) The actual, allowable interest costs for the loan during 59093

the calendar year for which the costs are being reported; 59094

(b) The actual, allowable interest costs attributable to the 59095
loan that were used to calculate the rates paid to the provider 59096
for the facility during the same calendar year. 59097

(5) The department's decision at the conclusion of the 59098
reconsideration process shall not be subject to any administrative 59099
proceedings under Chapter 119. or any other provision of the 59100
Revised Code. 59101

(B) Any All of the following are subject to an adjudication 59102
conducted in accordance with Chapter 119. of the Revised Code: 59103

(1) Any audit disallowance that the department makes as the 59104
result of an audit under section 5111.27 of the Revised Code, ~~any;~~ 59105

(2) Any adverse finding that results from an exception review 59106
of resident assessment information conducted under ~~that~~ section 59107
5111.27 of the Revised Code after the effective date of the 59108
facility's rate that is based on the assessment information, ~~and~~ 59109
any; 59110

(3) Any medicaid payment deemed an overpayment under section 59111
5111.683 of the Revised Code; 59112

(4) Any penalty the department imposes under division (C) of 59113
section 5111.28 of the Revised Code ~~shall be subject to an~~ 59114
~~adjudication conducted in accordance with Chapter 119. or section~~ 59115
5111.683 of the Revised Code. 59116

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.29~~ 59117
5111.33 of the Revised Code, the department of job and family 59118
services may compute the rate for intermediate care facilities for 59119
the mentally retarded operated by the department of mental 59120
retardation and developmental disabilities or the department of 59121
mental health according to the reasonable cost principles of Title 59122
XVIII of the "Social Security Act," ~~49 Stat. 620 (1935), 42~~ 59123

U.S.C.A. 1395, as amended. 59124

Sec. 5111.30. The department of job and family services shall 59125
terminate the provider agreement with a ~~nursing facility or~~ 59126
~~intermediate care facility for the mentally retarded~~ provider that 59127
does not comply with the requirements of section 3721.071 of the 59128
Revised Code for the installation of fire extinguishing and fire 59129
alarm systems. 59130

Sec. 5111.31. (A) Every provider agreement with the provider 59131
of a nursing facility or intermediate care facility for the 59132
mentally retarded shall: 59133

(1) Prohibit the ~~facility~~ provider from failing or refusing 59134
to retain as a patient any person because the person is, becomes, 59135
or may, as a patient in the facility, become a medicaid recipient 59136
~~of assistance under the medical assistance program~~. For the 59137
purposes of this division, a medicaid recipient ~~of medical~~ 59138
~~assistance~~ who is a patient in a facility shall be considered a 59139
patient in the facility during any hospital stays totaling less 59140
than twenty-five days during any twelve-month period. Recipients 59141
who have been identified by the department of job and family 59142
services or its designee as requiring the level of care of an 59143
intermediate care facility for the mentally retarded shall not be 59144
subject to a maximum period of absences during which they are 59145
considered patients if prior authorization of the department for 59146
visits with relatives and friends and participation in therapeutic 59147
programs is obtained under rules adopted under section 5111.02 of 59148
the Revised Code. 59149

(2) ~~Include~~ Except as provided by division (B)(1) of this 59150
section, include any part of the facility that meets standards for 59151
certification of compliance with federal and state laws and rules 59152
for participation in the ~~medical assistance~~ medicaid program, 59153

~~except that nursing facilities that, during the period beginning 59154
July 1, 1987, and ending July 1, 1993, added beds licensed as 59155
nursing home beds under Chapter 3721. of the Revised Code are not 59156
required to include those beds under a provider agreement unless 59157
otherwise required by federal law. Once added to the provider 59158
agreement, however, those nursing home beds may not be removed 59159
unless the facility withdraws from the medical assistance program 59160
in its entirety. 59161~~

(3) Prohibit the ~~facility~~ provider from discriminating 59162
against any patient on the basis of race, color, sex, creed, or 59163
national origin. 59164

(4) Except as otherwise prohibited under section 5111.55 of 59165
the Revised Code, prohibit the ~~facility~~ provider from failing or 59166
refusing to accept a patient because the patient is, becomes, or 59167
may, as a patient in the facility, become a medicaid recipient ~~of~~ 59168
~~assistance under the medical assistance program~~ if less than 59169
eighty per cent of the patients in the facility are medicaid 59170
recipients ~~of medical assistance~~. 59171

(B)(1) Except as provided by division (B)(2) of this section, 59172
the following are not required to be included in a provider 59173
agreement unless otherwise required by federal law: 59174

(a) Beds added during the period beginning July 1, 1987, and 59175
ending July 1, 1993, to a nursing home licensed under Chapter 59176
3721. of the Revised Code; 59177

(b) Beds in an intermediate care facility for the mentally 59178
retarded that are designated for respite care under a medicaid 59179
waiver component operated pursuant to a waiver sought under 59180
section 5111.87 of the Revised Code. 59181

(2) If a provider chooses to include a bed specified in 59182
division (B)(1) of this section in a provider agreement, the bed 59183
may not be removed from the provider agreement unless the provider 59184

withdraws the facility in which the bed is located from the 59185
medicaid program. 59186

(C) Nothing in this section shall bar ~~any a provider that is~~ 59187
a religious organization operating a religious or denominational 59188
nursing facility or intermediate care facility for the mentally 59189
retarded ~~that is operated, supervised, or controlled by a~~ 59190
~~religious organization~~ from giving preference to persons of the 59191
same religion or denomination. Nothing in this section shall bar 59192
any facility provider from giving preference to persons with whom 59193
~~it~~ the provider has contracted to provide continuing care. 59194

~~(C)~~(D) Nothing in this section shall bar ~~any~~ the provider of 59195
a county home organized under Chapter 5155. of the Revised Code 59196
from admitting residents exclusively from the county in which the 59197
county home is located. 59198

~~(D)~~(E) No provider of a nursing facility or intermediate care 59199
facility for the mentally retarded ~~with~~ for which a provider 59200
agreement is in effect shall violate the provider contract 59201
obligations imposed under this section. 59202

~~(E)~~(F) Nothing in divisions (A) and ~~(B)~~(C) of this section 59203
shall bar ~~any nursing facility or intermediate care facility for~~ 59204
~~the mentally retarded~~ a provider from retaining patients who have 59205
resided in the provider's facility for not less than one year as 59206
private pay patients and who subsequently become medicaid 59207
recipients ~~of assistance under the medicaid program~~, but refusing 59208
to accept as a patient any person who is or may, as a patient in 59209
the facility, become a medicaid recipient ~~of assistance under the~~ 59210
~~medicaid program~~, if all of the following apply: 59211

(1) The ~~facility~~ provider does not refuse to retain any 59212
patient who has resided in the provider's facility for not less 59213
than one year as a private pay patient because the patient becomes 59214
a medicaid recipient ~~of assistance under the medicaid program~~, 59215

except as necessary to comply with division ~~(E)~~(F)(2) of this section; 59216
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(2) The number of medicaid recipients retained under this division does not at any time exceed ten per cent of all the patients in the facility; 59218
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(3) On July 1, 1980, all the patients in the facility were private pay patients. 59221
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Sec. 5111.32. Any patient has a cause of action against the provider of a nursing facility or intermediate care facility for the mentally retarded for breach of the provider agreement obligations or other duties imposed by section 5111.31 of the Revised Code. The action may be commenced by the patient, or on ~~his~~ the patient's behalf by ~~his~~ the patient's sponsor or a residents' rights advocate, as either is defined under section 3721.10 of the Revised Code, by the filing of a civil action in the court of common pleas of the county in which the facility is located, or in the court of common pleas of Franklin county. 59223
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If the court finds that a breach of the provider agreement obligations imposed by section 5111.31 of the Revised Code has occurred, the court may enjoin the ~~facility~~ provider from engaging in the practice, order such affirmative relief as may be necessary, and award to the patient and a person or public agency that brings an action on behalf of a patient actual damages, costs, and reasonable attorney's fees. 59233
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Sec. 5111.33. Reimbursement to ~~nursing facilities and intermediate care facilities for the mentally retarded~~ a provider under sections 5111.20 to 5111.32 of the Revised Code shall include payments to ~~facilities~~ the provider, at a rate equal to the percentage of the per resident per day rates that the department of job and family services has established for the 59240
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provider's nursing facility or intermediate care facility for the 59246
mentally retarded under sections ~~5111.23~~ 5111.20 to ~~5111.29~~ 59247
5111.33 of the Revised Code for the fiscal year for which the cost 59248
of services is reimbursed, to reserve a bed for a recipient during 59249
a temporary absence under conditions prescribed by the department, 59250
to include hospitalization for an acute condition, visits with 59251
relatives and friends, and participation in therapeutic programs 59252
outside the facility, when the resident's plan of care provides 59253
for such absence and federal participation in the payments is 59254
available. The maximum period during which payments may be made to 59255
reserve a bed shall not exceed the maximum period specified under 59256
federal regulations, and shall not be more than thirty days during 59257
any calendar year for hospital stays, visits with relatives and 59258
friends, and participation in therapeutic programs. Recipients who 59259
have been identified by the department as requiring the level of 59260
care of an intermediate care facility for the mentally retarded 59261
shall not be subject to a maximum period during which payments may 59262
be made to reserve a bed if prior authorization of the department 59263
is obtained for hospital stays, visits with relatives and friends, 59264
and participation in therapeutic programs. The director of job and 59265
family services shall adopt rules under ~~division (B)~~ of section 59266
5111.02 of the Revised Code establishing conditions under which 59267
prior authorization may be obtained. 59268

Sec. 5111.62. The proceeds of all fines, including interest, 59269
collected under sections 5111.35 to 5111.62 of the Revised Code 59270
shall be deposited in the state treasury to the credit of the 59271
residents protection fund, which is hereby created. ~~Moneys~~ The 59272
proceeds of all fines, including interest, collected under section 59273
173.42 of the Revised Code shall be deposited in the state 59274
treasury to the credit of the residents protection fund. 59275

Moneys in the fund shall be used for the protection of the 59276
health or property of residents of nursing facilities in which the 59277

department of health finds deficiencies, including payment for the 59278
costs of relocation of residents to other facilities, maintenance 59279
of operation of a facility pending correction of deficiencies or 59280
closure, and reimbursement of residents for the loss of money 59281
managed by the facility under section 3721.15 of the Revised Code. 59282
The 59283

The fund shall be maintained and administered by the 59284
department of job and family services under rules developed in 59285
consultation with the departments of health and aging and adopted 59286
by the director of job and family services under Chapter 119. of 59287
the Revised Code. 59288

Sec. 5111.65. As used in sections 5111.65 to 5111.688 of the 59289
Revised Code: 59290

(A) "Change of operator" means an entering operator becoming 59291
the operator of a nursing facility or intermediate care facility 59292
for the mentally retarded in the place of the exiting operator. 59293

(1) Actions that constitute a change of operator include the 59294
following: 59295

(a) A change in an exiting operator's form of legal 59296
organization, including the formation of a partnership or 59297
corporation from a sole proprietorship; 59298

(b) A transfer of all the exiting operator's ownership 59299
interest in the operation of the facility to the entering 59300
operator, regardless of whether ownership of any or all of the 59301
real property or personal property associated with the facility is 59302
also transferred; 59303

(c) A lease of the facility to the entering operator or the 59304
exiting operator's termination of the exiting operator's lease; 59305

(d) If the exiting operator is a partnership, dissolution of 59306
the partnership; 59307

<u>(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:</u>	59308
	59309
<u>(i) The change in composition does not cause the partnership's dissolution under state law.</u>	59310
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<u>(ii) The partners agree that the change in composition does not constitute a change in operator.</u>	59312
	59313
<u>(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.</u>	59314
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<u>(2) The following, alone, do not constitute a change of operator:</u>	59318
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<u>(a) A contract for an entity to manage a nursing facility or intermediate care facility for the mentally retarded as the operator's agent, subject to the operator's approval of daily operating and management decisions;</u>	59320
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<u>(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility or intermediate care facility for the mentally retarded if an entering operator does not become the operator in place of an exiting operator;</u>	59324
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	59328
<u>(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.</u>	59329
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	59332
<u>(B) "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.</u>	59333
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	59335
<u>(C) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or</u>	59336
	59337

intermediate care facility for the mentally retarded resides in 59338
the facility. 59339

(D) "Effective date of a voluntary termination" means the day 59340
the intermediate care facility for the mentally retarded ceases to 59341
accept medicaid patients. 59342

(E) "Effective date of a voluntary withdrawal of 59343
participation" means the day the nursing facility ceases to accept 59344
new medicaid patients other than the individuals who reside in the 59345
nursing facility on the day before the effective date of the 59346
voluntary withdrawal of participation. 59347

(F) "Entering operator" means the person or government entity 59348
that will become the operator of a nursing facility or 59349
intermediate care facility for the mentally retarded when a change 59350
of operator occurs. 59351

(G) "Exiting operator" means any of the following: 59352

(1) An operator that will cease to be the operator of a 59353
nursing facility or intermediate care facility for the mentally 59354
retarded on the effective date of a change of operator; 59355

(2) An operator that will cease to be the operator of a 59356
nursing facility or intermediate care facility for the mentally 59357
retarded on the effective date of a facility closure; 59358

(3) An operator of an intermediate care facility for the 59359
mentally retarded that is undergoing or has undergone a voluntary 59360
termination; 59361

(4) An operator of a nursing facility that is undergoing or 59362
has undergone a voluntary withdrawal of participation. 59363

(H)(1) "Facility closure" means discontinuance of the use of 59364
the building, or part of the building, that houses the facility as 59365
a nursing facility or intermediate care facility for the mentally 59366
retarded that results in the relocation of all of the facility's 59367

<u>residents. A facility closure occurs regardless of any of the</u>	59368
<u>following:</u>	59369
<u>(a) The operator completely or partially replacing the</u>	59370
<u>facility by constructing a new facility or transferring the</u>	59371
<u>facility's license to another facility;</u>	59372
<u>(b) The facility's residents relocating to another of the</u>	59373
<u>operator's facilities;</u>	59374
<u>(c) Any action the department of health takes regarding the</u>	59375
<u>facility's certification under Title XIX of the "Social Security</u>	59376
<u>Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, that may</u>	59377
<u>result in the transfer of part of the facility's survey findings</u>	59378
<u>to another of the operator's facilities;</u>	59379
<u>(d) Any action the department of health takes regarding the</u>	59380
<u>facility's license under Chapter 3721. of the Revised Code;</u>	59381
<u>(e) Any action the department of mental retardation and</u>	59382
<u>developmental disabilities takes regarding the facility's license</u>	59383
<u>under section 5123.19 of the Revised Code.</u>	59384
<u>(2) A facility closure does not occur if all of the</u>	59385
<u>facility's residents are relocated due to an emergency evacuation</u>	59386
<u>and one or more of the residents return to a medicaid-certified</u>	59387
<u>bed in the facility not later than thirty days after the</u>	59388
<u>evacuation occurs.</u>	59389
<u>(I) "Fiscal year," "intermediate care facility for the</u>	59390
<u>mentally retarded," "nursing facility," "operator," "owner," and</u>	59391
<u>"provider agreement" have the same meanings as in section 5111.20</u>	59392
<u>of the Revised Code.</u>	59393
<u>(J) "Voluntary termination" means an operator's voluntary</u>	59394
<u>election to terminate the participation of an intermediate care</u>	59395
<u>facility for the mentally retarded in the medicaid program but to</u>	59396
<u>continue to provide service of the type provided by a residential</u>	59397

facility as defined in section 5123.19 of the Revised Code. 59398

(K) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility. 59399
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Sec. 5111.651. Sections 5111.65 to 5111.688 of the Revised Code do not apply to a nursing facility or intermediate care facility for the mentally retarded that undergoes a facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator on or before September 30, 2005, if the exiting operator provided written notice of the facility closure, voluntary termination, voluntary withdrawal of participation, or change of operator to the department of job and family services on or before June 30, 2005. 59403
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Sec. 5111.66. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall include all of the following: 59412
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(A) The name of the exiting operator and, if any, the exiting operator's authorized agent; 59421
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(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the written notice; 59423
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(C) The exiting operator's medicaid provider agreement number for the facility that is the subject of the written notice; 59426
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<u>(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation;</u>	59428
	59429
<u>(E) The signature of the exiting operator's or owner's representative.</u>	59430
	59431
<u>Sec. 5111.661.</u> <u>An operator shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F) if the operator's nursing facility undergoes a voluntary withdrawal of participation.</u>	59432
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	59434
	59435
<u>Sec. 5111.67.</u> <u>(A) An exiting operator or owner and entering operator shall provide the department of job and family services written notice of a change of operator if the nursing facility or intermediate care facility for the mentally retarded participates in the medicaid program and the entering operator seeks to continue the facility's participation. The written notice shall be provided to the department not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents. The written notice shall include all of the following:</u>	59436
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<u>(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;</u>	59449
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<u>(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator;</u>	59451
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<u>(3) The exiting operator's medicaid provider agreement number for the facility that is the subject of the change of operator;</u>	59454
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<u>(4) The name of the entering operator;</u>	59456

<u>(5) The effective date of the change of operator;</u>	59457
<u>(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action;</u>	59458
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<u>(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step;</u>	59461
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<u>(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;</u>	59464
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	59466
<u>(9) The signature of the exiting operator's or owner's representative.</u>	59467
	59468
<u>(B) The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following:</u>	59469
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	59472
<u>(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator;</u>	59473
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<u>(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator.</u>	59479
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<u>Sec. 5111.671. The department of job and family services may enter into a provider agreement with an entering operator that</u>	59485
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goes into effect at 12:01 a.m. on the effective date of the change 59487
of operator if all of the following requirements are met: 59488

(A) The department receives a properly completed written 59489
notice required by section 5111.67 of the Revised Code on or 59490
before the date required by that section. 59491

(B) The entering operator furnishes to the department copies 59492
of all the fully executed leases, management agreements, merger 59493
agreements and supporting documents, and sales contracts and 59494
supporting documents relating to the change of operator not later 59495
than ten days after the effective date of the change of operator. 59496

(C) The entering operator is eligible for medicaid payments 59497
as provided in section 5111.21 of the Revised Code. 59498

Sec. 5111.672. (A) The department of job and family services 59499
may enter into a provider agreement with an entering operator that 59500
goes into effect at 12:01 a.m. on the date determined under 59501
division (B) of this section if all of the following are the case: 59502

(1) The department receives a properly completed written 59503
notice required by section 5111.67 of the Revised Code. 59504

(2) The entering operator furnishes to the department copies 59505
of all the fully executed leases, management agreements, merger 59506
agreements and supporting documents, and sales contracts and 59507
supporting documents relating to the change of operator. 59508

(3) The requirement of division (A)(1) of this section is met 59509
after the time required by section 5111.67 of the Revised Code, 59510
the requirement of division (A)(2) of this section is met more 59511
than ten days after the effective date of the change of operator, 59512
or both. 59513

(4) The entering operator is eligible for medicaid payments 59514
as provided in section 5111.21 of the Revised Code. 59515

(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows: 59516
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(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, make the withholding required by section 5111.681 of the Revised Code, and withhold the final payment to the exiting operator until one hundred eighty days after either of the following: 59519
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(a) The date that the exiting operator submits to the department a properly completed cost report under section 5111.682 of the Revised Code; 59525
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(b) The date that the department waives the cost report requirement of section 5111.682 of the Revised Code. 59528
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(2) The effective date shall be not earlier than the later of the effective date of the change of operator or the date that the exiting operator or owner and entering operator comply with section 5111.67 of the Revised Code. 59530
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(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section: 59534
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(a) Forty-five days if the change of operator does not entail the relocation of residents; 59537
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(b) Ninety days if the change of operator entails the relocation of residents. 59539
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Sec. 5111.673. A provider that enters into a provider agreement with the department of job and family services under section 5111.671 or 5111.672 of the Revised Code shall do all of the following: 59541
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<u>(A) Comply with all applicable federal statutes and regulations;</u>	59545 59546
<u>(B) Comply with section 5111.22 of the Revised Code and all other applicable state statutes and rules;</u>	59547 59548
<u>(C) Comply with all the terms and conditions of the exiting operator's provider agreement, including, but not limited to, all of the following:</u>	59549 59550 59551
<u>(1) Any plan of correction;</u>	59552
<u>(2) Compliance with health and safety standards;</u>	59553
<u>(3) Compliance with the ownership and financial interest disclosure requirements of 42 C.F.R. 455.104, 455.105, and 1002.3;</u>	59554 59555
<u>(4) Compliance with the civil rights requirements of 45 C.F.R. parts 80, 84, and 90;</u>	59556 59557
<u>(5) Compliance with additional requirements imposed by the department;</u>	59558 59559
<u>(6) Any sanctions relating to remedies for violation of the provider agreement, including deficiencies, compliance periods, accountability periods, monetary penalties, notification for correction of contract violations, and history of deficiencies.</u>	59560 59561 59562 59563
<u>Sec. 5111.674. In the case of a change of operator, the exiting operator shall be considered to be the operator of the nursing facility or intermediate care facility for the mentally retarded for purposes of the medicaid program, including medicaid payments, until the effective date of the entering operator's provider agreement if the provider agreement is entered into under section 5111.671 or 5111.672 of the Revised Code.</u>	59564 59565 59566 59567 59568 59569 59570
<u>Sec. 5111.675. The department of job and family services may enter into a provider agreement as provided in section 5111.22 of</u>	59571 59572

the Revised Code, rather than section 5111.671 or 5111.672 of the 59573
Revised Code, with an entering operator if the entering operator 59574
does not agree to a provider agreement that satisfies the 59575
requirements of division (C) of section 5111.673 of the Revised 59576
Code. The department may not enter into the provider agreement 59577
unless the department of health certifies the nursing facility or 59578
intermediate care facility for the mentally retarded under Title 59579
XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 59580
1396, as amended. The effective date of the provider agreement 59581
shall not precede any of the following: 59582

(A) The date that the department of health certifies the 59583
facility; 59584

(B) The effective date of the change of operator; 59585

(C) The date the requirement of section 5111.67 of the 59586
Revised Code is satisfied. 59587

Sec. 5111.676. The director of job and family services may 59588
adopt rules in accordance with Chapter 119. of the Revised Code 59589
governing adjustments to the medicaid reimbursement rate for a 59590
nursing facility or intermediate care facility for the mentally 59591
retarded that undergoes a change of operator. No rate adjustment 59592
resulting from a change of operator shall be effective before the 59593
effective date of the entering operator's provider agreement. This 59594
is the case regardless of whether the provider agreement is 59595
entered into under section 5111.671, section 5111.672, or, 59596
pursuant to section 5111.675, section 5111.22 of the Revised Code. 59597

Sec. 5111.677. Neither of the following shall affect the 59598
department of job and family services' determination of whether or 59599
when a change of operator occurs or the effective date of an 59600
entering operator's provider agreement under section 5111.671, 59601

section 5111.672, or, pursuant to section 5111.675, section 59602
5111.22 of the Revised Code: 59603

(A) The department of health's determination that a change of 59604
operator has or has not occurred for purposes of licensure under 59605
Chapter 3721. of the Revised Code; 59606

(B) The department of mental retardation and developmental 59607
disabilities' determination that a change of operator has or has 59608
not occurred for purposes of licensure under section 5123.19 of 59609
the Revised Code. 59610

Sec. 5111.68. (A) On receipt of a written notice under 59611
section 5111.66 of the Revised Code of a facility closure, 59612
voluntary termination, or voluntary withdrawal of participation or 59613
a written notice under section 5111.67 of the Revised Code of a 59614
change of operator, the department of job and family services 59615
shall determine the amount of any overpayments made under the 59616
medicaid program to the exiting operator, including overpayments 59617
the exiting operator disputes, and other actual and potential 59618
debts the exiting operator owes or may owe to the department and 59619
United States centers for medicare and medicaid services under the 59620
medicaid program. In determining the exiting operator's other 59621
actual and potential debts to the department under the medicaid 59622
program, the department shall include all of the following that 59623
the department determines is applicable: 59624

(1) Refunds due the department under section 5111.27 of the 59625
Revised Code; 59626

(2) Interest owed to the department and United States centers 59627
for medicare and medicaid services; 59628

(3) Final civil monetary and other penalties for which all 59629
right of appeal has been exhausted; 59630

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program. 59631
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(B) If the department is unable to determine the amount of the overpayments and other debts for any period before the effective date of the entering operator's provider agreement or the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation, the department shall make a reasonable estimate of the overpayments and other debts for the period. The department shall make the estimate using information available to the department, including prior determinations of overpayments and other debts. 59636
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Sec. 5111.681. (A) Except as provided in division (B) of this section, the department of job and family services shall withhold the greater of the following from payment due an exiting operator under the medicaid program: 59645
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(1) The total amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts, including any unpaid penalties, the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program; 59649
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(2) An amount equal to the average amount of monthly payments to the exiting operator under the medicaid program for the twelve-month period immediately preceding the month that includes the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. 59655
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(B) The department may choose not to make the withholding under division (A) of this section if an entering operator does both of the following: 59661
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(1) Enters into a nontransferable, unconditional, written agreement with the department to pay the department any debt the exiting operator owes the department under the medicaid program; 59664
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(2) Provides the department a copy of the entering operator's balance sheet that assists the department in determining whether to make the withholding under division (A) of this section. 59667
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Sec. 5111.682. (A) Except as provided in division (B) of this section, an exiting operator shall file with the department of job and family services a cost report not later than ninety days after the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall cover the period that begins with the day after the last day covered by the operator's most recent previous cost report required by section 5111.26 of the Revised Code and ends on the last day the exiting operator's provider agreement is in effect or, in the case of a voluntary withdrawal of participation, the effective date of the voluntary withdrawal of participation. The cost report shall include, as applicable, all of the following: 59670
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(1) The sale price of the nursing facility or intermediate care facility for the mentally retarded; 59684
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(2) A final depreciation schedule that shows which assets are transferred to the buyer and which assets are not transferred to the buyer; 59686
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(3) Any other information the department requires. 59689

(B) The department, at its sole discretion, may waive the 59690

requirement that an exiting operator file a cost report in 59691
accordance with division (A) of this section. 59692

Sec. 5111.683. If an exiting operator required by section 59693
5111.682 of the Revised Code to file a cost report with the 59694
department of job and family services fails to file the cost 59695
report in accordance with that section, all payments under the 59696
medicaid program for the period the cost report is required to 59697
cover are deemed overpayments until the date the department 59698
receives the properly completed cost report. The department may 59699
impose on the exiting operator a penalty of one hundred dollars 59700
for each calendar day the properly completed cost report is late. 59701

Sec. 5111.684. The department of job and family services may 59702
not provide an exiting operator final payment under the medicaid 59703
program until the department receives all properly completed cost 59704
reports the exiting operator is required to file under sections 59705
5111.26 and 5111.682 of the Revised Code. 59706

Sec. 5111.685. The department of job and family services 59707
shall determine the actual amount of debt an exiting operator owes 59708
the department under the medicaid program by completing all final 59709
fiscal audits not already completed and performing all other 59710
appropriate actions the department determines to be necessary. The 59711
department shall issue a debt summary report on this matter not 59712
later than one hundred eighty days after the date the exiting 59713
operator files the properly completed cost report required by 59714
section 5111.682 of the Revised Code with the department or, if 59715
the department waives the cost report requirement for the exiting 59716
operator, one hundred eighty days after the date the department 59717
waives the cost report requirement. The report shall include the 59718
department's findings and the amount of debt the department 59719
determines the exiting operator owes the department and United 59720

States centers for medicare and medicaid services under the 59721
medicaid program. Only the parts of the report that are subject to 59722
an adjudication as specified in section 5111.30 of the Revised 59723
Code are subject to an adjudication conducted in accordance with 59724
Chapter 119. of the Revised Code. 59725

Sec. 5111.686. The department of job and family services 59726
shall release the actual amount withheld under division (A) of 59727
section 5111.681 of the Revised Code, less any amount the exiting 59728
operator owes the department and United States centers for 59729
medicare and medicaid services under the medicaid program, as 59730
follows: 59731

(A) One hundred eighty-one days after the date the exiting 59732
operator files a properly completed cost report required by 59733
section 5111.682 of the Revised Code unless the department issues 59734
the report required by section 5111.685 of the Revised Code not 59735
later than one hundred eighty days after the date the exiting 59736
operator files the properly completed cost report; 59737

(B) Not later than sixty days after the exiting operator 59738
agrees to a final fiscal audit resulting from the report required 59739
by section 5111.685 of the Revised Code if the department issues 59740
the report not later than one hundred eighty days after the date 59741
the exiting operator files a properly completed cost report 59742
required by section 5111.682 of the Revised Code; 59743

(C) One hundred eighty-one days after the date the department 59744
waives the cost report requirement of section 5111.682 of the 59745
Revised Code unless the department issues the report required by 59746
section 5111.685 of the Revised Code not later than one hundred 59747
eighty days after the date the department waives the cost report 59748
requirement; 59749

(D) Not later than sixty days after the exiting operator 59750

agrees to a final fiscal audit resulting from the report required 59751
by section 5111.685 of the Revised Code if the department issues 59752
the report not later than one hundred eighty days after the date 59753
the department waives the cost report requirement of section 59754
5111.682 of the Revised Code. 59755

Sec. 5111.687. The department of job and family services, at 59756
its sole discretion, may release the amount withheld under 59757
division (A) of section 5111.681 of the Revised Code if the 59758
exiting operator submits to the department written notice of a 59759
postponement of a change of operator, facility closure, voluntary 59760
termination, or voluntary withdrawal of participation and the 59761
transactions leading to the change of operator, facility closure, 59762
voluntary termination, or voluntary withdrawal of participation 59763
are postponed for at least thirty days but less than ninety days 59764
after the date originally proposed for the change of operator, 59765
facility closure, voluntary termination, or voluntary withdrawal 59766
of participation as reported in the written notice required by 59767
section 5111.66 or 5111.67 of the Revised Code. The department 59768
shall release the amount withheld if the exiting operator submits 59769
to the department written notice of a cancellation or postponement 59770
of a change of operator, facility closure, voluntary termination, 59771
or voluntary withdrawal of participation and the transactions 59772
leading to the change of operator, facility closure, voluntary 59773
termination, or voluntary withdrawal of participation are canceled 59774
or postponed for more than ninety days after the date originally 59775
proposed for the change of operator, facility closure, voluntary 59776
termination, or voluntary withdrawal of participation as reported 59777
in the written notice required by section 5111.66 or 5111.67 of 59778
the Revised Code. 59779

After the department receives a written notice regarding a 59780
cancellation or postponement of a facility closure, voluntary 59781

termination, or voluntary withdrawal of participation, the exiting operator or owner shall provide new written notice to the department under section 5111.66 of the Revised Code regarding any transactions leading to a facility closure, voluntary termination, or voluntary withdrawal of participation at a future time. After the department receives a written notice regarding a cancellation or postponement of a change of operator, the exiting operator or owner and entering operator shall provide new written notice to the department under section 5111.67 of the Revised Code regarding any transactions leading to a change of operator at a future time.

Sec. 5111.688. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to implement sections 5111.65 to 5111.688 of the Revised Code, including rules applicable to an exiting operator that provides written notification under section 5111.66 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply.

Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code, "medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid

waiver component" does not include a care management system 59813
established under section 5111.16 of the Revised Code. 59814

(B) The director of job and family services may adopt rules 59815
under Chapter 119. of the Revised Code governing medicaid waiver 59816
components that establish all of the following: 59817

(1) Eligibility requirements for the medicaid waiver 59818
components; 59819

(2) The type, amount, duration, and scope of services the 59820
medicaid waiver components provide; 59821

(3) The conditions under which the medicaid waiver components 59822
cover services; 59823

(4) The amount the medicaid waiver components pay for 59824
services or the method by which the amount is determined; 59825

(5) The manner in which the medicaid waiver components pay 59826
for services; 59827

(6) Safeguards for the health and welfare of medicaid 59828
recipients receiving services under a medicaid waiver component; 59829

(7) Procedures for enforcing the rules, including 59830
establishing corrective action plans for, and imposing financial 59831
and administrative sanctions on, persons and government entities 59832
that violate the rules. Sanctions shall include terminating 59833
medicaid provider agreements. The procedures shall include due 59834
process protections. 59835

(8) Other policies necessary for the efficient administration 59836
of the medicaid waiver components. 59837

(C) The director of job and family services may adopt 59838
different rules for the different medicaid waiver components. The 59839
rules shall be consistent with the terms of the waiver authorizing 59840
the medicaid waiver component. 59841

~~(D) The director of job and family services may conduct reviews of the medicaid waiver components. The reviews may include physical inspections of records and sites where services are provided under the medicaid waiver components and interviews of providers and recipients of the services. If the director determines pursuant to a review that a person or government entity has violated a rule governing a medicaid waiver component, the director may establish a corrective action plan for the violator and impose fiscal, administrative, or both types of sanctions on the violator in accordance with rules adopted under division (B) of this section.~~

Sec. 5111.851. (A) As used in sections 5111.851 to 5111.855 of the Revised Code:

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of job and family services or, if a state agency or political subdivision contracts with the department under section 5111.91 of the Revised Code to administer the component, that state agency or political subdivision.

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

"Level of care determination" means a determination of whether an individual needs the level of care provided by a

hospital, nursing facility, or intermediate care facility for the 59872
mentally retarded and whether the individual, if determined to 59873
need that level of care, would receive hospital, nursing facility, 59874
or intermediate care facility for the mentally retarded services 59875
if not for a home and community-based services medicaid waiver 59876
component. 59877

"Nursing facility" has the same meaning as in section 5111.20 59878
of the Revised Code. 59879

"Skilled nursing facility" means a facility certified as a 59880
skilled nursing facility under Title XVIII of the "Social Security 59881
Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended. 59882

(B) The following requirements apply to each home and 59883
community-based services medicaid waiver component: 59884

(1) Only an individual who qualifies for a component shall 59885
receive that component's services. 59886

(2) A level of care determination shall be made as part of 59887
the process of determining whether an individual qualifies for a 59888
component and shall be made each year after the initial 59889
determination if, during such a subsequent year, the 59890
administrative agency determines there is a reasonable indication 59891
that the individual's needs have changed. 59892

(3) A written plan of care or individual service plan based 59893
on an individual assessment of the services that an individual 59894
needs to avoid needing admission to a hospital, nursing facility, 59895
or intermediate care facility for the mentally retarded shall be 59896
created for each individual determined eligible for a component. 59897

(4) Each individual determined eligible for a component shall 59898
receive that component's services in accordance with the 59899
individual's level of care determination and written plan of care 59900
or individual service plan. 59901

(5) No individual may receive services under a component while the individual is a hospital inpatient or resident of a skilled nursing facility, nursing facility, or intermediate care facility for the mentally retarded. 59902
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(6) No individual may receive prevocational, educational, or supported employment services under a component if the individual is eligible for such services that are funded with federal funds provided under 29 U.S.C. 730 or the "Individuals with Disabilities Education Act," 111 Stat. 37 (1997), 20 U.S.C. 1400, as amended. 59906
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(7) Safeguards shall be taken to protect the health and welfare of individuals receiving services under a component, including safeguards established in rules adopted under section 5111.85 of the Revised Code and safeguards established by licensing and certification requirements that are applicable to the providers of that component's services. 59911
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(8) No services may be provided under a component by a provider that is subject to standards that 42 U.S.C. 1382e(e)(1) requires be established if the provider fails to comply with the standards applicable to the provider. 59917
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(9) Individuals determined to be eligible for a component, or such individuals' representatives, shall be informed of that component's services, including any choices that the individual or representative may make regarding the component's services, and given the choice of either receiving services under that component or, as appropriate, hospital, nursing facility, or intermediate care facility for the mentally retarded services. 59921
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Sec. 5111.852. The department of job and family services may review and approve, modify, or deny written plans of care and individual service plans that section 5111.851 of the Revised Code requires be created for individuals determined eligible for a home 59928
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and community-based services medicaid waiver component. If a state agency or political subdivision contracts with the department under section 5111.91 of the Revised Code to administer a home and community-based services medicaid waiver component and approves, modifies, or denies a written plan of care or individual service plan pursuant to the agency's or subdivision's administration of the component, the department may review the agency's or subdivision's approval, modification, or denial and order the agency or subdivision to reverse or modify the approval, modification, or denial. The state agency or political subdivision shall comply with the department's order.

The department of job and family services shall be granted full and immediate access to any records the department needs to implement its duties under this section.

Sec. 5111.853. Each administrative agency shall maintain, for a period of time the department of job and family services shall specify, financial records documenting the costs of services provided under the home and community-based services medicaid waiver components that the agency administers, including records of independent audits. The administrative agency shall make the financial records available on request to the United States secretary of health and human services, United States comptroller general, and their designees.

Sec. 5111.854. Each administrative agency is financially accountable for funds expended for services provided under the home and community-based services medicaid waiver components that the agency administers.

Sec. 5111.855. Each state agency and political subdivision that enters into a contract with the department of job and family

services under section 5111.91 of the Revised Code to administer a 59961
home and community-based services medicaid waiver component, or 59962
one or more aspects of such a component, shall provide the 59963
department a written assurance that the agency or subdivision will 59964
not violate any of the requirements of sections 5111.85 to 59965
5111.854 of the Revised Code. 59966

Sec. 5111.856. To the extent necessary for the efficient and 59967
economical administration of medicaid waiver components, the 59968
department of job and family services may transfer an individual 59969
enrolled in a medicaid waiver component administered by the 59970
department to another medicaid waiver component the department 59971
administers if the individual is eligible for the medicaid waiver 59972
component and the transfer does not jeopardize the individual's 59973
health or safety. 59974

Sec. 5111.97 5111.86. (A) As used in this section: 59975

(1) "Hospital" has the same meaning as in section 3727.01 of 59976
the Revised Code. 59977

(2) "Medicaid waiver component" has the same meaning as in 59978
section 5111.85 of the Revised Code. 59979

(3) "Nursing facility" has the same meaning as in section 59980
5111.20 of the Revised Code. 59981

(4) "Ohio home care program" means the program the department 59982
of job and family services administers that provides state plan 59983
services and medicaid waiver component services pursuant to rules 59984
adopted under sections 5111.01 and 5111.02 of the Revised Code and 59985
a medicaid waiver that went into effect July 1, 1998. 59986

(B) The director of job and family services may submit a 59987
request requests to the United States secretary of health and 59988
human services pursuant to section 1915 of the "Social Security 59989

Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to obtain 59990
waivers of federal medicaid requirements that would otherwise be 59991
violated in the creation and implementation of two or more 59992
medicaid waiver components under which home and community-based 59993
services ~~programs to replace the Ohio home care program being~~ 59994
~~operated pursuant to rules adopted under sections 5111.01 and~~ 59995
~~5111.02 of the Revised Code and a medicaid waiver granted prior to~~ 59996
~~the effective date of this section~~ are provided to eligible 59997
individuals who need the level of care provided by a nursing 59998
facility or hospital. In the ~~request~~ requests, the director may 59999
specify the following: 60000

(1) ~~That one of the replacement programs will provide home~~ 60001
~~and community based services to individuals in need of nursing~~ 60002
~~facility care, including individuals enrolled in the Ohio home~~ 60003
~~care program;~~ 60004

(2) ~~That the other replacement program will provide services~~ 60005
~~to individuals in need of hospital care, including individuals~~ 60006
~~enrolled in the Ohio home care program;~~ 60007

(3) ~~That there will be a~~ The maximum number of individuals 60008
who may be enrolled in the ~~replacement programs in addition to the~~ 60009
~~number of individuals to be transferred from the Ohio home care~~ 60010
~~program~~ each of the medicaid waiver components included in the 60011
requests; 60012

(4) ~~That there will be a~~ (2) The maximum amount the 60013
~~department medicaid program~~ may expend each year for each 60014
individual enrolled in the ~~replacement programs~~ medicaid waiver 60015
components; 60016

(5) ~~That there will be a~~ (3) The maximum aggregate amount the 60017
~~department medicaid program~~ may expend each year for all 60018
individuals enrolled in the ~~replacement programs~~ medicaid waiver 60019
components; 60020

~~(6)(4)~~ Any other ~~requirement~~ requirements the director 60021
selects for the ~~replacement programs~~ medicaid waiver components. 60022

~~(B)(C)~~ If the secretary ~~grants~~ approves the medicaid waivers 60023
requested under this section, the director may create and 60024
implement the ~~replacement programs~~ medicaid waiver components in 60025
accordance with the provisions of the approved waivers ~~granted~~. 60026
The department of job and family services shall administer the 60027
~~replacement programs~~ medicaid waiver components. 60028

~~As the replacement programs are implemented, the director~~ 60029
~~shall reduce the maximum number of individuals who may be enrolled~~ 60030
~~in the Ohio home care program by the number of individuals who are~~ 60031
~~transferred to the replacement programs. When all individuals who~~ 60032
~~are eligible to be transferred to the replacement programs have~~ 60033
~~been transferred, the director may submit to the secretary an~~ 60034
~~amendment to the state medicaid plan to provide for the~~ 60035
~~elimination of the Ohio home care program.~~ 60036

After the first of any medicaid waiver components created 60037
under this section begins to enroll eligible individuals, the 60038
director may submit to the United States secretary of health and 60039
human services an amendment to a medicaid waiver component of the 60040
Ohio home care program authorizing the department to cease 60041
enrolling additional individuals in that medicaid waiver component 60042
of the Ohio home care program. If the secretary approves the 60043
amendment, the director may cease to enroll additional individuals 60044
in that medicaid waiver component of the Ohio home care program. 60045

Sec. 5111.87. (A) As used in this section and section 60046
5111.871 of the Revised Code, ~~"intermediate:~~ 60047

(1) "Intermediate care facility for the mentally retarded" 60048
has the same meaning as in section 5111.20 of the Revised Code. 60049

(2) "Medicaid waiver component" has the same meaning as in 60050

section 5111.85 of the Revised Code. 60051

(B) The director of job and family services may apply to the 60052
United States secretary of health and human services for both of 60053
the following: 60054

(1) One or more medicaid ~~waivers~~ waiver components under 60055
which home and community-based services are provided to 60056
individuals with mental retardation or other developmental 60057
disability as an alternative to placement in an intermediate care 60058
facility for the mentally retarded; 60059

(2) One or more medicaid ~~waivers~~ waiver components under 60060
which home and community-based services are provided in the form 60061
of ~~either or both~~ any of the following: 60062

(a) Early intervention and supportive services for children 60063
under three years of age ~~that are provided or arranged by county~~ 60064
~~boards of mental retardation and who have~~ developmental delays or 60065
disabilities the director determines are significant; 60066

(b) Therapeutic services for children who have autism ~~and are~~ 60067
~~under six years of age at the time of enrollment;~~ 60068

(c) Specialized habilitative services for individuals who are 60069
eighteen years of age or older and have autism. 60070

(C) No medicaid waiver component authorized by division 60071
(B)(2)(b) or (c) of this section shall provide services that are 60072
available under another medicaid waiver component. No medicaid 60073
waiver component authorized by division (B)(2)(b) of this section 60074
shall provide services to an individual that the individual is 60075
eligible to receive through an individualized education program as 60076
defined in section 3323.01 of the Revised Code. 60077

(D) The director of mental retardation and developmental 60078
disabilities or director of health may request that the director 60079
of job and family services apply for one or more medicaid waivers 60080

under this section. 60081

~~(D)~~(E) Before applying for a waiver under this section, the 60082
director of job and family services shall seek, accept, and 60083
consider public comments. 60084

Sec. 5111.871. The department of job and family services 60085
shall enter into a contract with the department of mental 60086
retardation and developmental disabilities under section 5111.91 60087
of the Revised Code with regard to one or more of the components 60088
of the medicaid program established by the department of job and 60089
family services under one or more of the medicaid waivers sought 60090
under section 5111.87 of the Revised Code. The contract shall 60091
provide for the department of mental retardation and developmental 60092
disabilities to administer the components in accordance with the 60093
terms of the waivers. The directors of job and family services and 60094
mental retardation and developmental disabilities shall adopt 60095
rules in accordance with Chapter 119. of the Revised Code 60096
governing the components. 60097

If the department of mental retardation and developmental 60098
disabilities or the department of job and family services denies 60099
an individual's application for home and community-based services 60100
provided under any of these medicaid components, the department 60101
that denied the services shall give timely notice to the 60102
individual that the individual may request a hearing under section 60103
5101.35 of the Revised Code. 60104

The departments of mental retardation and developmental 60105
disabilities and job and family services may approve, reduce, 60106
deny, or terminate a service included in the individualized 60107
service plan developed for a medicaid recipient eligible for home 60108
and community-based services provided under any of these medicaid 60109
components. The departments shall consider the recommendations a 60110
county board of mental retardation and developmental disabilities 60111

60112 makes under division (A)(1)(c) of section 5126.055 of the Revised
60113 Code. If either department approves, reduces, denies, or
60114 terminates a service, that department shall give timely notice to
60115 the medicaid recipient that the recipient may request a hearing
60116 under section 5101.35 of the Revised Code.

60117 If supported living or residential services, as defined in
60118 section 5126.01 of the Revised Code, are to be provided under any
60119 of these components, any person or government entity with a
60120 current, valid medicaid provider agreement and a current, valid
60121 license under section 5123.19 or certificate under section
60122 ~~5123.045~~ 5123.16 or 5126.431 of the Revised Code may provide the
60123 services.

60124 Sec. 5111.88. (A) As used in sections 5111.88 to 5111.889 of
60125 the Revised Code:

60126 "Administrative agency" means the department of job and
60127 family services or, if the department assigns the day-to-day
60128 administration of the ICF/MR deinstitutionalization pilot program
60129 to the department of mental retardation and developmental
60130 disabilities pursuant to section 5111.886 of the Revised Code, the
60131 department of mental retardation and developmental disabilities.

60132 "Deinstitutionalized services" means services specified in
60133 rules adopted under section 5111.85 of the Revised Code provided
60134 under the ICF/MR deinstitutionalization pilot program.

60135 "ICF/MR deinstitutionalization pilot program" means the
60136 medicaid waiver component authorized by a waiver sought under
60137 division (B)(1) of this section.

60138 "ICF/MR services" means intermediate care facility for the
60139 mentally retarded services covered by the medicaid program that an
60140 intermediate care facility for the mentally retarded provides to a
60141 resident of the facility who is a medicaid recipient eligible for

medicaid-covered intermediate care facility for the mentally retarded services. 60142
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"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code. 60144
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"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code. 60146
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(B) Not later than thirty days after the effective date of this section, the director of job and family services shall submit both of the following to the United States secretary of health and human services: 60148
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(1) An application for a waiver authorizing the ICF/MR deinstitutionalization pilot program under which intermediate care facilities for the mentally retarded, other than such facilities operated by the department of mental retardation and developmental disabilities, may volunteer to convert from providing intermediate care facility for the mentally retarded services to providing deinstitutionalized services and individuals with mental retardation or a developmental disability who are eligible for ICF/MR services may volunteer to receive instead deinstitutionalized services; 60152
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(2) An amendment to the state medicaid plan to authorize the director, beginning on the first day that the ICF/MR deinstitutionalization pilot program begins implementation under section 5111.881 of the Revised Code, to refuse to enter into or amend a medicaid provider agreement with the operator of an intermediate care facility for the mentally retarded if the provider agreement or amendment would authorize the operator to receive medicaid payments for more intermediate care facility for the mentally retarded beds than the operator receives on the day before that day. 60162
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(C) The director shall notify the governor, speaker and 60172

minority leader of the house of representatives, and president and 60173
minority leader of the senate when the director submits the 60174
application for the ICF/MR deinstitutionalization pilot program 60175
under division (B)(1) of this section and the amendment to the 60176
state medicaid plan under division (B)(2) of this section. The 60177
director is not required to submit the application and the 60178
amendment at the same time. 60179

Sec. 5111.881. If the United States secretary of health and 60180
human services approves the waiver requested under division (B)(1) 60181
of section 5111.88 of the Revised Code, the administrative agency 60182
shall implement the ICF/MR deinstitutionalization pilot program as 60183
follows: 60184

(A) Permit no more than two hundred individuals to 60185
participate in the program at one time; 60186

(B) Select, from among volunteers only, enough intermediate 60187
care facilities for the mentally retarded to convert from 60188
providing ICF/MR services to providing deinstitutionalized 60189
services as necessary to accommodate each individual participating 60190
in the program and ensure that the facilities selected for 60191
conversion cease to provide any ICF/MR services once the 60192
conversion takes place; 60193

(C) Subject to division (A) of this section, permit 60194
individuals who reside in an intermediate care facility for the 60195
mentally retarded that converts to providing deinstitutionalized 60196
services to choose whether to participate in the program or to 60197
transfer to another intermediate care facility for the mentally 60198
retarded that is not converting; 60199

(D) Ensure that no individual receiving ICF/MR services on 60200
the effective date of this section suffers an interruption in 60201
medicaid-covered services that the individual is eligible to 60202

<u>receive;</u>	60203
<u>(E) Collect information as necessary for the ICF/MR</u>	60204
<u>deinstitutionalization study council to be able to conduct the</u>	60205
<u>evaluation required by section 5111.889 of the Revised Code;</u>	60206
<u>(F) Terminate the program on July 1, 2007.</u>	60207
<u>Sec. 5111.882. Each individual participating in the ICF/MR</u>	60208
<u>deinstitutionalization pilot program shall receive</u>	60209
<u>deinstitutionalized services pursuant to a written individual</u>	60210
<u>service plan that shall be created for the individual. The</u>	60211
<u>individual service plan shall provide for the individual to</u>	60212
<u>receive deinstitutionalized services as necessary to meet the</u>	60213
<u>individual's health and welfare needs.</u>	60214
<u>Sec. 5111.883. Each individual participating in the ICF/MR</u>	60215
<u>deinstitutionalization pilot program has the right to choose the</u>	60216
<u>qualified and willing provider from which the individual will</u>	60217
<u>receive deinstitutionalized services.</u>	60218
<u>Sec. 5111.884. The administrative agency shall inform each</u>	60219
<u>individual participating in the ICF/MR deinstitutionalization</u>	60220
<u>pilot program of the individual's right to a state hearing under</u>	60221
<u>section 5101.35 of the Revised Code regarding a decision or order</u>	60222
<u>the administrative agency makes concerning the individual's</u>	60223
<u>participation in the program.</u>	60224
<u>Sec. 5111.885. The department of mental retardation and</u>	60225
<u>developmental disabilities may not convert any of the intermediate</u>	60226
<u>care facilities for the mentally retarded that the department</u>	60227
<u>operates to a provider of deinstitutionalized services.</u>	60228
<u>Sec. 5111.886. (A) If the United States secretary of health</u>	60229

and human services approves the waiver requested under division 60230
(B)(1) of section 5111.88 of the Revised Code, the department of 60231
job and family services may do both of the following: 60232

(1) Contract with the department of mental retardation and 60233
developmental disabilities under section 5111.91 of the Revised 60234
Code to assign the day-to-day administration of the ICF/MR 60235
deinstitutionalization pilot program to the department of mental 60236
retardation and developmental disabilities; 60237

(2) Transfer funds to pay for the nonfederal share of the 60238
costs of the ICF/MR deinstitutionalization pilot program to the 60239
department of mental retardation and developmental disabilities. 60240

(B) If the department of job and family services takes both 60241
actions authorized by division (A) of this section, the department 60242
of mental retardation and developmental disabilities shall be 60243
responsible for paying the nonfederal share of the costs of the 60244
ICF/MR deinstitutionalization pilot program. 60245

Sec. 5111.887. The director of job and family services, in 60246
consultation with the ICF/MR deinstitutionalization study council, 60247
shall adopt rules under section 5111.85 of the Revised Code as 60248
necessary to implement the ICF/MR deinstitutionalization pilot 60249
program, including rules establishing both of the following: 60250

(A) The type, amount, duration, and scope of services 60251
provided under the program; 60252

(B) The amount the program pays for the services or the 60253
method by which the amount is determined. 60254

Sec. 5111.888. (A) There is hereby created the ICF/MR 60255
deinstitutionalization study council. The council shall consist of 60256
all of the following members: 60257

<u>(1) Two members of the house of representatives appointed by</u>	60258
<u>the speaker of the house of representatives, each from a different</u>	60259
<u>political party;</u>	60260
<u>(2) Two members of the senate appointed by the president of</u>	60261
<u>the senate, each from a different political party;</u>	60262
<u>(3) The director of job and family services or the director's</u>	60263
<u>designee;</u>	60264
<u>(4) The director of mental retardation and developmental</u>	60265
<u>disabilities or the director's designee;</u>	60266
<u>(5) One representative of each of the following</u>	60267
<u>organizations, appointed by the organization:</u>	60268
<u>(a) Advocacy and protective services, incorporated;</u>	60269
<u>(b) The arc of Ohio;</u>	60270
<u>(c) The Ohio league for the mentally retarded;</u>	60271
<u>(d) People first of Ohio;</u>	60272
<u>(e) The Ohio association of county boards of mental</u>	60273
<u>retardation and developmental disabilities;</u>	60274
<u>(f) The Ohio provider resource association;</u>	60275
<u>(g) The Ohio health care association.</u>	60276
<u>(B) The speaker of the house of representatives and the</u>	60277
<u>president of the senate jointly shall appoint one of the members</u>	60278
<u>appointed under division (A)(1) or (2) of this section to serve as</u>	60279
<u>chair of the ICF/MR deinstitutionalization study council.</u>	60280
<u>(C) Members of the ICF/MR deinstitutionalization study</u>	60281
<u>council shall receive no compensation for serving on the council.</u>	60282
<u>Sec. 5111.889. (A) The ICF/MR deinstitutionalization study</u>	60283
<u>council shall conduct an evaluation of the ICF/MR</u>	60284
<u>deinstitutionalization pilot program. The council shall examine</u>	60285

<u>all of the following as part of the evaluation:</u>	60286
<u>(1) The deinstitutionalized services' effectiveness in</u>	60287
<u>meeting the health and welfare needs of the individuals</u>	60288
<u>participating in the program as identified in the individuals'</u>	60289
<u>written individual service plan;</u>	60290
<u>(2) The satisfaction of the individuals participating in the</u>	60291
<u>program with the deinstitutionalized services;</u>	60292
<u>(3) The impact that the conversion from providing ICF/MR</u>	60293
<u>services to providing deinstitutionalized services has on the</u>	60294
<u>intermediate care facilities for the mentally retarded that</u>	60295
<u>convert;</u>	60296
<u>(4) The program's cost effectiveness, including</u>	60297
<u>administrative cost effectiveness;</u>	60298
<u>(5) Feedback about the program from the individuals</u>	60299
<u>participating in the program, such individuals' families and</u>	60300
<u>guardians, county boards of mental retardation and developmental</u>	60301
<u>disabilities, and providers of deinstitutionalized services;</u>	60302
<u>(6) Other matters the council considers appropriate for</u>	60303
<u>evaluation.</u>	60304
<u>(B) Not later than December 31, 2007, the ICF/MR</u>	60305
<u>deinstitutionalization study council shall prepare a report of the</u>	60306
<u>evaluation conducted under this section and provide a copy of the</u>	60307
<u>report to the governor, president and minority leader of the</u>	60308
<u>senate, and speaker and minority leader of the house of</u>	60309
<u>representatives. The council shall include in the report</u>	60310
<u>recommendations for changes that the council determines are</u>	60311
<u>necessary for the ICF/MR deinstitutionalization pilot program to</u>	60312
<u>be implemented effectively statewide. The council shall cease to</u>	60313
<u>exist on the issuance of the report.</u>	60314

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.893 of 60315
the Revised Code: 60316

"Assisted living program" means the medicaid waiver component 60317
for which the director of job and family services is authorized by 60318
this section to request a medicaid waiver. 60319

"Assisted living services" means the following home and 60320
community-based services: personal care, homemaker, chore, 60321
attendant care, companion, medication oversight, and therapeutic 60322
social and recreational programming. 60323

"County or district home" means a county or district home 60324
operated under Chapter 5155. of the Revised Code. 60325

"Medicaid waiver component" has the same meaning as in 60326
section 5111.85 of the Revised Code. 60327

"Nursing facility" has the same meaning as in section 5111.20 60328
of the Revised Code. 60329

"Residential care facility" has the same meaning as in 60330
section 3721.01 of the Revised Code. 60331

(B) The director of job and family services may submit a 60332
request to the United States secretary of health and human 60333
services under 42 U.S.C. 1396n to obtain a waiver of federal 60334
medicaid requirements that would otherwise be violated in the 60335
creation and implementation of a program under which assisted 60336
living services are provided to not more than one thousand eight 60337
hundred individuals who meet the program's eligibility 60338
requirements established under section 5111.891 of the Revised 60339
Code. 60340

If the secretary approves the medicaid waiver requested under 60341
this section and the director of budget and management approves 60342
the contract, the department of job and family services shall 60343
enter into a contract with the department of aging under section 60344

5111.91 of the Revised Code that provides for the department of aging to administer the assisted living program. The contract shall include an estimate of the program's costs. 60345
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The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the assisted living program. The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the program that the rules adopted by the director of job and family services authorize the director of aging to adopt. 60348
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Sec. 5111.891. To be eligible for the assisted living program, an individual must meet all of the following requirements: 60354
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(A) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code; 60357
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(B) At the time the individual applies for the assisted living program, be one of the following: 60359
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(1) A nursing facility resident who is seeking to move to a residential care facility or county or district home and would remain in a nursing facility for long term care if not for the assisted living program; 60361
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(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program: 60365
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(a) The PASSPORT program created under section 173.40 of the Revised Code; 60368
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(b) The medicaid waiver component called the choices program that the department of aging administers; 60370
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(c) A medicaid waiver component that the department of job and family services administers. 60372
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(C) At the time the individual receives assisted living services under the assisted living program, reside in either of the following: 60374
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(1) A residential care facility, including a residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility; 60377
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(2) A county or district home. 60382

(D) Meet all other eligibility requirements for the assisted living program established in rules adopted under section 5111.85 of the Revised Code. 60383
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Sec. 5111.892. A residential care facility or county or district home providing services covered by the assisted living program to an individual enrolled in the program shall have staff on-site twenty-four hours each day who are able to do all of the following: 60386
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(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence; 60391
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(B) Provide supervision services for those individuals; 60394

(C) Help keep the individuals safe and secure. 60395

Sec. 5111.893. If the United States secretary of health and human services approves a medicaid waiver authorizing the assisted living program, the director of aging shall contract with a person or government entity to evaluate the program's cost effectiveness. The director shall provide the results of the evaluation to the governor, president and minority leader of the senate, and speaker and minority leader of the house of representatives not later than 60396
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June 30, 2007.

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Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

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(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with;

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(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with;

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(C) How providers will be paid for providing the alcohol, drug addiction, and mental health services covered by medicaid under the federal option of covering rehabilitative services;

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(D) A process for making payments to the providers;

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(E) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing providers, including;

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(F) Procedures for program oversight and quality assurance.

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Sec. 5111.914. (A) As used in this section, "provider" has the same meaning as in section 5111.06 of the Revised Code.

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(B) If a state agency that enters into a contract with the department of job and family services under section 5111.91 of the Revised Code identifies that a medicaid overpayment has been made to a provider, the state agency may commence actions to recover the overpayment on behalf of the department.

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(C) In recovering an overpayment pursuant to this section, a state agency shall comply with the following procedures: 60431
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(1) The state agency shall attempt to recover the overpayment by notifying the provider of the overpayment and requesting voluntary repayment. Not later than five business days after notifying the provider, the state agency shall notify the department in writing of the overpayment. The state agency may negotiate a settlement of the overpayment and notify the department of the settlement. A settlement negotiated by the state agency is not valid and shall not be implemented until the department has given its written approval of the settlement. 60433
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(2) If the state agency is unable to obtain voluntary repayment of an overpayment, the agency shall give the provider notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code. If the provider timely requests a hearing in accordance with section 119.07 of the Revised Code, the state agency shall conduct the hearing to determine the legal and factual validity of the overpayment. On completion of the hearing, the state agency shall submit its hearing officer's report and recommendation and the complete record of proceedings, including all transcripts, to the director of job and family services for final adjudication. The director may issue a final adjudication order in accordance with Chapter 119. of the Revised Code. The state agency shall pay any attorney's fees imposed under section 119.092 of the Revised Code. The department of job and family services shall pay any attorney's fees imposed under section 2335.39 of the Revised Code. 60442
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(D) In any action taken by a state agency under this section that requires the agency to give notice of an opportunity for a hearing in accordance with Chapter 119. of the Revised Code, if the agency gives notice of the opportunity for a hearing but the provider subject to the notice does not request a hearing or 60458
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timely request a hearing in accordance with section 119.07 of the Revised Code, the agency is not required to hold a hearing. The agency may request that the director of job and family services issue a final adjudication order in accordance with Chapter 119. of the Revised Code. 60463
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(E) This section does not preclude the department of job and family services from adjudicating a final fiscal audit under section 5111.06 of the Revised Code, recovering overpayments under section 5111.061 of the Revised Code, or making findings or taking other actions authorized by this chapter. 60468
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Sec. 5111.915. (A) The department of job and family services shall enter into an agreement with the department of administrative services for the department of administrative services to contract through competitive selection pursuant to section 125.05 of the Revised Code with a qualified vendor pursuant to division (B) of this section to develop a computer system to collect data. 60473
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This computer system shall be used to enhance fraud and abuse detection, improve program management and budgeting, and improve performance measurement capabilities of all agencies serving medicaid recipients, including the departments of aging, alcohol and drug addiction services, health, job and family services, mental health, and mental retardation and developmental disabilities. 60480
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The department of administrative services shall take all necessary steps to receive and review bids for the data system within ninety days after the effective date of this section. Also within ninety days after the effective date of this section, the department of job and family services shall seek enhanced federal funding for ninety per cent of the funds required to establish the data system. 60487
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(B) A qualified vendor with whom the department of administrative services contracts to implement the data system must have performed the following services prior to the department accepting the vendor's bid: 60494
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(1) Successfully implemented a data system in another state; 60498

(2) Demonstrated an ability to link, at a minimum, the following data sets: 60499
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(a) Medicaid; 60501

(b) Temporary assistance for needy families; 60502

(c) Vital records. 60503

Sec. ~~5111.88~~ 5111.97. (A) As used in this section and in section 5111.971 of the Revised Code, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code. 60504
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(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The program may be established as a separate non-medicaid program or integrated into a new or existing program of medicaid-funded home and community-based services authorized by a waiver approved by the United States department of health and human services. The department may limit the number of program participants. 60507
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To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements: 60516
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(1) Be a recipient of medicaid-funded nursing facility services, at the time of applying for the benefits; 60518
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(2) Have resided continuously in a nursing facility for not less than ~~eighteen~~ six months prior to applying to participate in the project; 60520
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(3) Need the level of care provided by nursing facilities;	60523
(4) For participation in a non-medicaid program, receive services to remain in the community with a projected cost not exceeding eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility;	60524 60525 60526 60527
(5) For participation in a program established as part of a medicaid-funded home and community-based services waiver program, meet waiver enrollment criteria.	60528 60529 60530
(C) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:	60531 60532 60533
(1) The first month's rent in a community setting;	60534
(2) Rental deposits;	60535
(3) Utility deposits;	60536
(4) Moving expenses;	60537
(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.	60538 60539 60540
(D) If the project is established as a non-medicaid program, no participant may receive more than two thousand dollars worth of benefits under the project.	60541 60542 60543
(E) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the program.	60544 60545 60546 60547 60548 60549 60550 60551

Sec. 5111.971. (A) As used in this section, "long-term 60552
medicaid waiver component" means any of the following: 60553

(1) The PASSPORT program created under section 173.40 of the 60554
Revised Code; 60555

(2) The medicaid waiver component called the choices program 60556
that the department of aging administers; 60557

(3) A medicaid waiver component that the department of job 60558
and family services administers. 60559

(B) The director of job and family services shall submit a 60560
request to the United States secretary of health and human 60561
services for a waiver of federal medicaid requirements that would 60562
be otherwise violated in the creation of a pilot program for 60563
issuing vouchers to medicaid recipients for use by the recipients 60564
and their families or other representatives to pay for the cost of 60565
obtaining health care services outside of a nursing facility. In 60566
submitting the request, the director shall specify all of the 60567
following: 60568

(1) That the number of medicaid recipients permitted to 60569
participate in the program will not exceed two hundred; 60570

(2) That an individual will not be eligible to participate 60571
unless the individual meets all of the following requirements: 60572

(a) Needs an intermediate level of care as determined under 60573
rule 5101:3-3-06 of the Administrative Code; 60574

(b) At the time the individual applies for a voucher, be one 60575
of the following: 60576

(i) A nursing facility resident who is seeking to move to a 60577
residential care facility or county or district home and who would 60578
remain in a nursing facility if not for the voucher; 60579

(ii) A participant of any long-term medicaid waiver component 60580

who would move to a nursing facility if not for the voucher. 60581

(c) Meets all other eligibility requirements for the voucher established in rules adopted under section 5111.85 of the Revised Code. 60582
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(3) That a participant will be given a voucher in an amount not exceeding seventy-five per cent of the cost that the medicaid program would incur for care provided to the individual in a nursing facility; 60585
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(4) That the services of a fiscal intermediary and other case management services will be available to the participant when needed. 60589
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(C) On receipt of the waiver, the director shall enter into an interagency agreement with the director of aging to have the pilot program administered by the department of aging. Each director may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to carry out the purposes of this section. 60592
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Sec. 5111.98. (A) The director of job and family services may do all of the following as necessary for the department of job and family services to fulfill the duties it has, as the single state agency for the medicaid program, under the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003" Pub. L. No. 108-173, 117 Stat. 2066: 60598
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(1) Adopt rules; 60604

(2) Assign duties to county departments of job and family services; 60605
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(3) Make payments to the United States department of health and human services from appropriations made to the department of job and family services for this purpose. 60607
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(B) Rules adopted under division (A)(1) of this section shall 60610
be adopted as follows: 60611

(1) If the rules concern the department's duties regarding 60612
service providers, in accordance with Chapter 119. of the Revised 60613
Code; 60614

(2) If the rules concern the department's duties concerning 60615
individuals' eligibility for services, in accordance with section 60616
111.15 of the Revised Code; 60617

(3) If the rules concern the department's duties concerning 60618
financial and operational matters between the department and 60619
county departments of job and family services, in accordance with 60620
section 111.15 of the Revised Code as if the rules were internal 60621
management rules. 60622

Sec. 5111.99. (A) Whoever violates division (B) of section 60623
5111.26 or division ~~(D)~~(E) of section 5111.31 of the Revised Code 60624
shall be fined not less than five hundred dollars nor more than 60625
one thousand dollars for the first offense and not less than one 60626
thousand dollars nor more than five thousand dollars for each 60627
subsequent offense. Fines paid under this section shall be 60628
deposited in the state treasury to the credit of the general 60629
revenue fund. 60630

(B) Whoever violates division (D) of section 5111.61 of the 60631
Revised Code is guilty of registering a false complaint, a 60632
misdemeanor of the first degree. 60633

Sec. 5112.03. (A) The director of job and family services 60634
shall adopt, and may amend and rescind, rules in accordance with 60635
Chapter 119. of the Revised Code for the purpose of administering 60636
sections 5112.01 to 5112.21 of the Revised Code, including rules 60637
that do all of the following: 60638

(1) Define as a "disproportionate share hospital" any hospital included under subsection (b) of section 1923 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r-4(b), as amended, and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5112.04 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5112.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5112.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5112.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5112.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5112.09 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5112.08 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total

facility costs" excludes costs associated with any of the	60669
following:	60670
(1) Recipients of the medical assistance program;	60671
(2) Recipients of financial assistance provided under Chapter	60672
5115. of the Revised Code;	60673
(3) Recipients of medical assistance provided under Chapter	60674
5115. of the Revised Code;	60675
(4) Recipients of the program for medically handicapped	60676
children established under section 3701.023 of the Revised Code;	60677
(5) <u>(4)</u> Recipients of the medicare program established under	60678
Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42	60679
U.S.C.A. 301, as amended:	60680
(6) <u>(5)</u> Recipients of Title V of the "Social Security Act";	60681
(7) <u>(6)</u> Any other category of costs deemed appropriate by the	60682
director in accordance with Title XIX of the "Social Security Act"	60683
and the rules adopted under that title.	60684
Sec. 5112.08. The director of job and family services shall	60685
adopt rules under section 5112.03 of the Revised Code establishing	60686
a methodology to pay hospitals that is sufficient to expend all	60687
money in the indigent care pool. Under the rules:	60688
(A) The department of job and family services may classify	60689
similar hospitals into groups and allocate funds for distribution	60690
within each group.	60691
(B) The department shall establish a method of allocating	60692
funds to hospitals, taking into consideration the relative amount	60693
of indigent care provided by each hospital or group of hospitals.	60694
The amount to be allocated shall be based on any combination of	60695
the following indicators of indigent care that the director	60696
considers appropriate:	60697

(1) Total costs, volume, or proportion of services to recipients of the medical assistance program, including recipients enrolled in health insuring corporations; 60698
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(2) Total costs, volume, or proportion of services to low-income patients in addition to recipients of the medical assistance program, which may include recipients of Title V of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, ~~and~~ recipients of disability financial or medical assistance provided under Chapter 5115. of the Revised Code, and recipients of disability medical assistance formerly provided under Chapter 5115. of the Revised Code; 60701
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(3) The amount of uncompensated care provided by the hospital or group of hospitals; 60709
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(4) Other factors that the director considers to be appropriate indicators of indigent care. 60711
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(C) The department shall distribute funds to each hospital or group of hospitals in a manner that first may provide for an additional distribution to individual hospitals that provide a high proportion of indigent care in relation to the total care provided by the hospital or in relation to other hospitals. The department shall establish a formula to distribute the remainder of the funds. The formula shall be consistent with section 1923 of the "Social Security Act," 42 U.S.C.A. 1396r-4, as amended, shall be based on any combination of the indicators of indigent care listed in division (B) of this section that the director considers appropriate. 60713
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(D) The department shall distribute funds to each hospital in installments not later than ten working days after the deadline established in rules for each hospital to pay an installment on its assessment under section 5112.06 of the Revised Code. In the case of a governmental hospital that makes intergovernmental 60724
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transfers, the department shall pay an installment under this 60729
section not later than ten working days after the earlier of that 60730
deadline or the deadline established in rules for the governmental 60731
hospital to pay an installment on its intergovernmental transfer. 60732
If the amount in the hospital care assurance program fund and the 60733
hospital care assurance match fund created under section 5112.18 60734
of the Revised Code is insufficient to make the total 60735
distributions for which hospitals are eligible to receive in any 60736
period, the department shall reduce the amount of each 60737
distribution by the percentage by which the amount is 60738
insufficient. The department shall distribute to hospitals any 60739
amounts not distributed in the period in which they are due as 60740
soon as moneys are available in the funds. 60741

Sec. 5112.17. (A) As used in this section: 60742

(1) "Federal poverty guideline" means the official poverty 60743
guideline as revised annually by the United States secretary of 60744
health and human services in accordance with section 673 of the 60745
"Community Service Block Grant Act," 95 Stat. 511 (1981), 42 60746
U.S.C.A. 9902, as amended, for a family size equal to the size of 60747
the family of the person whose income is being determined. 60748

(2) "Third-party payer" means any private or public entity or 60749
program that may be liable by law or contract to make payment to 60750
or on behalf of an individual for health care services. 60751
"Third-party payer" does not include a hospital. 60752

(B) Each hospital that receives funds distributed under 60753
sections 5112.01 to 5112.21 of the Revised Code shall provide, 60754
without charge to the individual, basic, medically necessary 60755
hospital-level services to individuals who are residents of this 60756
state, are not recipients of the medical assistance program, and 60757
whose income is at or below the federal poverty guideline. 60758
Recipients of disability financial assistance ~~and recipients of~~ 60759

~~disability medical assistance~~ provided under Chapter 5115. of the 60760
Revised Code qualify for services under this section. The director 60761
of job and family services shall adopt rules under section 5112.03 60762
of the Revised Code specifying the hospital services to be 60763
provided under this section. 60764

(C) Nothing in this section shall be construed to prevent a 60765
hospital from requiring an individual to apply for eligibility 60766
under the medical assistance program before the hospital processes 60767
an application under this section. Hospitals may bill any 60768
third-party payer for services rendered under this section. 60769
Hospitals may bill the medical assistance program, in accordance 60770
with Chapter 5111. of the Revised Code and the rules adopted under 60771
that chapter, for services rendered under this section if the 60772
individual becomes a recipient of the program. Hospitals may bill 60773
individuals for services under this section if all of the 60774
following apply: 60775

(1) The hospital has an established post-billing procedure 60776
for determining the individual's income and canceling the charges 60777
if the individual is found to qualify for services under this 60778
section. 60779

(2) The initial bill, and at least the first follow-up bill, 60780
is accompanied by a written statement that does all of the 60781
following: 60782

(a) Explains that individuals with income at or below the 60783
federal poverty guideline are eligible for services without 60784
charge; 60785

(b) Specifies the federal poverty guideline for individuals 60786
and families of various sizes at the time the bill is sent; 60787

(c) Describes the procedure required by division (C)(1) of 60788
this section. 60789

(3) The hospital complies with any additional rules the 60790

department adopts under section 5112.03 of the Revised Code. 60791

Notwithstanding division (B) of this section, a hospital 60792
providing care to an individual under this section is subrogated 60793
to the rights of any individual to receive compensation or 60794
benefits from any person or governmental entity for the hospital 60795
goods and services rendered. 60796

(D) Each hospital shall collect and report to the department, 60797
in the form and manner prescribed by the department, information 60798
on the number and identity of patients served pursuant to this 60799
section. 60800

(E) This section applies beginning May 22, 1992, regardless 60801
of whether the department has adopted rules specifying the 60802
services to be provided. Nothing in this section alters the scope 60803
or limits the obligation of any governmental entity or program, 60804
including the program awarding reparations to victims of crime 60805
under sections 2743.51 to 2743.72 of the Revised Code and the 60806
program for medically handicapped children established under 60807
section 3701.023 of the Revised Code, to pay for hospital services 60808
in accordance with state or local law. 60809

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the 60810
Revised Code, ~~"intermediate:~~ 60811

(A) "Intermediate care facility for the mentally retarded" 60812
has the same meaning as in section 5111.20 of the Revised Code, 60813
except that it does not include any such facility operated by the 60814
department of mental retardation and developmental disabilities. 60815

(B) "Medicaid" has the same meaning as in section 5111.01 of 60816
the Revised Code. 60817

Sec. 5112.31. The department of job and family services shall 60818
do all of the following: 60819

(A) For the purpose of providing home and community-based services for mentally retarded and developmentally disabled persons, annually assess each intermediate care facility for the mentally retarded a franchise permit fee equal to nine dollars and sixty-three cents multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The number of days in the fiscal year beginning on the first day of July of the same calendar year.

(B) Beginning July 1, ~~2005~~ 2007, and the first day of each July thereafter, adjust fees determined under division (A) of this section in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, ~~the department shall~~ take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.341. (A) In addition to assessing a penalty pursuant to section 5112.34 of the Revised Code, the department of job and family services may do either of the following if an intermediate care facility for the mentally retarded fails to pay the full amount of a franchise permit fee installment when due:

(1) Withhold an amount equal to the installment and penalty

assessed under section 5112.34 of the Revised Code from a medicaid 60850
payment due the facility until the facility pays the installment 60851
and penalty; 60852

(2) Terminate the facility's medicaid provider agreement. 60853

(B) The department may withhold a medicaid payment under 60854
division (A)(1) of this section without providing notice to the 60855
intermediate care facility for the mentally retarded and without 60856
conducting an adjudication under Chapter 119. of the Revised Code. 60857

Sec. 5115.20. (A) The department of job and family services 60858
shall establish a disability advocacy program and each county 60859
department of job and family services shall establish a disability 60860
advocacy program unit or join with other county departments of job 60861
and family services to establish a joint county disability 60862
advocacy program unit. Through the program the department and 60863
county departments shall cooperate in efforts to assist applicants 60864
for and recipients of assistance under the disability financial 60865
assistance program ~~and the disability medical assistance program,~~ 60866
who might be eligible for supplemental security income benefits 60867
under Title XVI of the "Social Security Act," 86 Stat. 1475 60868
(1972), 42 U.S.C.A. 1383, as amended, in applying for those 60869
benefits. 60870

As part of their disability advocacy programs, the state 60871
department and county departments may enter into contracts for the 60872
services of persons and government entities that in the judgment 60873
of the department or county department have demonstrated expertise 60874
in representing persons seeking supplemental security income 60875
benefits. Each contract shall require the person or entity with 60876
which a department contracts to assess each person referred to it 60877
by the department to determine whether the person appears to be 60878
eligible for supplemental security income benefits, and, if the 60879
person appears to be eligible, assist the person in applying and 60880

represent the person in any proceeding of the social security
administration, including any appeal or reconsideration of a
denial of benefits. The department or county department shall
provide to the person or entity with which it contracts all
records in its possession relevant to the application for
supplemental security income benefits. The department shall
require a county department with relevant records to submit them
to the person or entity.

(B) Each applicant for or recipient of disability financial
assistance ~~or disability medical assistance~~ who, in the judgment
of the department or a county department might be eligible for
supplemental security benefits, shall, as a condition of
eligibility for assistance, apply for such benefits if directed to
do so by the department or county department.

(C) With regard to applicants for and recipients of
disability financial assistance ~~or disability medical assistance~~,
each county department of job and family services shall do all of
the following:

(1) Identify applicants and recipients who might be eligible
for supplemental security income benefits;

(2) Assist applicants and recipients in securing
documentation of disabling conditions or refer them for such
assistance to a person or government entity with which the
department or county department has contracted under division (A)
of this section;

(3) Inform applicants and recipients of available sources of
representation, which may include a person or government entity
with which the department or county department has contracted
under division (A) of this section, and of their right to
represent themselves in reconsiderations and appeals of social
security administration decisions that deny them supplemental

security income benefits. The county department may require the
applicants and recipients, as a condition of eligibility for
assistance, to pursue reconsiderations and appeals of social
security administration decisions that deny them supplemental
security income benefits, and shall assist applicants and
recipients as necessary to obtain such benefits or refer them to a
person or government entity with which the department or county
department has contracted under division (A) of this section.

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(4) Require applicants and recipients who, in the judgment of
the county department, are or may be aged, blind, or disabled, to
apply for medical assistance under Chapter 5111. of the Revised
Code, make determinations when appropriate as to eligibility for
medical assistance, and refer their applications when necessary to
the disability determination unit established in accordance with
division (F) of this section for expedited review;

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(5) Require each applicant and recipient who in the judgment
of the department or the county department might be eligible for
supplemental security income benefits, as a condition of
eligibility for disability financial assistance ~~or disability
medical assistance~~, to execute a written authorization for the
secretary of health and human services to withhold benefits due
that individual and pay to the director of job and family services
or the director's designee an amount sufficient to reimburse the
state and county shares of interim assistance furnished to the
individual. For the purposes of division (C)(5) of this section,
"benefits" and "interim assistance" have the meanings given in
Title XVI of the "Social Security Act."

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(D) The director of job and family services shall adopt rules
in accordance with section 111.15 of the Revised Code for the
effective administration of the disability advocacy program. The
rules shall include all of the following:

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(1) Methods to be used in collecting information from and disseminating it to county departments, including the following:

(a) The number of individuals in the county who are disabled recipients of disability financial assistance ~~or disability medical assistance~~;

(b) The final decision made either by the social security administration or by a court for each application or reconsideration in which an individual was assisted pursuant to this section.

(2) The type and process of training to be provided by the department of job and family services to the employees of the county department of job and family services who perform duties under this section;

(3) Requirements for the written authorization required by division (C)(5) of this section.

(E) The department shall provide basic and continuing training to employees of the county department of job and family services who perform duties under this section. Training shall include but not be limited to all processes necessary to obtain federal disability benefits, and methods of advocacy.

(F) The department shall establish a disability determination unit and develop guidelines for expediting reviews of applications for medical assistance under Chapter 5111. of the Revised Code for persons who have been referred to the unit under division (C)(4) of this section. The department shall make determinations of eligibility for medical assistance for any such person within the time prescribed by federal regulations.

(G) The department may, under rules the director of job and family services adopts in accordance with section 111.15 of the Revised Code, pay a portion of the federal reimbursement described

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in division (C)(5) of this section to persons or government 60973
entities that assist or represent assistance recipients in 60974
reconsiderations and appeals of social security administration 60975
decisions denying them supplemental security income benefits. 60976

(H) The director shall conduct investigations to determine 60977
whether disability advocacy programs are being administered in 60978
compliance with the Revised Code and the rules adopted by the 60979
director pursuant to this section. 60980

Sec. 5115.22. (A) If a recipient of disability financial 60981
assistance ~~or disability medical assistance~~, or an individual 60982
whose income and resources are included in determining the 60983
recipient's eligibility for the assistance, becomes possessed of 60984
resources or income in excess of the amount allowed to retain 60985
eligibility, or if other changes occur that affect the recipient's 60986
eligibility or need for assistance, the recipient shall notify the 60987
state or county department of job and family services within the 60988
time limits specified in rules adopted by the director of job and 60989
family services in accordance with section 111.15 of the Revised 60990
Code. Failure of a recipient to report possession of excess 60991
resources or income or a change affecting eligibility or need 60992
within those time limits shall be considered prima-facie evidence 60993
of intent to defraud under section 5115.23 of the Revised Code. 60994

(B) As a condition of eligibility for disability financial 60995
assistance ~~or disability medical assistance~~, and as a means of 60996
preventing or reducing the provision of assistance at public 60997
expense, each applicant for or recipient of the assistance shall 60998
make reasonable efforts to secure support from persons responsible 60999
for the applicant's or recipient's support, and from other 61000
sources, including any federal program designed to provide 61001
assistance to individuals with disabilities. The state or county 61002
department of job and family services may provide assistance to 61003

the applicant or recipient in securing other forms of financial 61004
assistance. 61005

Sec. 5115.23. As used in this section, "erroneous payments" 61006
means disability financial assistance payments ~~or disability~~ 61007
~~medical assistance payments~~ made to persons who are not entitled 61008
to receive them, including payments made as a result of 61009
misrepresentation or fraud, and payments made due to an error by 61010
the recipient or by the county department of job and family 61011
services that made the payment. 61012

The department of job and family services shall adopt rules 61013
in accordance with section 111.15 of the Revised Code specifying 61014
the circumstances under which action is to be taken under this 61015
section to recover erroneous payments. The department, or a county 61016
department of job and family services at the request of the 61017
department, shall take action to recover erroneous payments in the 61018
circumstances specified in the rules. The department or county 61019
department may institute a civil action to recover erroneous 61020
payments. 61021

Whenever disability financial assistance ~~or disability~~ 61022
~~medical assistance~~ has been furnished to a recipient for whose 61023
support another person is responsible, the other person shall, in 61024
addition to the liability otherwise imposed, as a consequence of 61025
failure to support the recipient, be liable for all assistance 61026
furnished the recipient. The value of the assistance so furnished 61027
may be recovered in a civil action brought by the county 61028
department of job and family services. 61029

Each county department of job and family services shall 61030
retain fifty per cent of the erroneous payments it recovers under 61031
this section. The department of job and family services shall 61032
receive the remaining fifty per cent. 61033

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:

(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter 340. and sections 5119.61 to 5119.63 of the Revised Code.

(1) The rules shall include all of the following:

(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division (C)(2) of section 173.35 of the Revised Code;

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section 3722.18 of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A)(2) of section 3722.18 of the Revised Code;

(ii) Specify the manner in which boards are accountable for

ensuring that ongoing mental health services are effectively 61064
arranged for individuals with mental illness or severe mental 61065
disability who are referred by the board or mental health agency 61066
under contract with the board to an adult care facility. 61067

(c) Rules governing a board of alcohol, drug addiction, and 61068
mental health services when making a report to the director of 61069
health under section 3722.17 of the Revised Code regarding the 61070
quality of care and services provided by an adult care facility to 61071
a person with mental illness or a severe mental disability. 61072

(2) Rules may be adopted to govern the method of paying a 61073
community mental health facility, as defined in section ~~5111.022~~ 61074
5111.023 of the Revised Code, for providing services listed in 61075
division (B) of that section. Such rules must be consistent with 61076
the contract entered into between the departments of job and 61077
family services and mental health under section 5111.91 of the 61078
Revised Code and include requirements ensuring appropriate service 61079
utilization. 61080

(B) Review and evaluate, and, taking into account the 61081
findings and recommendations of the board of alcohol, drug 61082
addiction, and mental health services of the district served by 61083
the program and the requirements and priorities of the state 61084
mental health plan, including the needs of residents of the 61085
district now residing in state mental institutions, approve and 61086
allocate funds to support community programs, and make 61087
recommendations for needed improvements to boards of alcohol, drug 61088
addiction, and mental health services; 61089

(C) Withhold state and federal funds for any program, in 61090
whole or in part, from a board of alcohol, drug addiction, and 61091
mental health services in the event of failure of that program to 61092
comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, 61093
or 5119.62 of the Revised Code or rules of the department of 61094

mental health. The director shall identify the areas of 61095
noncompliance and the action necessary to achieve compliance. The 61096
director shall offer technical assistance to the board to achieve 61097
compliance. The director shall give the board a reasonable time 61098
within which to comply or to present its position that it is in 61099
compliance. Before withholding funds, a hearing shall be conducted 61100
to determine if there are continuing violations and that either 61101
assistance is rejected or the board is unable to achieve 61102
compliance. Subsequent to the hearing process, if it is determined 61103
that compliance has not been achieved, the director may allocate 61104
all or part of the withheld funds to a public or private agency to 61105
provide the services not in compliance until the time that there 61106
is compliance. The director shall establish rules pursuant to 61107
Chapter 119. of the Revised Code to implement this division. 61108

(D) Withhold state or federal funds from a board of alcohol, 61109
drug addiction, and mental health services that denies available 61110
service on the basis of religion, race, color, creed, sex, 61111
national origin, age, disability as defined in section 4112.01 of 61112
the Revised Code, developmental disability, or the inability to 61113
pay; 61114

(E) Provide consultative services to community mental health 61115
agencies with the knowledge and cooperation of the board of 61116
alcohol, drug addiction, and mental health services; 61117

(F) Provide to boards of alcohol, drug addiction, and mental 61118
health services state or federal funds, in addition to those 61119
allocated under section 5119.62 of the Revised Code, for special 61120
programs or projects the director considers necessary but for 61121
which local funds are not available; 61122

(G) Establish criteria by which a board of alcohol, drug 61123
addiction, and mental health services reviews and evaluates the 61124
quality, effectiveness, and efficiency of services provided 61125

through its community mental health plan. The criteria shall
include requirements ensuring appropriate service utilization. The
department shall assess a board's evaluation of services and the
compliance of each board with this section, Chapter 340. or
section 5119.62 of the Revised Code, and other state or federal
law and regulations. The department, in cooperation with the
board, periodically shall review and evaluate the quality,
effectiveness, and efficiency of services provided through each
board. The department shall collect information that is necessary
to perform these functions.

(H) Develop and operate a community mental health information
system.

Boards of alcohol, drug abuse, and mental health services
shall submit information requested by the department in the form
and manner prescribed by the department. Information collected by
the department shall include, but not be limited to, all of the
following:

(1) Information regarding units of services provided in whole
or in part under contract with a board, including diagnosis and
special needs, demographic information, the number of units of
service provided, past treatment, financial status, and service
dates in accordance with rules adopted by the department in
accordance with Chapter 119. of the Revised Code;

(2) Financial information other than price or price-related
data regarding expenditures of boards and community mental health
agencies, including units of service provided, budgeted and actual
expenses by type, and sources of funds.

Boards shall submit the information specified in division
(H)(1) of this section no less frequently than annually for each
client, and each time the client's case is opened or closed. The
department shall not collect any information for the purpose of

identifying by name any person who receives a service through a
board of alcohol, drug addiction, and mental health services,
except as required by state or federal law to validate appropriate
reimbursement. For the purposes of division (H)(1) of this
section, the department shall use an identification system that is
consistent with applicable nationally recognized standards.

(I) Review each board's community mental health plan
submitted pursuant to section 340.03 of the Revised Code and
approve or disapprove it in whole or in part. Periodically, in
consultation with representatives of boards and after considering
the recommendations of the medical director, the director shall
issue criteria for determining when a plan is complete, criteria
for plan approval or disapproval, and provisions for conditional
approval. The factors that the director considers may include, but
are not limited to, the following:

(1) The mental health needs of all persons residing within
the board's service district, especially severely mentally
disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and
cultural relevance of the services provided in each service
district, the extent to which any services are duplicative of
other available services, and whether the services meet the needs
identified above;

(3) The adequacy of the board's accounting for the
expenditure of funds.

If the director disapproves all or part of any plan, the
director shall provide the board an opportunity to present its
position. The director shall inform the board of the reasons for
the disapproval and of the criteria that must be met before the
plan may be approved. The director shall give the board a
reasonable time within which to meet the criteria, and shall offer

technical assistance to the board to help it meet the criteria. 61188

If the approval of a plan remains in dispute thirty days 61189
prior to the conclusion of the fiscal year in which the board's 61190
current plan is scheduled to expire, the board or the director may 61191
request that the dispute be submitted to a mutually agreed upon 61192
third-party mediator with the cost to be shared by the board and 61193
the department. The mediator shall issue to the board and the 61194
department recommendations for resolution of the dispute. Prior to 61195
the conclusion of the fiscal year in which the current plan is 61196
scheduled to expire, the director, taking into consideration the 61197
recommendations of the mediator, shall make a final determination 61198
and approve or disapprove the plan, in whole or in part. 61199

Sec. 5120.09. Under the supervision and control of the 61200
director of rehabilitation and correction, the division of 61201
business administration shall do all of the following: 61202

(A) Submit the budgets for the several divisions of the 61203
department of rehabilitation and correction, as prepared by the 61204
respective chiefs of those divisions, to the director. The 61205
director, with the assistance of the chief of the division of 61206
business administration, shall compile a departmental budget that 61207
contains all proposals submitted by the chiefs of the divisions 61208
and shall forward the departmental budget to the governor with 61209
comments and recommendations that the director considers 61210
necessary. 61211

(B) Maintain accounts and records and compile statistics that 61212
the director prescribes; 61213

(C) Under the control of the director, coordinate and make 61214
the necessary purchases and requisitions for the department and 61215
its divisions, except as provided under section 5119.16 of the 61216
Revised Code; 61217

(D) Administer within this state federal criminal justice 61218
acts that the governor requires the department to administer. In 61219
order to improve the criminal justice system of this state, the 61220
division of business administration shall apply for, allocate, 61221
disburse, and account for grants that are made available pursuant 61222
to those federal criminal justice acts and grants that are made 61223
available from other federal government sources, state government 61224
sources, or private sources. As used in this division, "criminal 61225
justice system" and "federal criminal justice acts" have the same 61226
meanings as in section ~~181.51~~ 5502.61 of the Revised Code. 61227

(E) Audit the activities of governmental entities, persons as 61228
defined in section 1.59 of the Revised Code, and other types of 61229
nongovernmental entities that are financed in whole or in part by 61230
funds that the department allocates or disburses and that are 61231
derived from grants described in division (D) of this section; 61232

(F) Enter into contracts, including contracts with federal, 61233
state, or local governmental entities, persons as defined in 61234
section 1.59 of the Revised Code, foundations, and other types of 61235
nongovernmental entities, that are necessary for the department to 61236
carry out its duties and that neither the director nor another 61237
section of the Revised Code authorizes another division of the 61238
department to enter; 61239

(G) Exercise other powers and perform other duties that the 61240
director may assign to the division of business administration. 61241

Sec. 5120.51. (A)(1) If the director of rehabilitation and 61242
correction determines that a bill introduced in the general 61243
assembly is likely to have a significant impact on the population 61244
of, or the cost of operating, any or all state correctional 61245
institutions under the administration of the department of 61246
rehabilitation and correction, the department shall prepare a 61247
population and cost impact statement for the bill, in accordance 61248

with division (A)(2) of this section. 61249

(2) A population and cost impact statement required for a 61250
bill ~~shall~~ shall estimate the increase or decrease in the 61251
correctional institution population that likely would result if 61252
the bill were enacted, shall estimate, in dollars, the amount by 61253
which revenues or expenditures likely would increase or decrease 61254
if the bill were enacted, and briefly shall explain each of the 61255
estimates. 61256

A population and cost impact statement required for a bill 61257
initially shall be prepared after the bill is referred to a 61258
committee of the general assembly in the house of origination but 61259
before the meeting of the committee at which the committee is 61260
scheduled to vote on whether to recommend the bill for passage. A 61261
copy of the statement shall be distributed to each member of the 61262
committee that is considering the bill and to the member of the 61263
general assembly who introduced it. If the bill is recommended for 61264
passage by the committee, the department shall update the 61265
statement before the bill is taken up for final consideration by 61266
the house of origination. A copy of the updated statement shall be 61267
distributed to each member of that house and to the member of the 61268
general assembly who introduced the bill. If the bill is passed by 61269
the house of origination and is introduced in the second house, 61270
the provisions of this division concerning the preparation, 61271
updating, and distribution of the statement in the house of 61272
origination also apply in the second house. 61273

(B) The governor or any member of the general assembly, at 61274
any time, may request the department to prepare a population and 61275
cost impact statement for any bill introduced in the general 61276
assembly. Upon receipt of a request, the department promptly shall 61277
prepare a statement that includes the estimates and explanations 61278
described in division (A)(2) of this section and present a copy of 61279
it to the governor or member who made the request. 61280

(C) In the preparation of a population and cost impact statement required by division (A) or (B) of this section, the department shall use a technologically sophisticated system capable of estimating future state correctional institution populations. The system shall have the capability to adjust its estimates based on actual and proposed changes in sentencing laws and trends, sentence durations, parole rates, crime rates, and any other data that affect state correctional institution populations. The department, in conjunction with the advisory committee appointed under division (E) of this section, shall review and update the data used in the system, not less than once every six months, to improve the accuracy of the system.

(D) At least once every six months, the department shall provide to the correctional institution inspection committee a copy of the estimates of state correctional institution populations obtained through use of the system described in division (C) of this section and a description of the assumptions regarding sentencing laws and trends, sentence durations, parole rates, crime rates, and other relevant data that were made by the department to obtain the estimates. Additionally, a copy of the estimates and a description of the assumptions made to obtain them shall be provided, upon reasonable request, to other legislative staff, including the staff of the legislative service commission ~~and the legislative budget office of the legislative service commission~~, to the office of budget and management, and to the ~~office~~ division of criminal justice services in the department of public safety.

(E) The correctional institution inspection committee shall appoint an advisory committee to review the operation of the system for estimating future state correctional institution populations that is used by the department in the preparation of population cost impact statements pursuant to this section and to

join with the department in its reviews and updating of the data 61313
used in the system under division (C) of this section. The 61314
advisory committee shall be comprised of at least one prosecuting 61315
attorney, at least one common pleas court judge, at least one 61316
public defender, at least one person who is a member or staff 61317
employee of the committee, and at least one representative of the 61318
office division of criminal justice services in the department of 61319
public safety. 61320

Sec. ~~5121.03~~ 5121.01. As used in ~~this chapter~~ sections 61321
5121.01 to 5121.21 of the Revised Code: 61322

~~(A) Patient means a person receiving care or treatment in a~~ 61323
~~program or facility that provides services to mentally ill~~ 61324
~~individuals.~~ 61325

~~(B)~~ "The department" means the department of mental health or 61326
the department of mental retardation and developmental 61327
disabilities, whichever provides care or treatment to the ~~patient~~ 61328
recipient or resident. 61329

~~(C)~~(B) "Resident" means a person admitted to an institution 61330
or other facility pursuant to Chapter 5123. of the Revised Code 61331
who is under observation or receiving habilitation and care in an 61332
institution for the mentally retarded. 61333

(C) "Community mental health services recipient" or 61334
"recipient" means a person receiving state-operated community 61335
mental health services. 61336

(D) "State-operated community mental health services" means 61337
community-based services the department of mental health operates 61338
for a board of alcohol, drug addiction, and mental health services 61339
pursuant to a community mental health plan approved under division 61340
(A)(1)(c) of section 340.03 of the Revised Code. 61341

(E) "Applicable cost" means the rate for support applicable 61342

to a ~~patient or~~ resident or recipient as specified in this 61343
section. 61344

The cost for support of ~~patients in hospitals and~~ residents 61345
in institutions under the jurisdiction of ~~the department of mental~~ 61346
~~health or~~ the department of mental retardation and developmental 61347
disabilities, and of residents in private facilities or homes 61348
whose care or treatment is being paid for by the department of 61349
mental retardation and developmental disabilities, shall be based 61350
on the average per capita cost of the care and treatment of such 61351
~~patients or~~ residents. The cost of services for ~~mentally ill~~ 61352
~~patients or~~ mentally retarded residents shall be computed using 61353
the projected average daily per capita cost at the ~~hospital or~~ 61354
institution, or at the discretion of the department under the 61355
jurisdiction of which the ~~hospital or~~ institution is operated, the 61356
subunit thereof in which services are provided. Such costs shall 61357
be computed at least annually for the next prospective period 61358
using generally accepted governmental accounting principles. The 61359
cost of services for mentally retarded residents that are being 61360
cared for and maintained in a private facility or home under the 61361
supervision of the department of mental retardation and 61362
developmental disabilities regional offices and for which a 61363
purchase of services contract is being paid to the private 61364
facility or home by the department shall not be more than the per 61365
diem cost of the contract. The cost of services for a resident 61366
receiving pre-admission care, after-care, day-care, or routine 61367
consultation and treatment services in a community service unit 61368
under the jurisdiction of the department, shall be computed on the 61369
basis of the average cost of such services at the institution at 61370
which they are provided. 61371

The cost for support of a ~~patient receiving~~ recipient of 61372
state-operated community mental health services is an amount 61373
determined using guidelines the department of mental health shall 61374

issue. The guidelines shall be based on cost-findings and 61375
rate-settings applicable to such services. 61376

The appropriate department shall annually determine the 61377
ability to pay of a ~~patient or~~ resident, recipient, or the 61378
~~patient's or~~ resident's or recipient's liable relatives and the 61379
amount that such person shall pay in accordance with section 61380
5121.04 of the Revised Code. 61381

Collections of support payments shall be made by the 61382
department of mental health and the department of mental 61383
retardation and developmental disabilities and, subject to meeting 61384
prior requirements for payment and crediting of such collections 61385
and other available receipts, in accordance with the bond 61386
proceedings applicable to obligations issued pursuant to section 61387
154.20 of the Revised Code, such collections and other available 61388
receipts designated by the director of the department of mental 61389
health and the director of the department of mental retardation 61390
and developmental disabilities for deposit in the special 61391
accounts, together with insurance contract payments provided for 61392
in division (B)(8) of section 5121.04 of the Revised Code, shall 61393
be remitted to the treasurer of state for deposit in the state 61394
treasury to the credit of the mental health operating fund and the 61395
mental retardation operating fund, which are hereby created, to be 61396
used for the general purposes of the department of mental health 61397
and the department of mental retardation and developmental 61398
disabilities. The department of mental health shall make refunds 61399
of overpayment of support charges from the mental health operating 61400
fund, and the department of mental retardation and developmental 61401
disabilities shall make refunds of overpayment of support charges 61402
from the mental retardation operating fund. 61403

Sec. ~~5121.01~~ 5121.02. All ~~patients or~~ residents of a 61404
~~benevolent~~ admitted to an institution, or facility pursuant to 61405

Chapter 5123. of the Revised Code shall be maintained at the 61406
expense of the state. Their traveling and incidental expenses in 61407
conveying them to the institution or facility shall be paid by the 61408
county of commitment. Upon admission, the ~~patients or~~ residents 61409
shall be neatly and comfortably clothed. Thereafter, the expense 61410
of necessary clothing shall be borne by the responsible relatives 61411
or guardian if they are financially able. If not furnished, the 61412
state shall bear the expense. Any required traveling expense after 61413
admission to the institution or facility shall be borne by the 61414
state if the responsible relatives or guardian are unable to do 61415
so. 61416

Sec. ~~5121.02~~ 5121.03. When any person is committed to an 61417
institution under the jurisdiction of ~~the department of mental~~ 61418
~~health or~~ the department of mental retardation and developmental 61419
disabilities pursuant to judicial proceedings, the judge ordering 61420
such commitment shall: 61421

(A) Make a reliable report on the financial condition of such 61422
person and of each of the relatives of the person who are liable 61423
for ~~his~~ the person's support, as provided in section 5121.06 of 61424
the Revised Code and rules and procedures agreed upon by ~~the~~ 61425
~~director of mental health and~~ the director of mental retardation 61426
and developmental disabilities; 61427

(B) Certify to the managing officer of such institution, and 61428
the managing officer shall thereupon enter upon ~~his~~ the managing 61429
officer's records the name and address of any guardian appointed 61430
and of any relative liable for such person's support under section 61431
5121.06 of the Revised Code. 61432

Sec. 5121.04. (A) The ~~department of mental health and the~~ 61433
department of mental retardation and developmental disabilities 61434
shall investigate the financial condition of the ~~patients in~~ 61435

~~hospitals and~~ residents in institutions, residents whose care or 61436
treatment is being paid for in a private facility or home under 61437
the control of the department of mental retardation and 61438
developmental disabilities, and of the relatives named in section 61439
5121.06 of the Revised Code as liable for the support of such 61440
~~patients or~~ residents, in order to determine the ability of any 61441
~~patient, resident, or such~~ relatives of residents to pay for the 61442
support of the ~~patient or~~ resident and to provide suitable 61443
clothing as required by the superintendent of the institution. 61444

The department of mental health shall investigate the 61445
financial condition of ~~patients receiving state operated community~~ 61446
~~mental health services~~ recipients and of the liable relatives of 61447
recipients to determine the ~~patient's~~ recipient's or relative's 61448
ability to pay for the ~~patient's~~ recipient's support. In all 61449
cases, in determining ability to pay and the amount to be charged, 61450
due regard shall be had for others who may be dependent for 61451
support upon such relatives or the estate of the ~~patient~~ 61452
recipient. 61453

(B) The department shall follow the provisions of this 61454
division in determining the ability to pay of a ~~patient or~~ 61455
resident or recipient or the ~~patient's or~~ resident's or 61456
recipient's liable relatives and the amount to be charged such 61457
~~patient or~~ resident, recipient, or liable relatives. 61458

(1) Subject to divisions (B)(10) and (11) of this section, a 61459
~~patient or~~ resident or recipient without dependents shall be 61460
liable for the full applicable cost. A ~~patient or~~ resident or 61461
recipient without dependents who has a gross annual income equal 61462
to or exceeding the sum of the full applicable cost, plus fifty 61463
dollars per month, regardless of the source of such income, shall 61464
pay currently the full amount of the applicable cost; if the 61465
~~patient's or~~ resident's or recipient's gross annual income is less 61466
than such sum, not more than fifty dollars per month shall be kept 61467

for personal use by or on behalf of the ~~patient or~~ resident or 61468
recipient, except as permitted in the state plan for providing 61469
medical assistance under Title XIX of the "Social Security Act," 61470
49 Stat. 620 (1935), 42 U.S.C. 301, as amended, and the balance 61471
shall be paid currently on the ~~patient's or~~ resident's or 61472
recipient's support. Subject to divisions (B)(10) and (11) of this 61473
section, the estate of a ~~patient or~~ resident or recipient without 61474
dependents shall pay currently any remaining difference between 61475
the applicable cost and the amounts prescribed in this section, or 61476
shall execute an agreement with the department for payment to be 61477
made at some future date under terms suitable to the department. 61478
However, no security interest, mortgage, or lien shall be taken, 61479
granted, or charged against any principal residence of a ~~patient~~ 61480
~~or~~ resident or recipient without dependents under an agreement or 61481
otherwise to secure support payments, and no foreclosure actions 61482
shall be taken on security interests, mortgages, or liens taken, 61483
granted, or charged against principal residences of ~~patients or~~ 61484
residents or recipients prior to October 7, 1977. 61485

(2) The ability to pay of a ~~patient or~~ resident or recipient 61486
with dependents, or of a liable relative of a ~~patient or~~ resident 61487
or recipient either with or without dependents, shall be 61488
determined in accordance with the ~~patient's,~~ resident's, 61489
recipient's, or liable relative's income or other assets, the 61490
needs of others who are dependent on such income and other assets 61491
for support, and, if applicable, divisions (B)(10) and (11) of 61492
this section. 61493

For the first thirty days of care and treatment of each 61494
admission and for the first thirty days of care and treatment from 61495
state-operated community mental health services, but in no event 61496
for more than thirty days in any calendar year, the ~~mentally ill~~ 61497
~~patient or mentally retarded~~ resident or recipient with dependents 61498
or the liable relative of a ~~mentally ill patient or a mentally~~ 61499

~~retarded~~ resident or recipient either with or without dependents 61500
 shall be charged an amount equal to the percentage of the average 61501
 applicable cost determined in accordance with the schedule of 61502
 adjusted gross annual income contained after this paragraph. After 61503
 such first thirty days of care and treatment, such ~~mentally ill~~ 61504
~~patient or mentally retarded~~ resident, recipient, or such liable 61505
 relative shall be charged an amount equal to the percentage of a 61506
 base support rate of four dollars per day for ~~mentally ill~~ 61507
~~patients and mentally retarded~~ residents or recipients, as 61508
 determined in accordance with the schedule of gross annual income 61509
 contained after this paragraph, or in accordance with division 61510
 (B)(5) of this section. Beginning January 1, 1978, the department 61511
 shall increase the base rate when the consumer price index average 61512
 is more than 4.0 for the preceding calendar year by not more than 61513
 the average for such calendar year. 61514

Adjusted Gross Annual 61515

Income of Patient or Resident 61516

or Liable Relative (FN a) Number of Dependents (FN b) 61517

8 or 61518

1 2 3 4 5 6 7 more 61519

Rate of Support (In Percentages) 61520

\$15,000 or less -- -- -- -- -- -- -- -- 61521

15,001 to 17,500 20 -- -- -- -- -- -- -- 61522

17,501 to 20,000 25 20 -- -- -- -- -- -- 61523

20,001 to 21,000 30 25 20 -- -- -- -- -- 61524

21,001 to 22,000 35 30 25 20 -- -- -- -- 61525

22,001 to 23,000 40 35 30 25 20 -- -- -- 61526

23,001 to 24,000 45 40 35 30 25 20 -- -- 61527

24,001 to 25,000 50 45 40 35 30 25 20 -- 61528

25,001 to 26,000 55 50 45 40 35 30 25 20 61529

26,001 to 27,000 60 55 50 45 40 35 30 25 61530

27,001 to 28,000 70 60 55 50 45 40 35 30 61531

28,001 to 30,000 80 70 60 55 50 45 40 35 61532

30,001 to 40,000	90	80	70	60	55	50	45	40	61533
40,001 and over	100	90	80	70	60	55	50	45	61534

Footnote a. The ~~patient or~~ resident, recipient, or relative shall furnish a copy of the ~~patient's~~, resident's, recipient's, or relative's federal income tax return as evidence of gross annual income. 61535
61536
61537
61538

Footnote b. The number of dependents includes the liable relative but excludes ~~the patient or a~~ resident in ~~the hospital or an~~ institution. "Dependent" includes any person who receives more than half the person's support from the ~~patient~~ resident, recipient, or the ~~patient's~~ resident's or recipient's liable relative. 61539
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(3) A ~~patient or~~ resident, recipient, or liable relative having medical, funeral, or related expenses in excess of four per cent of the adjusted gross annual income, which expenses were not covered by insurance, may adjust such gross annual income by reducing the adjusted gross annual income by the full amount of such expenses. Proof of such expenses satisfactory to the department must be furnished. 61545
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(4) Additional dependencies may be claimed if: 61552

(a) The liable relative is blind; 61553

(b) The liable relative is over sixty-five; 61554

(c) A child is a college student with expenses in excess of fifty dollars per month; 61555
61556

(d) The services of a housekeeper, costing in excess of fifty dollars per month, are required if the person who normally keeps house for minor children is the ~~patient or~~ resident or recipient. 61557
61558
61559

(5) If with respect to any ~~patient or~~ resident or recipient with dependents there is chargeable under division (B)(2) of this section less than fifty per cent of the applicable cost or, if the 61560
61561
61562

base support rate was used, less than fifty per cent of the amount 61563
determined by use of the base support rate, and if with respect to 61564
such ~~patient~~ or resident or recipient there is a liable relative 61565
who has an estate having a value in excess of fifteen thousand 61566
dollars or if such ~~patient~~ or resident or recipient has a 61567
dependent and an estate having a value in excess of fifteen 61568
thousand dollars, there shall be paid with respect to such ~~patient~~ 61569
~~or resident~~ or recipient a total of fifty per cent of the 61570
applicable cost or the base support rate amount, as the case may 61571
be, on a current basis or there shall be executed with respect to 61572
such ~~patient~~ or resident or recipient an agreement with the 61573
department for payment to be made at some future date under terms 61574
suitable to the department. 61575

(6) When a person has been a ~~patient~~ or resident or recipient 61576
for fifteen years and the support charges for which a relative is 61577
liable have been paid for the fifteen-year period, the liable 61578
relative shall be relieved of any further support charges. 61579

(7) The department shall accept voluntary payments from 61580
~~patients~~ or residents, recipients, or liable relatives whose 61581
incomes are below the minimum shown in the schedule set forth in 61582
this division. The department also shall accept voluntary payments 61583
in excess of required amounts from both liable and nonliable 61584
relatives. 61585

(8) If a ~~patient~~ or resident or recipient is covered by an 61586
insurance policy, or other contract that provides for payment of 61587
expenses for care and treatment for mental illness or mental 61588
retardation at or from an institution, or facility (including a 61589
~~hospital~~ or community service unit under the jurisdiction of the 61590
department), or state-operated community mental health service, 61591
the other provisions of this section, except divisions (B)(8), 61592
(10), and (11) of this section, and of section ~~5121.03~~ 5121.01 of 61593
the Revised Code shall be suspended to the extent that such 61594

insurance policy or other contract is in force, and such ~~patient~~ 61595
~~or~~ resident or recipient shall be charged the full amount of the 61596
applicable cost. Any insurance carrier or other third party payor 61597
providing coverage for such care and treatment shall pay for this 61598
support obligation in an amount equal to the lesser of either the 61599
applicable cost or the benefits provided under the policy or other 61600
contract. Whether or not an insured, owner of, or other person 61601
having an interest in such policy or other contract is liable for 61602
support payments under other provisions of this chapter, the 61603
insured, policy owner, or other person shall assign payment 61604
directly to the department of all assignable benefits under the 61605
policy or other contract and shall pay over to the department, 61606
within ten days of receipt, all insurance or other benefits 61607
received as reimbursement or payment for expenses incurred by the 61608
~~patient or~~ resident or recipient or for any other reason. If the 61609
insured, policy owner, or other person refuses to assign such 61610
payment to the department or refuses to pay such received 61611
reimbursements or payments over to the department within ten days 61612
of receipt, the insured's, policy owners', or other person's total 61613
liability for the services equals the applicable statutory 61614
liability for payment for the services as determined under other 61615
provisions of this chapter, plus the amounts payable under the 61616
terms of the policy or other contract. In no event shall this 61617
total liability exceed the full amount of the applicable cost. 61618
Upon its request, the department is entitled to a court order that 61619
compels the insured, owner of, or other person having an interest 61620
in the policy or other contract to comply with the assignment 61621
requirements of this division or that itself serves as a legally 61622
sufficient assignment in compliance with such requirements. 61623
Notwithstanding section 5122.31 of the Revised Code and any other 61624
law relating to confidentiality of records, the managing officer 61625
of the institution or facility where a person is or has been a 61626
~~patient or~~ resident, or the managing officer of the state-operated 61627

community mental health services from which the ~~patient~~ recipient 61628
receives services, shall disclose pertinent medical information 61629
concerning the ~~patient~~ or resident or recipient to the insurance 61630
carrier or other third party payor in question, in order to effect 61631
collection from the carrier or payor of the state's claim for care 61632
and treatment under this division. For such disclosure, the 61633
managing officer is not subject to any civil or criminal 61634
liability. 61635

(9) The rate to be charged for pre-admission care, 61636
after-care, day-care, or routine consultation and treatment 61637
services shall be based upon the ability of the ~~patient~~ or 61638
resident or the ~~patient's~~ or resident's liable relatives to pay. 61639
When it is determined by the department that a charge shall be 61640
made, such charge shall be computed as provided in divisions 61641
(B)(1) and (2) of this section. 61642

(10) If a ~~patient~~ or resident or recipient with or without 61643
dependents is the beneficiary of a trust created pursuant to 61644
section 1339.51 of the Revised Code, then, notwithstanding any 61645
contrary provision of this chapter or of a rule adopted pursuant 61646
to this chapter, divisions (C) and (D) of that section shall apply 61647
in determining the assets or resources of the ~~patient~~ or resident, 61648
the recipient, the ~~patient's~~ or resident's or recipient's estate, 61649
the settlor, or the settlor's estate and to claims arising under 61650
this chapter against the ~~patient~~ or resident, the recipient, the 61651
~~patient's~~ or resident's or recipient's estate, the settlor, or the 61652
settlor's estate. 61653

(11) If the department of mental retardation and 61654
developmental disabilities waives the liability of an individual 61655
and the individual's liable relatives pursuant to section 5123.194 61656
of the Revised Code, the liability of the individual and relative 61657
ceases in accordance with the waiver's terms. 61658

(C) The department may enter into agreements with a ~~patient~~ 61659

~~or~~ resident, a recipient, or a liable relative for support 61660
payments to be made in the future. However, no security interest, 61661
mortgage, or lien shall be taken, granted, or charged against any 61662
principal family residence of a ~~patient~~ ~~or~~ resident or recipient 61663
with dependents or a liable relative under an agreement or 61664
otherwise to secure support payments, and no foreclosure actions 61665
shall be taken on security interests, mortgages or liens taken, 61666
granted, or charged against principal residences of ~~patients~~ ~~or~~ 61667
residents, recipients, or liable relatives prior to October 7, 61668
1977. 61669

(D) The department shall make all investigations and 61670
determinations required by this section within ninety days after a 61671
~~patient~~ ~~or~~ resident is admitted to an institution under the 61672
department's control or a ~~patient~~ recipient begins to receive 61673
state-operated community mental health services, and immediately 61674
shall notify by mail the persons liable of the amount to be 61675
charged. 61676

(E) All actions to enforce the collection of payments agreed 61677
upon or charged by the department shall be commenced within six 61678
years after the date of default of an agreement to pay support 61679
charges or the date such payment becomes delinquent. If a payment 61680
is made pursuant to an agreement which is in default, a new 61681
six-year period for actions to enforce the collection of payments 61682
under such agreement shall be computed from the date of such 61683
payment. For purposes of this division an agreement is in default 61684
or a payment is delinquent if a payment is not made within thirty 61685
days after it is incurred or a payment, pursuant to an agreement, 61686
is not made within thirty days after the date specified for such 61687
payment. In all actions to enforce the collection of payment for 61688
the liability for support, every court of record shall receive 61689
into evidence the proof of claim made by the state together with 61690
all debts and credits, and it shall be prima-facie evidence of the 61691

facts contained in it.

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Sec. 5121.05. The department of mental health and the department of mental retardation and developmental disabilities may subpoena witnesses, take testimony under oath, and examine any public records relating to the income and other assets of a ~~patient or~~ resident, recipient, or of a relative liable for such ~~patient's or~~ resident's or recipient's support. All information, conclusions, and recommendations shall be submitted to the department by the investigating agent of the department. The department shall determine the amount of support to be paid, by whom, and whether clothing shall be furnished by the relatives or guardian.

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Sec. 5121.06. (A) The following persons other than the ~~patient or~~ resident, the recipient, or the ~~patient's or~~ resident's or recipient's estate are liable relatives and all the following persons are jointly and severally liable for the support of a ~~patient or~~ resident in a ~~hospital or~~ institution under the control of ~~the department of mental health or~~ the department of mental retardation and developmental disabilities or for the support of a ~~patient receiving~~ recipient of state-operated community mental health services:

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(1) The ~~patient or~~ resident, the recipient, or the ~~patient's or~~ resident's or recipient's estate;

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(2) The ~~patient's or~~ resident's or recipient's spouse;

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(3) The father or mother, or both, of a minor ~~patient or~~ resident or recipient under the age of eighteen years.

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(B) The department shall determine, pursuant to section 5121.04 of the Revised Code, the amount to be charged each such liable person in the order named in this section, but shall not collect from any person more than one hundred per cent of the

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applicable cost.

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(C) An action to collect delinquent payments or to enforce agreements in default may be brought against any or all persons named in this section. To the extent parents of adult ~~patients or~~ residents or recipients, pursuant to the language of this section previously in force, incurred charges for the support of such ~~patients or~~ residents or recipients between the eighteenth birthday of such ~~patient or~~ resident or recipient and July 1, 1975, their liability for such period may be cancelled, compromised, or settled as provided in section 5121.07 of the Revised Code.

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(D) Irrespective of the number of ~~patients or~~ residents or recipients whose care might be chargeable against a liable relative, no individual liable relative nor any group of liable relatives who are members of the same family unit shall be charged with the support of more than one ~~patient or~~ resident or recipient during the same period of time, and different periods of time for which such liable relative has paid the charges for such different ~~patients' or residents' or recipients'~~ care and support shall be added together for the purpose of completing the maximum fifteen-year period of liability of such liable relative under division (B)(6) of section 5121.04 of the Revised Code.

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Sec. 5121.061. The authority of the department of mental health or the department of mental retardation and developmental disabilities to modify support charges pursuant to section 5121.04 of the Revised Code shall not be exercised until the ~~patient or~~ resident, recipient, or liable relative has petitioned the department for modification as provided in section 5121.07 of the Revised Code and has offered to the department satisfactory proof of ~~his~~ the resident's, recipient's, or liable relative's earnings and assets. The department may modify the charges if its

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investigation warrants such modification. 61753

Sec. 5121.07. Any person who has been charged with the 61754
payment of the support of a ~~patient or~~ resident of any benevolent 61755
institution; for pre-admission care, after-care, day-care, or 61756
routine consultation and treatment services in a community service 61757
unit under the control of ~~the department of mental health or~~ the 61758
department of mental retardation and developmental disabilities; 61759
or for the cost of state-operated community mental health services 61760
may petition the department for a release from, or modification 61761
of, such charge, and the department, after an investigation, may 61762
cancel or modify such former charge, or may cancel, compromise, or 61763
settle any accrued liability in an amount not exceeding five 61764
thousand dollars. Amounts in excess thereof may be canceled, 61765
compromised, or settled as provided in section 131.02 of the 61766
Revised Code. The department may for due cause increase the amount 61767
previously ordered paid. 61768

Sec. 5121.08. The managing officers of the benevolent 61769
institutions under the control of ~~the department of mental health~~ 61770
~~and~~ the department of mental retardation and developmental 61771
disabilities, the managing officers of state-operated community 61772
mental health services, and the committing court, if requested, 61773
shall submit to the department such information as they may obtain 61774
concerning the financial condition of any ~~patient or~~ resident, 61775
recipient, or of relatives liable for the ~~patient's or~~ resident's 61776
or recipient's support. 61777

Sec. 5121.09. In case the estate of any ~~patient or~~ resident 61778
in a benevolent institution under the jurisdiction of ~~the~~ 61779
~~department of mental health or~~ the department of mental 61780
retardation and developmental disabilities or ~~receiving~~ recipient 61781
of state-operated community mental health services is sufficient 61782

for the ~~patient's or~~ resident's or recipient's support, without 61783
hardship to any others who may be dependent thereon, and no 61784
guardian has been appointed for such estate, the agent of the 61785
department shall petition the probate court of the proper county 61786
to appoint a guardian. 61787

Sec. 5121.10. Upon the death of a person who is a ~~patient or~~ 61788
resident, or has been a ~~patient or~~ resident, of any benevolent 61789
institution under the jurisdiction of ~~the department of mental~~ 61790
~~health or~~ the department of mental retardation and developmental 61791
disabilities or of a person who is a recipient or has been a 61792
recipient of state-operated community mental health services, or 61793
~~upon the death~~ of a person responsible under section 5121.06 of 61794
the Revised Code for the support of a ~~patient or~~ resident or 61795
recipient, the department may waive the presentation of any claim 61796
for support against the estate of such decedent, when in its 61797
judgment an otherwise dependent person will be directly benefited 61798
by the estate. Claims against an estate for support of a ~~patient~~ 61799
~~or~~ resident or recipient are subject to section 1339.51 and 61800
Chapter 2117. of the Revised Code, and shall be treated, and may 61801
be barred, the same as the claims of other creditors of the 61802
estate, pursuant to that section or chapter. 61803

The department may accept from a guardian or trustee of a 61804
~~patient or~~ resident or recipient a contract agreeing to pay to the 61805
state from the property of the guardian's or trustee's ward before 61806
or at the death of the ward a fixed annual amount for the support 61807
of the ward while the ward is a ~~patient or~~ resident or recipient, 61808
with interest at four per cent per annum. A copy of the contract 61809
shall be filed in the probate court of the proper county and duly 61810
entered as a part of the records concerning the ward. 61811

Sec. 5121.11. The state shall bear the expense of the burial 61812
or cremation of an indigent ~~patient or~~ resident who dies in a 61813

~~state hospital for the mentally ill, or an~~ institution for the 61814
mentally retarded, or in a state correctional institution, if the 61815
body is not claimed for interment or cremation at the expense of 61816
friends or relatives, or is not delivered for anatomical purposes 61817
or for the study of embalming in accordance with section 1713.34 61818
of the Revised Code. The managing officer of the institution shall 61819
provide at the grave of the person or, if the person's cremated 61820
remains are buried, at the grave of the person's cremated remains, 61821
a metal, stone, or concrete marker on which shall be inscribed the 61822
name and age of the person and the date of death. 61823

Sec. 5121.12. The support and maintenance of ~~patients~~ 61824
~~confined in state hospitals for the mentally ill or of~~ residents 61825
confined in state institutions for the mentally retarded, 61826
including those transferred to them from state correctional 61827
institutions, and also including persons under indictment or 61828
conviction for crime, shall be collected and paid in accordance 61829
with this chapter. 61830

Sec. 5121.21. ~~(A)~~ If payment of any amount due the state 61831
under the provisions of Chapter 5121. of the Revised Code is made 61832
on account of a ~~patient or~~ resident or recipient by any liable 61833
relative, as defined in division (A) of section 5121.06 of the 61834
Revised Code, such relative may recover the following amounts from 61835
the following persons; provided, that in no event may such 61836
relative recover in total more than such relative has paid the 61837
state, and provided, that in no event is the person from whom 61838
recovery is sought obliged to pay at a rate of support higher than 61839
such person would have paid had the state proceeded directly 61840
against such person: 61841

~~(1)~~ (A) Any liable person may recover from the ~~patient or~~ 61842
resident or recipient, ~~his~~ the resident's or recipient's guardian, 61843
or from the executor or administrator of the ~~patient's or~~ 61844

resident's or recipient's estate, the full amount of payment made 61845
by such liable relative. 61846

~~(2)~~(B) Any liable relative may recover from the ~~patient's or~~ 61847
resident's ~~husband or wife,~~ or recipient's spouse the full amount 61848
of payment made by such liable relative. 61849

~~(3)~~(C) A minor ~~patient's or~~ resident's or recipient's mother 61850
may recover from such minor ~~patient's or~~ resident's or recipient's 61851
father the full amount of payment made by such mother. 61852

~~(4)~~(D) Any liable relative, other than the ~~patient's or~~ 61853
resident's or recipient's spouse ~~and other than or~~ a minor 61854
~~patient's or~~ resident's or recipient's parent, may recover from 61855
such ~~of a patient's or~~ resident's or recipient's adult ~~sons and~~ 61856
~~daughters~~ children as are liable under division (A)(4) of section 61857
5121.06 of the Revised Code, the full amount of payment made by 61858
such liable relative; provided, that there may be recovered from 61859
each such ~~son or daughter~~ adult child only such proportion of the 61860
total payment as the figure one bears to the total number of such 61861
adult ~~sons and daughters~~ children. 61862

~~(5)~~(E) An adult ~~patient's or~~ resident's or recipient's mother 61863
may recover from an adult ~~patient's or~~ resident's or recipient's 61864
father the full amount of payment made by such mother. 61865

Sec. 5121.30. As used in sections 5121.30 to 5121.55 of the 61866
Revised Code: 61867

(A) "Countable assets" means all of the following: 61868

(1) Cash; 61869

(2) Bank deposits; 61870

(3) Securities; 61871

(4) Individual retirement accounts; 61872

(5) Qualified employer plans, including 401(k) and Keogh 61873

<u>plans;</u>	61874
<u>(6) Pension funds;</u>	61875
<u>(7) Annuities;</u>	61876
<u>(8) Funds in a trust created under section 1339.51 of the Revised Code;</u>	61877 61878
<u>(9) Investment property and income;</u>	61879
<u>(10) The cash surrender values of life insurance policies;</u>	61880
<u>(11) Assets acquired by gift, bequest, devise, or inheritance;</u>	61881 61882
<u>(12) Any other asset determined by the department of mental health to be equivalent to the assets enumerated in this division.</u>	61883 61884
<u>(B) "Federal poverty level" or "FPL" means the income level represented by the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.</u>	61885 61886 61887 61888 61889 61890 61891
<u>(C) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.</u>	61892 61893 61894 61895 61896 61897
<u>(D) "Hospital" means an institution, hospital, or other place established, controlled, or supervised by the department under Chapter 5119. of the Revised Code.</u>	61898 61899 61900
<u>(E) "Liable relative" means both of the following:</u>	61901
<u>(1) A patient's spouse;</u>	61902

(2) A patient's mother or father, or both, if the patient is 61903
under eighteen years of age. 61904

(F) "Patient" means a person admitted to a hospital for 61905
inpatient care or treatment. 61906

Sec. 5121.31. All patients shall be maintained at the expense 61907
of the state. The traveling and incidental expenses in conveying 61908
them to a hospital shall be paid by the county of commitment. On 61909
admission, patients shall be neatly and comfortably clothed. 61910
Thereafter, the expense of necessary clothing shall be borne by 61911
the responsible relatives or guardian if they are financially 61912
able. If not furnished, the state shall bear the expense. Any 61913
required traveling expense after admission to the hospital shall 61914
be borne by the state if the responsible relatives or guardian is 61915
unable to do so. 61916

Sec. 5121.32. On an annual basis, the department of mental 61917
health shall determine both of the following using generally 61918
accepted governmental accounting principles: 61919

(A) The applicable per diem charge for each hospital operated 61920
by the department; 61921

(B) The ancillary per diem rate for each hospital operated by 61922
the department. 61923

In determining a hospital's applicable per diem charge and 61924
ancillary per diem rate, the department shall consider the average 61925
actual per diem cost of maintaining and treating a patient at the 61926
hospital or, at the department's discretion, the average actual 61927
per diem cost of maintaining and treating a patient in a unit of 61928
the hospital. 61929

Sec. 5121.33. Except as provided in sections 5121.35, 61930
5121.43, 5121.46, 5121.47, 5121.49, and 5121.52 of the Revised 61931

Code, the department of mental health shall, for each billing 61932
cycle, charge a patient, patient's estate, or liable relative an 61933
amount equal to the sum of the following: 61934

(A) The applicable per diem charge multiplied by the number 61935
of days the patient was admitted to the hospital; 61936

(B) An amount that was previously billed but not paid. 61937

Sec. 5121.34. A patient, patient's estate, and patient's 61938
liable relatives shall be jointly and severally liable for amounts 61939
charged by the department of mental health in accordance with 61940
sections 5121.33 and 5121.35 of the Revised Code. In no case shall 61941
any of the foregoing persons be liable for more than one hundred 61942
per cent of any amount charged. 61943

Sec. 5121.35. The department of mental health shall charge a 61944
patient, patient's estate, or liable relative an amount discounted 61945
from the amount the department charges under section 5121.33 of 61946
the Revised Code if the department determines through the 61947
application process described in section 5121.36 of the Revised 61948
Code or through the financial assessment process described in 61949
section 5121.37 of the Revised Code that the patient, estate, or 61950
relative is eligible for a discount. 61951

Sec. 5121.36. (A) A patient, patient's estate, or liable 61952
relative may apply for a discount by completing an application 61953
form the director of mental health specifies in rules adopted 61954
under section 5121.55 of the Revised Code. The department of 61955
mental health may require a patient, estate, or relative to 61956
furnish any of the following with an application form: 61957

(1) A copy of the patient's, estate's, or liable relative's 61958
federal income tax return for the year preceding the date of 61959

application or, if that is not yet available, the preceding year; 61960

(2) A copy of the patient's, estate's, or liable relative's 61961
employee tax withholding return (form W-2) for the year preceding 61962
the date of application. 61963

(B) To be considered, an application must be submitted to the 61964
department not later than one hundred twenty days after the date 61965
the patient is admitted to a hospital. 61966

(C) From the information provided by a patient, estate, or 61967
relative, the department shall determine whether the department 61968
will charge the person a discounted amount in accordance with 61969
sections 5121.40 and 5121.41 of the Revised Code. In making this 61970
determination, the department shall consider whether the patient 61971
is covered by an insurance policy or other contract that provides 61972
for payment of expenses and treatment for mental illness. If the 61973
department determines that the patient has coverage, the 61974
department shall require payment in accordance with section 61975
5121.43 of the Revised Code. 61976

(D) The department shall notify the person who submitted the 61977
application form in writing regarding whether that person will be 61978
charged a discounted amount and the per diem rate to be charged. 61979

(E) In accordance with section 5121.42 of the Revised Code, 61980
the department may, at any time, modify an amount charged or 61981
change the per diem rate to be charged if the department learns of 61982
countable assets or income that was not previously disclosed or 61983
was acquired after the application form was submitted. Within a 61984
reasonable time, the department shall notify in writing any person 61985
affected by a modification or change. 61986

Sec. 5121.37. After a patient's admittance to a hospital, the 61987
department of mental health shall conduct a financial assessment 61988
to determine whether the patient, patient's estate, or liable 61989

relative will be charged an amount discounted from the amount the department charges under section 5121.33 of the Revised Code. The department shall make the determination in accordance with sections 5121.40 and 5121.41 of the Revised Code.

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If a discounted rate is to be charged, the department shall notify the person whose financial condition was assessed. The notice shall specify the per diem rate to be charged.

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In accordance with section 5121.42 of the Revised Code, the department may, at any time, modify an amount charged or change the per diem rate to be charged if the department learns of countable assets or income that was not previously disclosed or was acquired after the assessment was conducted. Within a reasonable time, the department shall notify in writing any person affected by a modification or change.

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Sec. 5121.38. The department of mental health may subpoena witnesses, take testimony under oath, and examine any public records relating to the income and other assets of a patient or of a relative liable for such patient's support. All information, conclusions, and recommendations shall be submitted to the department by the investigating agent of the department.

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Sec. 5121.39. The managing officers of the institutions under the control of the department of mental health shall submit to the department such information as they may obtain concerning the financial condition of any patient or relatives liable for the patient's support.

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Sec. 5121.40. (A) A patient, patient's estate, or liable relative may be eligible to be charged an amount discounted from the amount the department of mental health charges under section 5121.33 of the Revised Code if the patient, estate, or relative

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has countable assets with a total value that is not greater than 62019
an amount equal to fifty per cent of the gross annual income that 62020
corresponds with the family size of the patient, estate, or liable 62021
relative under the federal poverty guidelines. For purposes of 62022
determining family size, the patient is one dependent. One 62023
additional dependent shall be included for each of the following 62024
circumstances and persons: 62025

(1) The patient or liable relative is legally blind or deaf; 62026

(2) The patient or liable relative is of sixty-five years of 62027
age or older; 62028

(3) Each child under eighteen years of age for which the 62029
patient or liable relative is legally responsible for support; 62030

(4) The patient's or liable relative's spouse. 62031

(B) A patient, estate, or relative may, not later than one 62032
hundred twenty days after the patient's admission to a hospital, 62033
surrender the value of countable assets sufficient to reduce 62034
countable assets to not more than the limit described in division 62035
(A) of this section. 62036

Sec. 5121.41. (A) If the assets of a patient, patient's 62037
estate, or liable relative do not exceed the countable asset limit 62038
in section 5121.40 of the Revised Code and the annual income of 62039
the patient, estate, or relative does not exceed four hundred per 62040
cent of the federal poverty level, the patient, estate, or 62041
relative shall be charged an amount discounted from the amount the 62042
department charges under section 5121.33 of the Revised Code for 62043
the first thirty days the patient is admitted as an inpatient in a 62044
hospital. The amount of the discount shall be computed according 62045
to the following schedule: 62046

Annual Gross Income 62047

Expressed as a Percentage of FPL 62048

<u>Inpatient</u>	<u>1 -</u>	<u>176 -</u>	<u>200 -</u>	<u>250 -</u>	<u>300 -</u>	<u>350 -</u>	62049
<u>Days at a</u>	<u>175</u>	<u>199</u>	<u>249</u>	<u>299</u>	<u>349</u>	<u>399</u>	62050
<u>Hospital</u>							62051
	<u>Percentage discount from charged amount</u>						62052
<u>1 - 14</u>	<u>100</u>	<u>90</u>	<u>70</u>	<u>50</u>	<u>30</u>	<u>10</u>	62053
<u>15 - 30</u>	<u>100</u>	<u>95</u>	<u>75</u>	<u>55</u>	<u>35</u>	<u>15</u>	62054

(B) A patient, estate, or relative who is charged a discounted amount for the first thirty days the patient is admitted as an inpatient and who has an annual income not greater than one hundred seventy-five per cent of the federal poverty level shall not be charged for the days the patient is admitted beyond the thirtieth day. 62055-62060

(C) A patient, estate, or relative who is charged a discounted amount for the first thirty days the patient is admitted as an inpatient and who has an annual income greater than one hundred seventy-five per cent of the federal poverty level shall be charged an amount equal to the sum of the following for the days the patient is admitted beyond the thirtieth day: 62061-62066

(1) The ancillary per diem rate multiplied by the number of days the patient was admitted to the hospital; 62067-62068

(2) An amount that was previously charged but not paid. 62069

Sec. 5121.42. (A) Except as provided in division (B) of this section, a patient, patient's estate, or liable relative shall cease to be eligible for a discount under sections 5121.36 or 5121.37 of the Revised Code on accumulation of countable assets in excess of an amount equal to fifty per cent of the gross annual income that corresponds with the family size of the patient, estate, or relative plus one additional dependent under the federal poverty guidelines. In making this determination, an additional dependent shall be included for each of the following circumstances and persons: 62070-62079

<u>(1) The patient or liable relative is legally blind or deaf;</u>	62080
<u>(2) The patient or liable relative is over sixty-five years</u>	62081
<u>of age;</u>	62082
<u>(3) Each child under eighteen years of age for which the</u>	62083
<u>patient or liable relative is legally responsible for support;</u>	62084
<u>(4) The patient's or liable relative's spouse.</u>	62085
<u>(B) Money needed to meet the patient's needs and burial fund</u>	62086
<u>as determined by a needs assessment conducted by the department of</u>	62087
<u>mental health pursuant to rules adopted under section 5119.01 of</u>	62088
<u>the Revised Code shall be excluded from any determination the</u>	62089
<u>department makes under division (A) of this section.</u>	62090
<u>Sec. 5121.43. If a patient is covered by an insurance policy</u>	62091
<u>or other contract that provides for payment of expenses for care</u>	62092
<u>and treatment for mental illness at or from an institution,</u>	62093
<u>state-operated community mental health service, or facility,</u>	62094
<u>including a hospital or community service unit under the</u>	62095
<u>jurisdiction of the department of mental health, sections 5121.33</u>	62096
<u>to 5121.55 of the Revised Code are inapplicable to the extent that</u>	62097
<u>the policy or contract is in force. Any insurance carrier or other</u>	62098
<u>third party payor providing coverage for such care and treatment</u>	62099
<u>shall pay for the patient's support obligation in amounts equal to</u>	62100
<u>the lesser of amounts charged by the department under section</u>	62101
<u>5121.33 of the Revised Code or the benefits provided under the</u>	62102
<u>policy or other contract. Whether or not an insured, owner of, or</u>	62103
<u>other person having an interest in such policy or other contract</u>	62104
<u>is liable for support payments, the insured, policy owner, or</u>	62105
<u>other person shall assign payment directly to the department of</u>	62106
<u>all assignable benefits under the policy or other contract and</u>	62107
<u>shall pay to the department, within ten days of receipt, all</u>	62108
<u>insurance or other benefits received as reimbursement or payment</u>	62109

for expenses incurred by the patient or for any other reason. If 62110
the insured, policy owner, or other person refuses to assign 62111
payment to the department or refuses to pay received 62112
reimbursements or payments to the department within ten days of 62113
receipt, the total liability of the insured, policy owner, or 62114
other person for the services equals the sum of the following: 62115

(A) The amount computed under section 5121.33 of the Revised 62116
Code; 62117

(B) The amounts payable under the terms of the policy or 62118
other contract. 62119

In no event shall this total liability exceed the 62120
department's actual cost of providing care and treatment to a 62121
patient. The department may disqualify patients and liable 62122
relatives who have retained third party funds for future 62123
discounts. The department may request that the attorney general 62124
petition a court of competent jurisdiction to compel the insured, 62125
owner of, or other person having an interest in the policy or 62126
contract to comply with the assignment requirements in this 62127
section. 62128

Sec. 5121.44. The department of mental health may enter into 62129
an extended payment agreement with a patient, patient's estate, or 62130
liable relative who has notified the department that the patient, 62131
estate, or relative cannot reasonably pay an amount the department 62132
has charged. In no case shall the department take a security 62133
interest, mortgage, or lien against the principal family residence 62134
of a patient or liable relative with a dependent. 62135

Sec. 5121.45. (A) For purposes of this section, "delinquent 62136
payment" means an amount owed by a patient, patient's estate, or 62137
liable relative to the department of mental health for which the 62138

person has failed to do either of the following not later than 62139
ninety days after the service associated with the charge was 62140
incurred: 62141

(1) Make payment in full; 62142

(2) Make a payment in accordance with the terms of an 62143
agreement entered into under section 5121.44 of the Revised Code. 62144

(B) An action to enforce the collection of a delinquent 62145
payment shall be commenced not later than six years after the 62146
later of the following: 62147

(1) The last date the department received money to satisfy 62148
the delinquent payment; 62149

(2) The date the charge was due. 62150

(C) In all actions to enforce the collection of delinquent 62151
payments, a court of record shall receive into evidence the proof 62152
of claim document made by the state together with all debts and 62153
credits. The proof of claim document shall be prima-facie evidence 62154
of the facts stated in the document. 62155

Sec. 5121.46. The department of mental health shall not 62156
charge a liable relative under sections 5121.33 and 5121.35 of the 62157
Revised Code who has done either of the following: 62158

(A) Paid all amounts charged by the department for the care 62159
and treatment of a particular patient for fifteen consecutive 62160
years; 62161

(B) Paid amounts charged by the department for the care and 62162
treatment of more than one patient for a total of fifteen 62163
consecutive years. 62164

Sec. 5121.47. Irrespective of the number of patients for 62165
which the department of mental health may charge a liable relative 62166

under sections 5121.33 or 5121.35 of the Revised Code, the 62167
department shall not charge a liable relative or group of liable 62168
relatives who are members of the same family unit for the support 62169
of more than one patient during the same period of time. 62170

Sec. 5121.49. (A) Any person who has been charged under 62171
section 5121.33 or 5121.35 of the Revised Code may petition the 62172
department of mental health to do the following: 62173

(1) Release the person from a charge; 62174

(2) Modify or cancel a charge. 62175

(B) The department shall respond to a petition in writing and 62176
inform the petitioner of whether a release, modification, or 62177
cancellation has been approved. 62178

Sec. 5121.50. When a patient is committed to a hospital 62179
pursuant to judicial proceedings, the judge ordering the 62180
commitment shall: 62181

(A) Make a reliable report on the financial condition of the 62182
patient and of each liable relative, as provided in rules adopted 62183
by the director of mental health; 62184

(B) Certify the report required under division (A) of this 62185
section to the managing officer of the hospital. The managing 62186
officer shall thereupon enter in the managing officer's records 62187
the name and address of any guardian appointed and of any relative 62188
liable for the patient's support. 62189

Sec. 5121.51. In case the estate of any patient in a hospital 62190
is sufficient for the patient's support, without hardship to any 62191
others who may be dependent thereon, and no guardian has been 62192
appointed for such estate, the agent of the department of mental 62193
health shall petition the probate court of the proper county to 62194

appoint a guardian.

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Sec. 5121.52. On the death of a person who is a patient, or has been a patient in a hospital, or on the death of a person responsible under section 5121.34 of the Revised Code for the support of a patient, the department of mental health may waive the presentation of any claim for support against the estate of such decedent, when in its judgment an otherwise dependent person will be directly benefited by the estate. Claims against an estate for support of a patient are subject to section 1339.51 and Chapter 2117. of the Revised Code, and shall be treated, and may be barred, the same as the claims of other creditors of the estate, pursuant to that section or chapter.

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The department of mental health may accept from a guardian or trustee of a patient a contract agreeing to pay to the state from the property of the guardian's or trustee's ward before or at the death of the ward a fixed annual amount for the support of the ward while the ward is a patient, with interest at four per cent per annum. A copy of the contract shall be filed in the probate court of the proper county and duly entered as a part of the records concerning the ward.

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Sec. 5121.53. The state shall bear the expense of the burial or cremation of an indigent patient who dies in a hospital if the body is not claimed for interment or cremation at the expense of friends or relatives, or is not delivered for anatomical purposes or for the study of embalming in accordance with section 1713.34 of the Revised Code. The managing officer of the hospital shall provide at the grave of the patient or, if the patient's cremated remains are buried, at the grave of the patient's cremated remains, a metal, stone, or concrete marker on which shall be inscribed the name and age of the patient and the date of death.

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Sec. 5121.54. (A) If payment of any amount due the state 62225
under the provisions of this chapter is made on account of a 62226
patient by any liable relative, as defined in section 5121.30 of 62227
the Revised Code, the relative may recover the following amounts 62228
from the following persons; provided, that in no event may a 62229
relative recover in total more than the relative has paid the 62230
state, and provided, that in no event is the person from whom 62231
recovery is sought obliged to pay at a rate of support higher than 62232
the person would have paid had the state proceeded directly 62233
against that person: 62234

(1) A liable relative may recover from the patient, the 62235
patient's guardian, or from the executor or administrator of the 62236
patient's estate, the full amount of payment made by the liable 62237
relative. 62238

(2) A parent may recover from the patient's or resident's 62239
spouse the full amount of payment made by the parent for 62240
hospitalization that occurred during the marriage. 62241

Sec. 5121.55. The director of mental health shall adopt rules 62242
in accordance with Chapter 119. of the Revised Code regarding the 62243
application form a person must use to apply for a discount as 62244
described in section 5121.36 of the Revised Code. 62245

Sec. 5122.03. A patient admitted under section 5122.02 of the 62246
Revised Code who requests ~~his~~ release in writing, or whose release 62247
is requested in writing by ~~his~~ the patient's counsel, legal 62248
guardian, parent, spouse, or adult next of kin shall be released 62249
forthwith, except that when: 62250

(A) The patient was admitted on ~~his~~ the patient's own 62251
application and the request for release is made by a person other 62252
than the patient, release may be conditional upon the agreement of 62253

the patient; or 62254

(B) The chief clinical officer of the hospital, within three 62255
court days from the receipt of the request for release, files or 62256
causes to be filed with the court of the county where the patient 62257
is hospitalized or of the county where the patient is a resident, 62258
an affidavit under section 5122.11 of the Revised Code. Release 62259
may be postponed until the hearing held under section 5122.141 of 62260
the Revised Code. A telephone communication within three court 62261
days from the receipt of the request for release from the chief 62262
clinical officer to the court, indicating that the required 62263
affidavit has been mailed, is sufficient compliance with the time 62264
limit for filing such affidavit. 62265

Unless the patient is released within three days from the 62266
receipt of the request by the chief clinical officer, the request 62267
shall serve as a request for an initial hearing under section 62268
5122.141 of the Revised Code. If the court finds that the patient 62269
is a mentally ill person subject to hospitalization by court 62270
order, all provisions of this chapter with respect to involuntary 62271
hospitalization apply to such person. 62272

Judicial proceedings for hospitalization shall not be 62273
commenced with respect to a voluntary patient except pursuant to 62274
this section. 62275

Sections ~~5121.01 to 5121.10~~ 5121.30 to 5121.55 of the Revised 62276
Code apply to persons received in a hospital operated by the 62277
department of mental health on a voluntary application. 62278

The chief clinical officer of the hospital shall provide 62279
reasonable means and arrangements for informing patients of their 62280
rights to release as provided in this section and for assisting 62281
them in making and presenting requests for release or for a 62282
hearing under section 5122.141 of the Revised Code. 62283

Before a patient is released from a public hospital, the 62284

chief clinical officer shall, when possible, notify the board of 62285
the patient's county of residence of the patient's pending release 62286
after ~~he~~ the chief clinical officer has informed the patient that 62287
the board will be so notified. 62288

Sec. 5122.31. (A) All certificates, applications, records, 62289
and reports made for the purpose of this chapter and sections 62290
2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised 62291
Code, other than court journal entries or court docket entries, 62292
and directly or indirectly identifying a patient or former patient 62293
or person whose hospitalization has been sought under this 62294
chapter, shall be kept confidential and shall not be disclosed by 62295
any person except: 62296

~~(A)~~(1) If the person identified, or the person's legal 62297
guardian, if any, or if the person is a minor, the person's parent 62298
or legal guardian, consents, and if the disclosure is in the best 62299
interests of the person, as may be determined by the court for 62300
judicial records and by the chief clinical officer for medical 62301
records; 62302

~~(B)~~(2) When disclosure is provided for in this chapter or 62303
section 5123.60 of the Revised Code; 62304

~~(C)~~(3) That hospitals, boards of alcohol, drug addiction, and 62305
mental health services, and community mental health agencies may 62306
release necessary medical information to insurers and other 62307
third-party payers, including government entities responsible for 62308
processing and authorizing payment, to obtain payment for goods 62309
and services furnished to the patient; 62310

~~(D)~~(4) Pursuant to a court order signed by a judge; 62311

~~(E)~~(5) That a patient shall be granted access to the 62312
patient's own psychiatric and medical records, unless access 62313
specifically is restricted in a patient's treatment plan for clear 62314

treatment reasons; 62315

~~(F)~~(6) That hospitals and other institutions and facilities 62316
within the department of mental health may exchange psychiatric 62317
records and other pertinent information with other hospitals, 62318
institutions, and facilities of the department, and with community 62319
mental health agencies and boards of alcohol, drug addiction, and 62320
mental health services with which the department has a current 62321
agreement for patient care or services. Records and information 62322
that may be released pursuant to this division shall be limited to 62323
medication history, physical health status and history, financial 62324
status, summary of course of treatment in the hospital, summary of 62325
treatment needs, and a discharge summary, if any. 62326

~~(G)~~(7) That a patient's family member who is involved in the 62327
provision, planning, and monitoring of services to the patient may 62328
receive medication information, a summary of the patient's 62329
diagnosis and prognosis, and a list of the services and personnel 62330
available to assist the patient and the patient's family, if the 62331
patient's treating physician determines that the disclosure would 62332
be in the best interests of the patient. No such disclosure shall 62333
be made unless the patient is notified first and receives the 62334
information and does not object to the disclosure. 62335

~~(H)~~(8) That community mental health agencies may exchange 62336
psychiatric records and certain other information with the board 62337
of alcohol, drug addiction, and mental health services and other 62338
agencies in order to provide services to a person involuntarily 62339
committed to a board. Release of records under this division shall 62340
be limited to medication history, physical health status and 62341
history, financial status, summary of course of treatment, summary 62342
of treatment needs, and discharge summary, if any. 62343

~~(I)~~(9) That information may be disclosed to the executor or 62344
the administrator of an estate of a deceased patient when the 62345
information is necessary to administer the estate; 62346

~~(J)~~(10) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

~~(K)~~(11) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

~~(L)~~(12) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

~~(M)~~(13) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

~~(N)~~(14) That a community mental health agency that ceases to operate may transfer to either a community mental health agency

that assumes its caseload or to the board of alcohol, drug 62378
addiction, and mental health services of the service district in 62379
which the patient resided at the time services were most recently 62380
provided any treatment records that have not been transferred 62381
elsewhere at the patient's request. 62382

~~(B)~~ Before records are disclosed pursuant to divisions 62383
~~(A)(3)~~, ~~(F)(6)~~, and ~~(H)(8)~~ of this section, the custodian of 62384
the records shall attempt to obtain the patient's consent for the 62385
disclosure. No person shall reveal the contents of a medical 62386
record of a patient except as authorized by law. 62387

(C) The managing officer of a hospital who releases necessary 62388
medical information under division (A)(3) of this section to allow 62389
an insurance carrier or other third party payor to comply with 62390
section 5121.43 of the Revised Code shall neither be subject to 62391
criminal nor civil liability. 62392

Sec. 5123.01. As used in this chapter: 62393

(A) "Chief medical officer" means the licensed physician 62394
appointed by the managing officer of an institution for the 62395
mentally retarded with the approval of the director of mental 62396
retardation and developmental disabilities to provide medical 62397
treatment for residents of the institution. 62398

(B) "Chief program director" means a person with special 62399
training and experience in the diagnosis and management of the 62400
mentally retarded, certified according to division (C) of this 62401
section in at least one of the designated fields, and appointed by 62402
the managing officer of an institution for the mentally retarded 62403
with the approval of the director to provide habilitation and care 62404
for residents of the institution. 62405

(C) "Comprehensive evaluation" means a study, including a 62406
sequence of observations and examinations, of a person leading to 62407

conclusions and recommendations formulated jointly, with 62408
dissenting opinions if any, by a group of persons with special 62409
training and experience in the diagnosis and management of persons 62410
with mental retardation or a developmental disability, which group 62411
shall include individuals who are professionally qualified in the 62412
fields of medicine, psychology, and social work, together with 62413
such other specialists as the individual case may require. 62414

(D) "Education" means the process of formal training and 62415
instruction to facilitate the intellectual and emotional 62416
development of residents. 62417

(E) "Habilitation" means the process by which the staff of 62418
the institution assists the resident in acquiring and maintaining 62419
those life skills that enable the resident to cope more 62420
effectively with the demands of the resident's own person and of 62421
the resident's environment and in raising the level of the 62422
resident's physical, mental, social, and vocational efficiency. 62423
Habilitation includes but is not limited to programs of formal, 62424
structured education and training. 62425

~~(F) "Habilitation center services" means services provided by 62426
a habilitation center certified by the department of mental 62427
retardation and developmental disabilities under section 5123.041 62428
of the Revised Code and covered by the medicaid program pursuant 62429
to rules adopted under section 5111.041 of the Revised Code. 62430~~

~~(G)~~ "Health officer" means any public health physician, 62431
public health nurse, or other person authorized or designated by a 62432
city or general health district. 62433

~~(H)~~(G) "Home and community-based services" means 62434
medicaid-funded home and community-based services specified in 62435
division (B)(1) of section 5111.87 of the Revised Code provided 62436
under the medicaid waiver components the department of mental 62437
retardation and developmental disabilities administers pursuant to 62438

section 5111.871 of the Revised Code. 62439

~~(I)~~(H) "Indigent person" means a person who is unable, 62440
without substantial financial hardship, to provide for the payment 62441
of an attorney and for other necessary expenses of legal 62442
representation, including expert testimony. 62443

~~(J)~~(I) "Institution" means a public or private facility, or a 62444
part of a public or private facility, that is licensed by the 62445
appropriate state department and is equipped to provide 62446
residential habilitation, care, and treatment for the mentally 62447
retarded. 62448

~~(K)~~(J) "Licensed physician" means a person who holds a valid 62449
certificate issued under Chapter 4731. of the Revised Code 62450
authorizing the person to practice medicine and surgery or 62451
osteopathic medicine and surgery, or a medical officer of the 62452
government of the United States while in the performance of the 62453
officer's official duties. 62454

~~(L)~~(K) "Managing officer" means a person who is appointed by 62455
the director of mental retardation and developmental disabilities 62456
to be in executive control of an institution for the mentally 62457
retarded under the jurisdiction of the department. 62458

~~(M)~~(L) "Medicaid" has the same meaning as in section 5111.01 62459
of the Revised Code. 62460

~~(N)~~(M) "Medicaid case management services" means case 62461
management services provided to an individual with mental 62462
retardation or other developmental disability that the state 62463
medicaid plan requires. 62464

~~(O)~~(N) "Mentally retarded person" means a person having 62465
significantly subaverage general intellectual functioning existing 62466
concurrently with deficiencies in adaptive behavior, manifested 62467
during the developmental period. 62468

~~(P)~~(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

~~(Q)~~(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

~~(R)~~(O) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.	62499
(3) It is likely to continue indefinitely.	62500
(4) It results in one of the following:	62501
(a) In the case of a person under three years of age, at least one developmental delay or an established risk;	62502 62503
(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;	62504 62505 62506
(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.	62507 62508 62509 62510 62511 62512 62513
(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.	62514 62515 62516 62517
(S) <u>(R)</u> "Developmentally disabled person" means a person with a developmental disability.	62518 62519
(T) <u>(S)</u> "State institution" means an institution that is tax-supported and under the jurisdiction of the department.	62520 62521
(U) <u>(T)</u> "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the	62522 62523 62524 62525 62526 62527 62528

state shall be considered as having legal settlement in the 62529
assistance area in which the person resides. No adult person 62530
coming into this state and having a spouse or minor children 62531
residing in another state shall obtain a legal settlement in this 62532
state as long as the spouse or minor children are receiving public 62533
assistance, care, or support at the expense of the other state or 62534
its subdivisions. For the purpose of determining the legal 62535
settlement of a person who is living in a public or private 62536
institution or in a home subject to licensing by the department of 62537
job and family services, the department of mental health, or the 62538
department of mental retardation and developmental disabilities, 62539
the residence of the person shall be considered as though the 62540
person were residing in the county in which the person was living 62541
prior to the person's entrance into the institution or home. 62542
Settlement once acquired shall continue until a person has been 62543
continuously absent from Ohio for a period of one year or has 62544
acquired a legal residence in another state. A woman who marries a 62545
man with legal settlement in any county immediately acquires the 62546
settlement of her husband. The legal settlement of a minor is that 62547
of the parents, surviving parent, sole parent, parent who is 62548
designated the residential parent and legal custodian by a court, 62549
other adult having permanent custody awarded by a court, or 62550
guardian of the person of the minor, provided that: 62551

(1) A minor female who marries shall be considered to have 62552
the legal settlement of her husband and, in the case of death of 62553
her husband or divorce, she shall not thereby lose her legal 62554
settlement obtained by the marriage. 62555

(2) A minor male who marries, establishes a home, and who has 62556
resided in this state for one year without receiving general 62557
assistance prior to July 17, 1995, under former Chapter 5113. of 62558
the Revised Code, financial assistance under Chapter 5115. of the 62559
Revised Code, or assistance from a private agency that maintains 62560

records of assistance given shall be considered to have obtained a 62561
legal settlement in this state. 62562

(3) The legal settlement of a child under eighteen years of 62563
age who is in the care or custody of a public or private child 62564
caring agency shall not change if the legal settlement of the 62565
parent changes until after the child has been in the home of the 62566
parent for a period of one year. 62567

No person, adult or minor, may establish a legal settlement 62568
in this state for the purpose of gaining admission to any state 62569
institution. 62570

~~(V)~~(U)(1) "Resident" means, subject to division (R)(2) of 62571
this section, a person who is admitted either voluntarily or 62572
involuntarily to an institution or other facility pursuant to 62573
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 62574
Code subsequent to a finding of not guilty by reason of insanity 62575
or incompetence to stand trial or under this chapter who is under 62576
observation or receiving habilitation and care in an institution. 62577

(2) "Resident" does not include a person admitted to an 62578
institution or other facility under section 2945.39, 2945.40, 62579
2945.401, or 2945.402 of the Revised Code to the extent that the 62580
reference in this chapter to resident, or the context in which the 62581
reference occurs, is in conflict with any provision of sections 62582
2945.37 to 2945.402 of the Revised Code. 62583

~~(W)~~(V) "Respondent" means the person whose detention, 62584
commitment, or continued commitment is being sought in any 62585
proceeding under this chapter. 62586

~~(X)~~(W) "Working day" and "court day" mean Monday, Tuesday, 62587
Wednesday, Thursday, and Friday, except when such day is a legal 62588
holiday. 62589

~~(Y)~~(X) "Prosecutor" means the prosecuting attorney, village 62590

solicitor, city director of law, or similar chief legal officer 62591
who prosecuted a criminal case in which a person was found not 62592
guilty by reason of insanity, who would have had the authority to 62593
prosecute a criminal case against a person if the person had not 62594
been found incompetent to stand trial, or who prosecuted a case in 62595
which a person was found guilty. 62596

~~(Z)~~(Y) "Court" means the probate division of the court of 62597
common pleas. 62598

Sec. 5123.045. ~~(A)~~ No person or government entity shall 62599
receive payment for providing home and community-based services 62600
unless the person or government entity is one of the following: 62601

~~(1)~~(A) Certified under ~~this~~ section 5123.16 of the Revised 62602
Code; 62603

~~(2)~~(B) Certified as a supported living provider under section 62604
5126.431 of the Revised Code and certified under section 5123.16 62605
of the Revised Code; 62606

~~(3)~~(C) Licensed as a residential facility under section 62607
5123.19 of the Revised Code. ~~Division (A)(3) of this section does~~ 62608
~~not apply to an intermediate care facility for the mentally~~ 62609
~~retarded as defined in section 5111.20 of the Revised Code.~~ 62610

~~(B) The department of mental retardation and developmental~~ 62611
~~disabilities shall do all of the following in accordance with~~ 62612
~~Chapter 119. of the Revised Code:~~ 62613

~~(1) Certify a person or government entity to provide home and~~ 62614
~~community-based services if the person or government entity~~ 62615
~~satisfies the requirements for certification established by rules~~ 62616
~~adopted under division (C) of this section;~~ 62617

~~(2) Revoke a certificate when required to do so by rules~~ 62618
~~adopted under division (C) of this section;~~ 62619

~~(3) Hold hearings when there is a dispute between the~~ 62620

~~department and a person or government entity concerning actions 62621
the department takes or does not take under division (B)(1) or (2) 62622
of this section. 62623~~

~~(C) The director of mental retardation and developmental 62624
disabilities shall adopt rules in accordance with Chapter 119. of 62625
the Revised Code establishing certification requirements and 62626
procedures for a person or government entity that seeks to provide 62627
home and community based services and is not certified as a 62628
supported living provider under section 5126.431 of the Revised 62629
Code or licensed as a residential facility under section 5123.19 62630
of the Revised Code. The rules shall specify the program areas for 62631
which certification is required and include procedures for all of 62632
the following: 62633~~

~~(1) Ensuring that providers comply with section 5126.28 or 62634
5126.281 of the Revised Code, as appropriate; 62635~~

~~(2) Evaluating the services provided to ensure that they are 62636
provided in a quality manner advantageous to the individual 62637
receiving the services. The procedures shall require that all of 62638
the following be considered as part of an evaluation: 62639~~

~~(a) The provider's experience and financial responsibility; 62640~~

~~(b) The provider's ability to comply with standards for the 62641
home and community based services that the provider provides; 62642~~

~~(c) The provider's ability to meet the needs of the 62643
individuals served; 62644~~

~~(d) Any other factor the director considers relevant. 62645~~

~~(3) Determining when to revoke a provider's certificate. The 62646
reasons for which a certificate may be revoked may include good 62647
cause, including misfeasance, malfeasance, nonfeasance, confirmed 62648
abuse or neglect, financial irresponsibility, or other conduct the 62649
director determines is injurious to individuals being served. 62650~~

~~(D) The records of an evaluation conducted in accordance with rules adopted under division (C)(2) of this section are public records for purposes of section 149.43 of the Revised Code and shall be made available on request of any person, including individuals being served, individuals seeking home and community based services, and county boards of mental retardation and developmental disabilities.~~

Sec. 5123.046. The department of mental retardation and developmental disabilities shall review each component of the three-calendar year plan it receives from a county board of mental retardation and developmental disabilities under section 5126.054 of the Revised Code and, in consultation with the department of job and family services and office of budget and management, approve each component that includes all the information and conditions specified in that section. The fourth component of the plan shall be approved or disapproved not later than forty-five days after the fourth component is submitted to the department under division (B)(3) of section 5126.054 of the Revised Code. If the department approves all four components of the plan, the plan is approved. Otherwise, the plan is disapproved. If the plan is disapproved, the department shall take action against the county board under division (B) of section 5126.056 of the Revised Code.

In approving plans under this section, the department shall ensure that the aggregate of all plans provide for the increased enrollment into home and community-based services during each state fiscal year of at least five hundred individuals who did not receive residential services, supported living, or home and community-based services the prior state fiscal year if the department has enough additional enrollment available for this purpose.

The department shall establish protocols that the department

shall use to determine whether a county board is complying with 62682
the programmatic and financial accountability mechanisms and 62683
achieving outcomes specified in its approved plan. If the 62684
department determines that a county board is not in compliance 62685
with the mechanisms or achieving the outcomes specified in its 62686
approved plan, the department may take action under division 62687
~~(C)~~(F) of section 5126.055 of the Revised Code. 62688

Sec. 5123.047. ~~(A) The department of mental retardation and 62689
developmental disabilities shall pay the nonfederal share of 62690
medicaid expenditures for habilitation center services provided to 62691
an individual with mental retardation or other developmental 62692
disability unless section 5111.041 of the Revised Code requires a 62693
county board of mental retardation and developmental disabilities 62694
or a school district to pay the nonfederal share. 62695~~

~~(B) The department of mental retardation and developmental 62696
disabilities shall pay the nonfederal share of medicaid 62697
expenditures for medicaid case management services if ~~either of 62698
the following apply:~~ 62699~~

~~(1) The the services are provided to an individual with 62700
mental retardation or other developmental disability who a county 62701
board of mental retardation and developmental disabilities has 62702
determined under section 5126.041 of the Revised Code is not 62703
eligible for county board services. 62704~~

~~(2) The services are provided to an individual with mental 62705
retardation or other developmental disability by a public or 62706
private agency with which the department has contracted under 62707
section 5123.56 of the Revised Code to provide protective services 62708
to the individual. 62709~~

~~(C)~~(B) The department shall pay the nonfederal share of 62710
medicaid expenditures for home and community-based services if 62711

either any of the following apply: 62712

(1) The services are provided to an individual with mental 62713
retardation or other developmental disability who a county board 62714
has determined under section 5126.041 of the Revised Code is not 62715
eligible for county board services; 62716

(2) The services are provided to an individual with mental 62717
retardation or other developmental disability given priority for 62718
the services pursuant to division (D)(3) of section 5126.042 of 62719
the Revised Code. The department shall pay the nonfederal share of 62720
medicaid expenditures for home and community-based services 62721
provided to such an individual for as long as the individual 62722
continues to be eligible for and receive the services, regardless 62723
of whether the services are provided after June 30, 2003. 62724

(3) An agreement entered into under section 5123.048 of the 62725
Revised Code requires that the department pay the nonfederal share 62726
of medicaid expenditures for the services. 62727

Sec. 5123.048. The director of mental retardation and 62728
developmental disabilities may enter into an agreement with a 62729
county board of mental retardation and developmental disabilities 62730
under which the department of mental retardation and developmental 62731
disabilities is to pay the nonfederal share of medicaid 62732
expenditures for home and community-based services provided to 62733
individuals with mental retardation or other developmental 62734
disability residing in the county served by the county board if 62735
the agreement is necessary for home and community-based services 62736
to be available statewide. 62737

Sec. 5123.049. The director of mental retardation and 62738
developmental disabilities shall adopt rules in accordance with 62739
Chapter 119. of the Revised Code governing the authorization and 62740
payment of home and community-based services, and medicaid case 62741

management services, ~~and habilitation center services~~. The rules 62742
shall provide for private providers of the services to receive one 62743
hundred per cent of the medicaid allowable payment amount and for 62744
government providers of the services to receive the federal share 62745
of the medicaid allowable payment, less the amount withheld as a 62746
fee under section 5123.0412 of the Revised Code and any amount 62747
that may be required by rules adopted under section 5123.0413 of 62748
the Revised Code to be deposited into the state MR/DD risk fund. 62749
The rules shall establish the process by which county boards of 62750
mental retardation and developmental disabilities shall certify 62751
and provide the nonfederal share of medicaid expenditures that the 62752
county board is required by division (A) of section 5126.057 of 62753
the Revised Code to pay. The process shall require a county board 62754
to certify that the county board has funding available at one time 62755
for two months costs for those expenditures. The process may 62756
permit a county board to certify that the county board has funding 62757
available at one time for more than two months costs for those 62758
expenditures. 62759

Sec. 5123.0412. (A) The department of mental retardation and 62760
developmental disabilities shall charge each county board of 62761
mental retardation and developmental disabilities an annual fee 62762
equal to one and one-half per cent of the total value of all 62763
medicaid paid claims for medicaid case management services and 62764
home and community-based services ~~for which the county board~~ 62765
~~contracts or provides itself~~ provided during the year to an 62766
individual eligible for services from the county board. No county 62767
board shall pass the cost of a fee charged to the county board 62768
under this section on to ~~a person or government entity with which~~ 62769
~~the county board contracts to provide the~~ another provider of 62770
these services. 62771

(B) The fees collected under this section shall be deposited 62772
into the ODMR/DD administration and oversight fund and the ODJFS 62773

administration and oversight fund, both of which are hereby
created in the state treasury. The portion of the fees to be
deposited into the ODMR/DD administration and oversight fund and
the portion of the fees to be deposited into the ODJFS
administration and oversight fund shall be the portion specified
in an interagency agreement entered into under division (C) of
this section. The department of mental retardation and
developmental disabilities shall use the money in the ODMR/DD
administration and oversight fund and the department of job and
family services shall use the money in the ODJFS administration
and oversight fund for both of the following purposes:

(1) The administrative and oversight costs of ~~habilitation
center services,~~ medicaid case management services, and home and
community-based services ~~that a county board develops and monitors
and the county board or a person or government entity under
contract with the county board provides.~~ The administrative and
oversight costs shall include costs for staff, systems, and other
resources the departments need and dedicate solely to the
following duties associated with the services:

(a) Eligibility determinations;

(b) Training;

(c) Fiscal management;

(d) Claims processing;

(e) Quality assurance oversight;

(f) Other duties the departments identify.

(2) Providing technical support to county boards' local
administrative authority under section 5126.055 of the Revised
Code for the services.

(C) The departments of mental retardation and developmental
disabilities and job and family services shall enter into an

interagency agreement to do both of the following: 62804

(1) Specify which portion of the fees collected under this 62805
section is to be deposited into the ODMR/DD administration and 62806
oversight fund and which portion is to be deposited into the ODJFS 62807
administration and oversight fund; 62808

(2) Provide for the departments to coordinate the staff whose 62809
costs are paid for with money in the ODMR/DD administration and 62810
oversight fund and the ODJFS administration and oversight fund. 62811

(D) The departments shall submit an annual report to the 62812
director of budget and management certifying how the departments 62813
spent the money in the ODMR/DD administration and oversight fund 62814
and the ODJFS administration and oversight fund for the purposes 62815
specified in division (B) of this section. 62816

Sec. 5123.16. (A) In accordance with Chapter 119. of the 62817
Revised Code, the director of mental retardation and developmental 62818
disabilities shall adopt and may amend and rescind rules for the 62819
certification of persons or government entities that provide or 62820
propose to provide home and community-based waiver services. The 62821
rules shall establish or specify all of the following: 62822

(1) Procedures for issuing and renewing certification and 62823
establishing expiration dates for currently certified providers; 62824

(2) Procedures and criteria for denying, refusing to renew, 62825
terminating, and revoking certification in accordance with this 62826
section and Chapter 119. of the Revised Code; 62827

(3) Procedures for ordering the suspension of a certified 62828
provider's certification; 62829

(4) Fees for issuing and renewing certification. All fees 62830
collected pursuant to this section shall be deposited in the state 62831
treasury to the credit of the provider certification fund, which 62832
is hereby created. Money credited to the fund shall be used solely 62833

<u>for the operation of the provider certification program</u>	62834
<u>established under this section.</u>	62835
<u>(5) Program services for which certification is required and</u>	62836
<u>provider standards for those services;</u>	62837
<u>(6) Procedures for certification;</u>	62838
<u>(7) Procedures for ensuring that providers comply with</u>	62839
<u>sections 5123.52 and 5126.281 of the Revised Code.</u>	62840
<u>(B) A provider's certification may be terminated when the</u>	62841
<u>certified provider has not billed for services for a period of</u>	62842
<u>more than twelve consecutive months and the provider has been</u>	62843
<u>notified in accordance with Chapter 119. of the Revised Code.</u>	62844
<u>(C) The director may suspend or revoke a provider's</u>	62845
<u>certification in accordance with Chapter 119. of the Revised Code</u>	62846
<u>for good cause, including misfeasance, malfeasance, nonfeasance,</u>	62847
<u>confirmed abuse or neglect, noncompliance with provider</u>	62848
<u>certification standards, financial irresponsibility, or other</u>	62849
<u>conduct the department determines is injurious to individuals</u>	62850
<u>being served.</u>	62851
<u>(D)(1) The director may suspend a certified provider's</u>	62852
<u>certification to serve one or more individuals currently served by</u>	62853
<u>the provider in one or more counties before providing an</u>	62854
<u>opportunity for an adjudication under Chapter 119. of the Revised</u>	62855
<u>Code when the director determines that the certified provider has</u>	62856
<u>demonstrated a pattern of serious noncompliance with certification</u>	62857
<u>standards or that a violation of certification standards creates a</u>	62858
<u>substantial risk to the health and safety of an individual served</u>	62859
<u>by the certified provider and both the following conditions are</u>	62860
<u>met:</u>	62861
<u>(a) The individual or guardian, as appropriate, has been made</u>	62862
<u>aware of the patterns of serious noncompliance or violations of</u>	62863

certification standards that create a substantial risk to the health and safety of the individual, and the individual or guardian does not choose to select another certified provider; and 62864
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(b) A county board of mental retardation and developmental disabilities has filed a compliant with the probate court in accordance with section 5126.33 of the Revised Code and the probate court does not issue an order authorizing the board to arrange protective services for the individual. 62867
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(2) The director may suspend a certified provider's certification to begin to serve one or more individuals not currently being served by the provider in one or more counties before providing an opportunity for an adjudication under Chapter 119. of the Revised Code when the director determines that the certified provider has demonstrated a pattern of serious noncompliance with certification standards or that a violation of certification standards creates a substantial risk to the health and safety of an individual served by the certified provider. 62872
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(3) Except as provided in division (D)(4) of this section, appeals from proceedings initiated to terminate a provider's certification under division (B) of this section or to suspend or revoke a provider's certification under division (C) of this section shall be conducted in accordance with Chapter 119. of the Revised Code. 62881
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(4) Appeals from proceedings initiated to order the suspension of a certified provider's certification shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply: 62887
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(a) The department shall notify the certified provider within twenty-four hours of ordering of the suspension. 62892
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(b) The certified provider may request a hearing not later 62894

than ten days after receiving the notice specified in section 62895
119.07 of the Revised Code. 62896

(c) If a timely request for a hearing is made, the hearing 62897
shall commence not later than thirty days after the department 62898
receives the request. 62899

(d) After commencing, the hearing shall continue, 62900
uninterrupted, except for Saturdays, Sundays, and legal holidays, 62901
unless other interruptions are agreed to by the provider and the 62902
director. 62903

(e) If the hearing is conducted by a hearing examiner, the 62904
hearing examiner shall file a report and recommendations not later 62905
than ten days after the close of the hearing. For purposes of 62906
division (D)(4)(d) of this section, the hearing shall not be 62907
considering closed until the hearing examiner receives the 62908
transcript of the hearing, if a transcript is ordered, and all 62909
post-hearing briefs, if any, are timely filed. 62910

(f) A copy of such written report and recommendations of the 62911
hearing examiner shall, within five days of the date of the filing 62912
thereof, be served upon the provider or the provider's attorney, 62913
by certified mail. 62914

(g) The provider may file objections to the report and 62915
recommendations not later than five days after the receipt of the 62916
report and recommendations. 62917

(h) No recommendation of the hearing examiner shall be 62918
approved, modified, or disapproved by the department until five 62919
days after service of the hearing examiner's report and 62920
recommendations upon the provider or the provider's attorney. 62921

(i) Not later than fifteen days after the service of such 62922
report and recommendations of the hearing examiner upon the 62923
provider or the provider's attorney, the director shall issue an 62924

order approving, modifying, or disapproving the report and 62925
recommendation. 62926

(j) The order shall be lifted when the provider has submitted 62927
an acceptable plan of compliance and the department determines the 62928
plan of compliance has been appropriately implemented. 62929

(k) Following the issuance of an adjudication order by the 62930
director, the provider may appeal the order in accordance with 62931
section 119.12 of the Revised Code. 62932

(l) Notwithstanding the pendency of the hearing, the director 62933
shall lift the order for the suspension of the certified 62934
provider's certification under division (D)(1) or (D)(2) of this 62935
section when the director determines that the violation that 62936
formed the basis for the order has been corrected. The hearing 62937
shall continue unless the provider withdraws, in writing, the 62938
appeal of the department's suspension. 62939

(E) All applicants for or holders of certification under this 62940
section shall maintain a current address with the director at all 62941
times. 62942

(F) An applicant whose certification has been denied in 62943
accordance with this section may not apply to become a certified 62944
provider within one year of the date of the applicant's denial of 62945
certification. A certified provider whose certification has been 62946
revoked in accordance with this section may not apply for 62947
certification within five years of the revocation of the certified 62948
provider's certification. 62949

(G) The records of surveys of providers conducted in 62950
accordance with this section are public records for purposes of 62951
section 149.43 of the Revised Code and shall be made available 62952
upon request of any person, including individuals being served, 62953
individuals seeking supported living, and county boards of mental 62954
retardation and developmental disabilities. 62955

(H) The certification of a provider that is certified to provide supported living on the effective date of the amendment of this section shall remain in effect until the department establishes an expiration date for the certification unless the certification is voluntarily surrendered or terminated, suspended or revoked in accordance with this section.

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(I) As used in this section, "home and community-based services" has the same meaning as in section 5126.01 of the Revised Code.

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(J) The director of mental retardation and developmental disabilities shall not apply any provisions of sections 5126.40 to 5126.47 of the Revised Code to any provider of home and community-based services certified under this section.

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Sec. 5123.34. This chapter attempts to do all of the following:

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(A) Provide humane and scientific treatment and care and the highest attainable degree of individual development for persons with mental retardation or a developmental disability;

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(B) Promote the study of the causes of mental retardation and developmental disabilities, with a view to ultimate prevention;

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(C) Secure by uniform and systematic management the highest attainable degree of economy in the administration of the institutions under the control of the department of mental retardation and developmental disabilities.

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Sections 5123.02 to 5123.04, ~~5123.041 to 5123.042~~, 5123.043, 5123.10, 5123.21, 5123.221, 5123.25, and 5123.31 of the Revised Code shall be liberally construed to attain these purposes.

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Sec. 5123.41. As used in this section and sections 5123.42 to 5123.47 of the Revised Code:

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(A) "Adult services" has the same meaning as in section 5126.01 of the Revised Code.	62985 62986
(B) "Certified home and community-based services provider" means a person or government entity certified under section 5123.045 <u>5123.16</u> of the Revised Code.	62987 62988 62989
(C) "Certified supported living provider" means a person or government entity certified under section 5126.431 of the Revised Code.	62990 62991 62992
(D) "Drug" has the same meaning as in section 4729.01 of the Revised Code.	62993 62994
(E) "Family support services" has the same meaning as in section 5126.01 of the Revised Code.	62995 62996
(F) "Health-related activities" means the following:	62997
(1) Taking vital signs;	62998
(2) Application of clean dressings that do not require health assessment;	62999 63000
(3) Basic measurement of bodily intake and output;	63001
(4) Oral suctioning;	63002
(5) Use of glucometers;	63003
(6) External urinary catheter care;	63004
(7) Emptying and replacing colostomy bags;	63005
(8) Collection of specimens by noninvasive means.	63006
(G) "Licensed health professional authorized to prescribe drugs" has the same meaning as in section 4729.01 of the Revised Code.	63007 63008 63009
(H) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.	63010 63011
(I) "MR/DD personnel" means the employees and the workers	63012

under contract who provide specialized services to individuals 63013
with mental retardation and developmental disabilities. "MR/DD 63014
personnel" includes those who provide the services as follows: 63015

(1) Through direct employment with the department of mental 63016
retardation and developmental disabilities or a county board of 63017
mental retardation and developmental disabilities; 63018

(2) Through an entity under contract with the department of 63019
mental retardation and developmental disabilities or a county 63020
board of mental retardation and developmental disabilities; 63021

(3) Through direct employment or by being under contract with 63022
private entities, including private entities that operate 63023
residential facilities. 63024

(J) "Nursing delegation" means the process established in 63025
rules adopted by the board of nursing pursuant to Chapter 4723. of 63026
the Revised Code under which a registered nurse or licensed 63027
practical nurse acting at the direction of a registered nurse 63028
transfers the performance of a particular nursing activity or task 63029
to another person who is not otherwise authorized to perform the 63030
activity or task. 63031

(K) "Prescribed medication" means a drug that is to be 63032
administered according to the instructions of a licensed health 63033
professional authorized to prescribe drugs. 63034

(L) "Residential facility" means a facility licensed under 63035
section 5123.19 of the Revised Code or subject to section 5123.192 63036
of the Revised Code. 63037

(M) "Specialized services" has the same meaning as in section 63038
5123.50 of the Revised Code. 63039

(N) "Tube feeding" means the provision of nutrition to an 63040
individual through a gastrostomy tube or a jejunostomy tube. 63041

Sec. 5123.701. (A) Except as provided in division (E) of this 63042
section, any person in the community who is eighteen years of age 63043
or older and who is or believes self to be mentally retarded may 63044
make written application to the managing officer of any 63045
institution for temporary admission for short-term care. The 63046
application may be made on behalf of a minor by a parent or 63047
guardian, and on behalf of an adult adjudicated mentally 63048
incompetent by a guardian. 63049

(B) For purposes of this section, short-term care shall be 63050
defined to mean appropriate services provided to a person with 63051
mental retardation for no more than fourteen consecutive days and 63052
for no more than forty-two days in a fiscal year. When 63053
circumstances warrant, the fourteen-day period may be extended at 63054
the discretion of the managing officer. Short-term care is 63055
provided in a developmental center to meet the family's or 63056
caretaker's needs for separation from the person with mental 63057
retardation. 63058

(C) The managing officer of an institution, with the 63059
concurrence of the chief program director, may admit a person for 63060
short-term care only after a medical examination has been made of 63061
the person and only if the managing officer concludes that the 63062
person is mentally retarded. 63063

(D) If application for admission for short-term care of a 63064
minor or of a person adjudicated mentally incompetent is made by 63065
the minor's parent or guardian or by the incompetent's guardian 63066
and the minor or incompetent is admitted, the probate division of 63067
the court of common pleas shall determine, upon petition by the 63068
legal rights service, whether the admission for short-term care is 63069
in the best interest of the minor or the incompetent. 63070

(E) A person who is found not guilty by reason of insanity 63071
shall not admit self to an institution for short-term care unless 63072

a hearing was held regarding the person pursuant to division (A) 63073
of section 2945.40 of the Revised Code and either of the following 63074
applies: 63075

(1) The person was found at the hearing not to be a mentally 63076
retarded person subject to institutionalization by court order; 63077

(2) The person was found at the hearing to be a mentally 63078
retarded person subject to institutionalization by court order, 63079
was involuntarily committed, and was finally discharged. 63080

(F) The mentally retarded person, liable relatives, and 63081
guardians of mentally retarded persons admitted for respite care 63082
shall pay support charges in accordance with sections ~~5121.03~~ 63083
5121.01 to 5121.07 of the Revised Code. 63084

(G) At the conclusion of each period of short-term care, the 63085
person shall return to the person's family or caretaker. Under no 63086
circumstances shall a person admitted for short-term care 63087
according to this section remain in the institution after the 63088
period of short-term care unless the person is admitted according 63089
to section 5123.70, sections 5123.71 to 5123.76, or section 63090
2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 63091
Code. 63092

Sec. 5123.71. (A)(1) Proceedings for the involuntary 63093
institutionalization of a person pursuant to sections 5123.71 to 63094
5123.76 of the Revised Code shall be commenced by the filing of an 63095
affidavit with the probate division of the court of common pleas 63096
of the county where the person resides or where the person is 63097
institutionalized, in the manner and form prescribed by the 63098
department of mental retardation and developmental disabilities 63099
either on information or actual knowledge, whichever is determined 63100
to be proper by the court. The affidavit may be filed only by a 63101
person who has custody of the individual as a parent, guardian, or 63102

service provider or by a person acting on behalf of the department 63103
or a county board of mental retardation and developmental 63104
disabilities. This section does not apply regarding the 63105
institutionalization of a person pursuant to section 2945.39, 63106
2945.40, 2945.401, or 2945.402 of the Revised Code. 63107

The affidavit shall contain an allegation setting forth the 63108
specific category or categories under division ~~(P)~~(O) of section 63109
5123.01 of the Revised Code upon which the commencement of 63110
proceedings is based and a statement of the factual ground for the 63111
belief that the person is a mentally retarded person subject to 63112
institutionalization by court order. Except as provided in 63113
division (A)(2) of this section, the affidavit shall be 63114
accompanied by both of the following: 63115

(a) A comprehensive evaluation report prepared by the 63116
person's evaluation team that includes a statement by the members 63117
of the team certifying that they have performed a comprehensive 63118
evaluation of the person and that they are of the opinion that the 63119
person is a mentally retarded person subject to 63120
institutionalization by court order; 63121

(b) An assessment report prepared by the county board of 63122
mental retardation and developmental disabilities under section 63123
5123.711 of the Revised Code specifying that the individual is in 63124
need of services on an emergency or priority basis. 63125

(2) In lieu of the comprehensive evaluation report, the 63126
affidavit may be accompanied by a written and sworn statement that 63127
the person or the guardian of a person adjudicated incompetent has 63128
refused to allow a comprehensive evaluation and county board 63129
assessment and assessment reports. Immediately after accepting an 63130
affidavit that is not accompanied by the reports of a 63131
comprehensive evaluation and county board assessment, the court 63132
shall cause a comprehensive evaluation and county board assessment 63133
of the person named in the affidavit to be performed. The 63134

evaluation shall be conducted in the least restrictive environment 63135
possible and the assessment shall be conducted in the same manner 63136
as assessments conducted under section 5123.711 of the Revised 63137
Code. The evaluation and assessment must be completed before a 63138
probable cause hearing or full hearing may be held under section 63139
5123.75 or 5123.76 of the Revised Code. 63140

A written report of the evaluation team's findings and the 63141
county board's assessment shall be filed with the court. The 63142
reports shall, consistent with the rules of evidence, be accepted 63143
as probative evidence in any proceeding under section 5123.75 or 63144
5123.76 of the Revised Code. If the counsel for the person who is 63145
evaluated or assessed is known, the court shall send to the 63146
counsel a copy of the reports as soon as possible after they are 63147
filed and prior to any proceedings under section 5123.75 or 63148
5123.76 of the Revised Code. 63149

(B) Any person who is involuntarily detained in an 63150
institution or otherwise is in custody under this chapter shall be 63151
informed of the right to do the following: 63152

(1) Immediately make a reasonable number of telephone calls 63153
or use other reasonable means to contact an attorney, a physician, 63154
or both, to contact any other person or persons to secure 63155
representation by counsel, or to obtain medical assistance, and be 63156
provided assistance in making calls if the assistance is needed 63157
and requested; 63158

(2) Retain counsel and have independent expert evaluation 63159
and, if the person is an indigent person, be represented by 63160
court-appointed counsel and have independent expert evaluation at 63161
court expense; 63162

(3) Upon request, have a hearing to determine whether there 63163
is probable cause to believe that the person is a mentally 63164
retarded person subject to institutionalization by court order. 63165

(C) No person who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing may be ordered detained or involuntarily committed unless the court has determined that the person represents a very substantial risk of self-impairment, self-injury, or impairment or injury to others.

Sec. 5123.76. (A) The full hearing shall be conducted in a manner consistent with the procedures outlined in this chapter and with due process of law. The hearing shall be held by a judge of the probate division or, upon transfer by the judge of the probate division, by another judge of the court of common pleas, or a referee designated by the judge of the probate division. Any referee designated by the judge of the probate division must be an attorney.

(1) The following shall be made available to counsel for the respondent:

(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor;

(b) All relevant documents, information, and evidence in the custody or control of the institution, facility, or program in which the respondent currently is held or in which the respondent has been held pursuant to these proceedings;

(c) With the consent of the respondent, all relevant documents, information, and evidence in the custody or control of any institution or person other than the state.

(2) The respondent has the right to be represented by counsel of the respondent's choice and has the right to attend the hearing except if unusual circumstances of compelling medical necessity exist that render the respondent unable to attend and the respondent has not expressed a desire to attend.

(3) If the respondent is not represented by counsel and the court determines that the conditions specified in division (A)(2) of this section justify the respondent's absence and the right to counsel has not been validly waived, the court shall appoint counsel forthwith to represent the respondent at the hearing, reserving the right to tax costs of appointed counsel to the respondent unless it is shown that the respondent is indigent. If the court appoints counsel, or if the court determines that the evidence relevant to the respondent's absence does not justify the absence, the court shall continue the case.

(4) The respondent shall be informed of the right to retain counsel, to have independent expert evaluation, and, if an indigent person, to be represented by court appointed counsel and have expert independent evaluation at court expense.

(5) The hearing may be closed to the public unless counsel for the respondent requests that the hearing be open to the public.

(6) Unless objected to by the respondent, the respondent's counsel, or the designee of the director of mental retardation and developmental disabilities, the court, for good cause shown, may admit persons having a legitimate interest in the proceedings.

(7) The affiant under section 5123.71 of the Revised Code shall be subject to subpoena by either party.

(8) The court shall examine the sufficiency of all documents filed and shall inform the respondent, if present, and the respondent's counsel of the nature of the content of the documents and the reason for which the respondent is being held or for which the respondent's placement is being sought.

(9) The court shall receive only relevant, competent, and material evidence.

(10) The designee of the director shall present the evidence 63226
for the state. In proceedings under this chapter, the attorney 63227
general shall present the comprehensive evaluation, assessment, 63228
diagnosis, prognosis, record of habilitation and care, if any, and 63229
less restrictive habilitation plans, if any. The attorney general 63230
does not have a similar presentation responsibility in connection 63231
with a person who has been found not guilty by reason of insanity 63232
and who is the subject of a hearing under section 2945.40 of the 63233
Revised Code to determine whether the person is a mentally 63234
retarded person subject to institutionalization by court order. 63235

(11) The respondent has the right to testify and the 63236
respondent or the respondent's counsel has the right to subpoena 63237
witnesses and documents and to present and cross-examine 63238
witnesses. 63239

(12) The respondent shall not be compelled to testify and 63240
shall be so advised by the court. 63241

(13) On motion of the respondent or the respondent's counsel 63242
for good cause shown, or upon the court's own motion, the court 63243
may order a continuance of the hearing. 63244

(14) To an extent not inconsistent with this chapter, the 63245
Rules of Civil Procedure shall be applicable. 63246

(B) Unless, upon completion of the hearing, the court finds 63247
by clear and convincing evidence that the respondent named in the 63248
affidavit is a mentally retarded person subject to 63249
institutionalization by court order, it shall order the 63250
respondent's discharge forthwith. 63251

(C) If, upon completion of the hearing, the court finds by 63252
clear and convincing evidence that the respondent is a mentally 63253
retarded person subject to institutionalization by court order, 63254
the court may order the respondent's discharge or order the 63255
respondent, for a period not to exceed ninety days, to any of the 63256

following: 63257

(1) A public institution, provided that commitment of the 63258
respondent to the institution will not cause the institution to 63259
exceed its licensed capacity determined in accordance with section 63260
5123.19 of the Revised Code and provided that such a placement is 63261
indicated by the comprehensive evaluation report filed pursuant to 63262
section 5123.71 of the Revised Code; 63263

(2) A private institution; 63264

(3) A county mental retardation program; 63265

(4) Receive private habilitation and care; 63266

(5) Any other suitable facility, program, or the care of any 63267
person consistent with the comprehensive evaluation, assessment, 63268
diagnosis, prognosis, and habilitation needs of the respondent. 63269

(D) Any order made pursuant to division (C)(2), (4), or (5) 63270
of this section shall be conditional upon the receipt by the court 63271
of consent by the facility, program, or person to accept the 63272
respondent. 63273

(E) In determining the place to which, or the person with 63274
whom, the respondent is to be committed, the court shall consider 63275
the comprehensive evaluation, assessment, diagnosis, and projected 63276
habilitation plan for the respondent, and shall order the 63277
implementation of the least restrictive alternative available and 63278
consistent with habilitation goals. 63279

(F) If, at any time it is determined by the director of the 63280
facility or program to which, or the person to whom, the 63281
respondent is committed that the respondent could be equally well 63282
habilitated in a less restrictive environment that is available, 63283
the following shall occur: 63284

(1) The respondent shall be released by the director of the 63285
facility or program or by the person forthwith and referred to the 63286

court together with a report of the findings and recommendations
of the facility, program, or person. 63287
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(2) The director of the facility or program or the person
shall notify the respondent's counsel and the designee of the
director of mental retardation and developmental disabilities. 63289
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(3) The court shall dismiss the case or order placement in
the less restrictive environment. 63292
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(G)(1) Except as provided in divisions (G)(2) and (3) of this
section, any person who has been committed under this section may
apply at any time during the ninety-day period for voluntary
admission to an institution under section 5123.69 of the Revised
Code. Upon admission of a voluntary resident, the managing officer
immediately shall notify the court, the respondent's counsel, and
the designee of the director in writing of that fact by mail or
otherwise, and, upon receipt of the notice, the court shall
dismiss the case. 63294
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(2) A person who is found incompetent to stand trial or not
guilty by reason of insanity and who is committed pursuant to
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised
Code shall not be voluntarily admitted to an institution pursuant
to division (G)(1) of this section until after the termination of
the commitment, as described in division (J) of section 2945.401
of the Revised Code. 63303
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(H) If, at the end of any commitment period, the respondent
has not already been discharged or has not requested voluntary
admission status, the director of the facility or program, or the
person to whose care the respondent has been committed, shall
discharge the respondent forthwith, unless at least ten days
before the expiration of that period the designee of the director
of mental retardation and developmental disabilities or the
prosecutor files an application with the court requesting 63310
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continued commitment. 63318

(1) An application for continued commitment shall include a 63319
written report containing a current comprehensive evaluation and 63320
assessment, a diagnosis, a prognosis, an account of progress and 63321
past habilitation, and a description of alternative habilitation 63322
settings and plans, including a habilitation setting that is the 63323
least restrictive setting consistent with the need for 63324
habilitation. A copy of the application shall be provided to 63325
respondent's counsel. The requirements for notice under section 63326
5123.73 of the Revised Code and the provisions of divisions (A) to 63327
(E) of this section apply to all hearings on such applications. 63328

(2) A hearing on the first application for continued 63329
commitment shall be held at the expiration of the first ninety-day 63330
period. The hearing shall be mandatory and may not be waived. 63331

(3) Subsequent periods of commitment not to exceed one 63332
hundred eighty days each may be ordered by the court if the 63333
designee of the director of mental retardation and developmental 63334
disabilities files an application for continued commitment, after 63335
a hearing is held on the application or without a hearing if no 63336
hearing is requested and no hearing required under division (H)(4) 63337
of this section is waived. Upon the application of a person 63338
involuntarily committed under this section, supported by an 63339
affidavit of a licensed physician alleging that the person is no 63340
longer a mentally retarded person subject to institutionalization 63341
by court order, the court for good cause shown may hold a full 63342
hearing on the person's continued commitment prior to the 63343
expiration of any subsequent period of commitment set by the 63344
court. 63345

(4) A mandatory hearing shall be held at least every two 63346
years after the initial commitment. 63347

(5) If the court, after a hearing upon a request to continue 63348

commitment, finds that the respondent is a mentally retarded
person subject to institutionalization by court order, the court
may make an order pursuant to divisions (C), (D), and (E) of this
section.

(I) Notwithstanding the provisions of division (H) of this
section, no person who is found to be a mentally retarded person
subject to institutionalization by court order pursuant to
division ~~(P)~~(O)(2) of section 5123.01 of the Revised Code shall be
held under involuntary commitment for more than five years.

(J) The managing officer admitting a person pursuant to a
judicial proceeding, within ten working days of the admission,
shall make a report of the admission to the department.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who
is eighteen years of age or over and not enrolled in a program or
service under Chapter 3323. of the Revised Code and an individual
sixteen or seventeen years of age who is eligible for adult
services under rules adopted by the director of mental retardation
and developmental disabilities pursuant to Chapter 119. of the
Revised Code.

(1) "Adult services" means services provided to an adult
outside the home, except when they are provided within the home
according to an individual's assessed needs and identified in an
individual service plan, that support learning and assistance in
the area of self-care, sensory and motor development,
socialization, daily living skills, communication, community
living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

(a) Adult day habilitation services;

(b) Adult day care;

(c) Prevocational services;	63379
(d) Sheltered employment;	63380
(e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;	63381 63382 63383 63384 63385 63386 63387
(f) Community employment services and supported employment services.	63388 63389
(B)(1) "Adult day habilitation services" means adult services that do the following:	63390 63391
(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;	63392 63393 63394 63395 63396 63397 63398 63399
(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.	63400 63401 63402 63403
(2) "Adult day habilitation services" includes all of the following:	63404 63405
(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult	63406 63407 63408

day habilitation services;	63409
(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;	63410 63411 63412 63413
(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills, exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;	63414 63415 63416 63417 63418 63419 63420
(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;	63421 63422 63423
(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;	63424 63425 63426 63427 63428
(f) Transportation necessary to access adult day habilitation services;	63429 63430
(g) Habilitation management, as described in section 5126.14 of the Revised Code.	63431 63432
(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.	63433 63434 63435
(C) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment	63436 63437 63438

services" or "supported employment services" include all of the 63439
following: 63440

(1) Job training resulting in the attainment of competitive 63441
work, supported work in a typical work environment, or 63442
self-employment; 63443

(2) Supervised work experience through an employer paid to 63444
provide the supervised work experience; 63445

(3) Ongoing work in a competitive work environment at a wage 63446
commensurate with workers without disabilities; 63447

(4) Ongoing supervision by an employer paid to provide the 63448
supervision. 63449

(D) As used in this division, "substantial functional 63450
limitation," "developmental delay," and "established risk" have 63451
the meanings established pursuant to section 5123.011 of the 63452
Revised Code. 63453

"Developmental disability" means a severe, chronic disability 63454
that is characterized by all of the following: 63455

(1) It is attributable to a mental or physical impairment or 63456
a combination of mental and physical impairments, other than a 63457
mental or physical impairment solely caused by mental illness as 63458
defined in division (A) of section 5122.01 of the Revised Code; 63459

(2) It is manifested before age twenty-two; 63460

(3) It is likely to continue indefinitely; 63461

(4) It results in one of the following: 63462

(a) In the case of a person under age three, at least one 63463
developmental delay or an established risk; 63464

(b) In the case of a person at least age three but under age 63465
six, at least two developmental delays or an established risk; 63466

(c) In the case of a person age six or older, a substantial 63467

functional limitation in at least three of the following areas of 63468
major life activity, as appropriate for the person's age: 63469
self-care, receptive and expressive language, learning, mobility, 63470
self-direction, capacity for independent living, and, if the 63471
person is at least age sixteen, capacity for economic 63472
self-sufficiency. 63473

(5) It causes the person to need a combination and sequence 63474
of special, interdisciplinary, or other type of care, treatment, 63475
or provision of services for an extended period of time that is 63476
individually planned and coordinated for the person. 63477

(E) "Early childhood services" means a planned program of 63478
habilitation designed to meet the needs of individuals with mental 63479
retardation or other developmental disabilities who have not 63480
attained compulsory school age. 63481

(F)(1) "Environmental modifications" means the physical 63482
adaptations to an individual's home, specified in the individual's 63483
service plan, that are necessary to ensure the individual's 63484
health, safety, and welfare or that enable the individual to 63485
function with greater independence in the home, and without which 63486
the individual would require institutionalization. 63487

(2) "Environmental modifications" includes such adaptations 63488
as installation of ramps and grab-bars, widening of doorways, 63489
modification of bathroom facilities, and installation of 63490
specialized electric and plumbing systems necessary to accommodate 63491
the individual's medical equipment and supplies. 63492

(3) "Environmental modifications" does not include physical 63493
adaptations or improvements to the home that are of general 63494
utility or not of direct medical or remedial benefit to the 63495
individual, including such adaptations or improvements as 63496
carpeting, roof repair, and central air conditioning. 63497

(G) "Family support services" means the services provided 63498

under a family support services program operated under section 63499
5126.11 of the Revised Code. 63500

(H) "Habilitation" means the process by which the staff of 63501
the facility or agency assists an individual with mental 63502
retardation or other developmental disability in acquiring and 63503
maintaining those life skills that enable the individual to cope 63504
more effectively with the demands of the individual's own person 63505
and environment, and in raising the level of the individual's 63506
personal, physical, mental, social, and vocational efficiency. 63507
Habilitation includes, but is not limited to, programs of formal, 63508
structured education and training. 63509

~~(I) "Habilitation center services" means services provided by 63510
a habilitation center certified by the department of mental 63511
retardation and developmental disabilities under section 5123.041 63512
of the Revised Code and covered by the medicaid program pursuant 63513
to rules adopted under section 5111.041 of the Revised Code. 63514~~

~~(J)~~ "Home and community-based services" means medicaid-funded 63515
home and community-based services specified in division (B)(1) of 63516
section 5111.87 of the Revised Code and provided under the 63517
medicaid waiver components the department of mental retardation 63518
and developmental disabilities administers pursuant to section 63519
5111.871 of the Revised Code. 63520

~~(K)~~(J) "Medicaid" has the same meaning as in section 5111.01 63521
of the Revised Code. 63522

~~(L)~~(K) "Medicaid case management services" means case 63523
management services provided to an individual with mental 63524
retardation or other developmental disability that the state 63525
medicaid plan requires. 63526

~~(M)~~(L) "Mental retardation" means a mental impairment 63527
manifested during the developmental period characterized by 63528
significantly subaverage general intellectual functioning existing 63529

concurrently with deficiencies in the effectiveness or degree with 63530
which an individual meets the standards of personal independence 63531
and social responsibility expected of the individual's age and 63532
cultural group. 63533

~~(N)~~(M) "Residential services" means services to individuals 63534
with mental retardation or other developmental disabilities to 63535
provide housing, food, clothing, habilitation, staff support, and 63536
related support services necessary for the health, safety, and 63537
welfare of the individuals and the advancement of their quality of 63538
life. "Residential services" includes program management, as 63539
described in section 5126.14 of the Revised Code. 63540

~~(O)~~(N) "Resources" means available capital and other assets, 63541
including moneys received from the federal, state, and local 63542
governments, private grants, and donations; appropriately 63543
qualified personnel; and appropriate capital facilities and 63544
equipment. 63545

~~(P)~~(O) "Service and support administration" means the duties 63546
performed by a service and support administrator pursuant to 63547
section 5126.15 of the Revised Code. 63548

~~(Q)~~(P)(1) "Specialized medical, adaptive, and assistive 63549
equipment, supplies, and supports" means equipment, supplies, and 63550
supports that enable an individual to increase the ability to 63551
perform activities of daily living or to perceive, control, or 63552
communicate within the environment. 63553

(2) "Specialized medical, adaptive, and assistive equipment, 63554
supplies, and supports" includes the following: 63555

(a) Eating utensils, adaptive feeding dishes, plate guards, 63556
mylatex straps, hand splints, reaches, feeder seats, adjustable 63557
pointer sticks, interpreter services, telecommunication devices 63558
for the deaf, computerized communications boards, other 63559
communication devices, support animals, veterinary care for 63560

support animals, adaptive beds, supine boards, prone boards, 63561
wedges, sand bags, sidelayers, bolsters, adaptive electrical 63562
switches, hand-held shower heads, air conditioners, humidifiers, 63563
emergency response systems, folding shopping carts, vehicle lifts, 63564
vehicle hand controls, other adaptations of vehicles for 63565
accessibility, and repair of the equipment received. 63566

(b) Nondisposable items not covered by medicaid that are 63567
intended to assist an individual in activities of daily living or 63568
instrumental activities of daily living. 63569

~~(R)~~(Q) "Supportive home services" means a range of services 63570
to families of individuals with mental retardation or other 63571
developmental disabilities to develop and maintain increased 63572
acceptance and understanding of such persons, increased ability of 63573
family members to teach the person, better coordination between 63574
school and home, skills in performing specific therapeutic and 63575
management techniques, and ability to cope with specific 63576
situations. 63577

~~(S)~~(R)(1) "Supported living" means services provided for as 63578
long as twenty-four hours a day to an individual with mental 63579
retardation or other developmental disability through any public 63580
or private resources, including moneys from the individual, that 63581
enhance the individual's reputation in community life and advance 63582
the individual's quality of life by doing the following: 63583

(a) Providing the support necessary to enable an individual 63584
to live in a residence of the individual's choice, with any number 63585
of individuals who are not disabled, or with not more than three 63586
individuals with mental retardation and developmental disabilities 63587
unless the individuals are related by blood or marriage; 63588

(b) Encouraging the individual's participation in the 63589
community; 63590

(c) Promoting the individual's rights and autonomy; 63591

(d) Assisting the individual in acquiring, retaining, and 63592
improving the skills and competence necessary to live successfully 63593
in the individual's residence. 63594

(2) "Supported living" includes the provision of all of the 63595
following: 63596

(a) Housing, food, clothing, habilitation, staff support, 63597
professional services, and any related support services necessary 63598
to ensure the health, safety, and welfare of the individual 63599
receiving the services; 63600

(b) A combination of life-long or extended-duration 63601
supervision, training, and other services essential to daily 63602
living, including assessment and evaluation and assistance with 63603
the cost of training materials, transportation, fees, and 63604
supplies; 63605

(c) Personal care services and homemaker services; 63606

(d) Household maintenance that does not include modifications 63607
to the physical structure of the residence; 63608

(e) Respite care services; 63609

(f) Program management, as described in section 5126.14 of 63610
the Revised Code. 63611

Sec. 5126.035. (A) As used in this section: 63612

(1) "Provider" means a person or government entity that 63613
provides services to an individual with mental retardation or 63614
other developmental disability pursuant to a service contract. 63615

(2) "Service contract" means a contract between a county 63616
board of mental retardation and developmental disabilities and a 63617
provider under which the provider is to provide services to an 63618
individual with mental retardation or other developmental 63619
disability. 63620

(B) Each service contract that a county board of mental 63621
retardation and developmental disabilities enters into with a 63622
provider shall do ~~all~~ both of the following: 63623

(1) ~~Comply with rules adopted under division (E) of this 63624
section;~~ 63625

~~(2) If the provider is to provide home and community-based 63626
services, or medicaid case management services, ~~or habilitation 63627
center services,~~ comply with all applicable statewide medicaid 63628
requirements; 63629~~

~~(3)~~(2) Include a general operating agreement component and an 63630
individual service needs addendum. 63631

(C) The general operating agreement component shall include 63632
all of the following: 63633

(1) The roles and responsibilities of the county board 63634
regarding services for individuals with mental retardation or 63635
other developmental disability who reside in the county the county 63636
board serves; 63637

(2) The roles and responsibilities of the provider as 63638
specified in the individual service needs addendum; 63639

(3) Procedures for the county board to monitor the provider's 63640
services; 63641

(4) Procedures for the county board to evaluate the quality 63642
of care and cost effectiveness of the provider's services; 63643

(5) Procedures for payment of eligible claims; 63644

(6) If the provider is to provide home and community-based 63645
services, or medicaid case management services, ~~or habilitation 63646
center services,~~ both of the following: 63647

(a) Procedures for reimbursement that conform to the 63648
statewide reimbursement process and the county board's plan 63649

submitted under section 5126.054 of the Revised Code; 63650

(b) Procedures that ensure that the county board pays the 63651
nonfederal share of the medicaid expenditures that the county 63652
board is required by division (A) of section 5126.057 of the 63653
Revised Code to pay. 63654

(7) Procedures for the county board to perform service 63655
utilization reviews and the implementation of required corrective 63656
actions; 63657

(8) Procedures for the provider to submit claims for payment 63658
for a service no later than three hundred thirty days after the 63659
date the service is provided; 63660

(9) Procedures for rejecting claims for payment that are 63661
submitted after the time required by division ~~(B)(9)~~(C)(8) of this 63662
section; 63663

(10) Procedures for developing, modifying, and executing 63664
initial and subsequent service plans. The procedures shall provide 63665
for the provider's participation. 63666

(11) Procedures for affording individuals due process 63667
protections; 63668

(12) General staffing, training, and certification 63669
requirements that are consistent with state requirements and 63670
compensation arrangements that are necessary to attract, train, 63671
and retain competent personnel to deliver the services pursuant to 63672
the individual service needs addendum; 63673

(13) Methods to be used to document services provided and 63674
procedures for submitting reports the county board requires; 63675

(14) Methods for authorizing and documenting within 63676
seventy-two hours changes to the individual service needs 63677
addendum. The methods shall allow for changes to be initially 63678
authorized verbally and subsequently in writing. 63679

(15) Procedures for modifying the individual service needs addendum in accordance with changes to the recipient's individualized service plan;	63680 63681 63682
(16) Procedures for terminating the individual service needs addendum within thirty days of a request made by the recipient;	63683 63684
(17) A requirement that all parties to the contract accept the contract's terms and conditions;	63685 63686
(18) A designated contact person and the method of contacting the designated person to respond to medical or behavioral problems and allegations of major unusual incidents or unusual incidents;	63687 63688 63689
(19) Procedures for ensuring the health and welfare of the recipient;	63690 63691
(20) Procedures for ensuring fiscal accountability and the collection and reporting of programmatic data;	63692 63693
(21) Procedures for implementing the mediation and arbitration process under section 5126.036 of the Revised Code;	63694 63695
(22) Procedures for amending or terminating the contract, including as necessary to make the general operating agreement component consistent with any changes made to the individual service needs addendum;	63696 63697 63698 63699
(23) Anything else allowable under federal and state law that the county board and provider agree to.	63700 63701
(D) The individual service needs addendum shall be consistent with the general operating agreement component and include all of the following:	63702 63703 63704
(1) The name of the individual with mental retardation or other developmental disability who is to receive the services from the provider and any information about the recipient that the provider needs to be able to provide the services;	63705 63706 63707 63708

(2) A clear and complete description of the services that the recipient is to receive as determined using statewide assessment tools; 63709
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(3) A copy of the recipient's assessment and individualized service plan; 63712
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(4) A clear and complete description of the provider's responsibilities to the recipient and county board in providing appropriate services in a coordinated manner with other providers and in a manner that contributes to and ensures the recipient's health, safety, and welfare. 63714
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~~(E) The director of mental retardation and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing service contracts.~~ A service contract does not negate the requirement that a provider of home and community-based services, or medicaid case management services, ~~or~~ ~~habilitation center services~~ have a medicaid provider agreement with the department of job and family services. 63719
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Sec. 5126.042. (A) As used in this section, "emergency" means any situation that creates for an individual with mental retardation or developmental disabilities a risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency" may include one or more of the following situations: 63726
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(1) Loss of present residence for any reason, including legal action; 63732
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(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual; 63734
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(3) Abuse, neglect, or exploitation of the individual; 63738

(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

(B) If a county board of mental retardation and developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request programs and services and may be offered the programs and services, it shall establish waiting lists for services. The board may establish priorities for making placements on its waiting lists according to an individual's emergency status and shall establish priorities in accordance with divisions (D) and (E) of this section.

The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available.

Except for an individual who is to receive priority for services pursuant to division (D)(3) of this section, an individual who currently receives a service but would like to change to another service shall not be placed on a waiting list but shall be placed on a service substitution list. The board shall work with the individual, service providers, and all appropriate entities to facilitate the change in service as expeditiously as possible. The board may establish priorities for making placements on its service substitution lists according to an individual's emergency status.

In addition to maintaining waiting lists and service substitution lists, a board shall maintain a long-term service planning registry for individuals who wish to record their

intention to request in the future a service they are not
currently receiving. The purpose of the registry is to enable the
board to document requests and to plan appropriately. The board
may not place an individual on the registry who meets the
conditions for receipt of services on an emergency basis.

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(C) A county board shall establish a separate waiting list
for each of the following categories of services, and may
establish separate waiting lists within the waiting lists:

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(1) Early childhood services;

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(2) Educational programs for preschool and school age
children;

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(3) Adult services;

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(4) Service and support administration;

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(5) Residential services and supported living;

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(6) Transportation services;

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(7) Other services determined necessary and appropriate for
persons with mental retardation or a developmental disability
according to their individual habilitation or service plans;

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(8) Family support services provided under section 5126.11 of
the Revised Code.

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(D) Except as provided in division (G) of this section, a
county board shall do, as priorities, all of the following in
accordance with the assessment component, approved under section
5123.046 of the Revised Code, of the county board's plan developed
under section 5126.054 of the Revised Code:

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(1) For the purpose of obtaining additional federal medicaid
funds for home and community-based services, and medicaid case
management services, ~~and habilitation center services~~, do both of
the following:

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(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:	63799 63800 63801 63802 63803 63804
(i) Is twenty-two years of age or older;	63805
(ii) Receives supported living or family support services.	63806
(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:	63807 63808 63809 63810 63811
(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;	63812 63813 63814
(ii) Receives adult services from the county board.	63815
(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:	63816 63817 63818 63819 63820 63821
(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;	63822 63823 63824 63825
(b) Is less than twenty-two years of age and has at least one of the following service needs that are unusual in scope or intensity:	63826 63827 63828

(i) Severe behavior problems for which a behavior support plan is needed; 63829
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(ii) An emotional disorder for which anti-psychotic medication is needed; 63831
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(iii) A medical condition that leaves the individual dependent on life-support medical technology; 63833
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(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed; 63835
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(v) A condition the county board determines to be comparable in severity to any condition described in division (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization. 63838
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(c) Is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community-based services on an in-home or out-of-home basis. 63842
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(3) In fiscal years 2002 and 2003, give an individual who is eligible for home and community-based services, resides in an intermediate care facility for the mentally retarded or nursing facility, chooses to move to another setting with the help of home and community-based services, and has been determined by the department of mental retardation and developmental disabilities to be capable of residing in the other setting, priority over any other individual on a waiting list established under division (C) of this section for home and community-based services who does not meet these criteria. The department of mental retardation and developmental disabilities shall identify the individuals to receive priority under division (D)(3) of this section, assess the needs of the individuals, and notify the county boards that are to provide the individuals priority under division (D)(3) of this 63846
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section of the individuals identified by the department and the
individuals' assessed needs.

(E) Except as provided in division (G) of this section and
for a number of years and beginning on a date specified in rules
adopted under division (K) of this section, a county board shall
give an individual who is eligible for home and community-based
services, resides in a nursing facility, and chooses to move to
another setting with the help of home and community-based
services, priority over any other individual on a waiting list
established under division (C) of this section for home and
community-based services who does not meet these criteria.

(F) If two or more individuals on a waiting list established
under division (C) of this section for home and community-based
services have priority for the services pursuant to division
(D)(1) or (2) or (E) of this section, a county board may use,
until December 31, ~~2005~~ 2007, criteria specified in rules adopted
under division (K)(2) of this section in determining the order in
which the individuals with priority will be offered the services.
Otherwise, the county board shall offer the home and
community-based services to such individuals in the order they are
placed on the waiting list.

(G)(1) No individual may receive priority for services
pursuant to division (D) or (E) of this section over an individual
placed on a waiting list established under division (C) of this
section on an emergency status.

(2) No more than four hundred individuals in the state may
receive priority for services during the ~~2004~~ 2006 and ~~2005~~ 2007
biennium pursuant to division (D)(2)(b) of this section.

(3) No more than a total of seventy-five individuals in the
state may receive priority for services during state fiscal years
2002 and 2003 pursuant to division (D)(3) of this section.

(4) No more than forty individuals in the state may receive 63891
priority for services pursuant to division (E) of this section for 63892
each year that priority category is in effect as specified in 63893
rules adopted under division (K) of this section. 63894

(H) Prior to establishing any waiting list under this 63895
section, a county board shall develop and implement a policy for 63896
waiting lists that complies with this section and rules adopted 63897
under division (K) of this section. 63898

Prior to placing an individual on a waiting list, the county 63899
board shall assess the service needs of the individual in 63900
accordance with all applicable state and federal laws. The county 63901
board shall place the individual on the appropriate waiting list 63902
and may place the individual on more than one waiting list. The 63903
county board shall notify the individual of the individual's 63904
placement and position on each waiting list on which the 63905
individual is placed. 63906

At least annually, the county board shall reassess the 63907
service needs of each individual on a waiting list. If it 63908
determines that an individual no longer needs a program or 63909
service, the county board shall remove the individual from the 63910
waiting list. If it determines that an individual needs a program 63911
or service other than the one for which the individual is on the 63912
waiting list, the county board shall provide the program or 63913
service to the individual or place the individual on a waiting 63914
list for the program or service in accordance with the board's 63915
policy for waiting lists. 63916

When a program or service for which there is a waiting list 63917
becomes available, the county board shall reassess the service 63918
needs of the individual next scheduled on the waiting list to 63919
receive that program or service. If the reassessment demonstrates 63920
that the individual continues to need the program or service, the 63921

board shall offer the program or service to the individual. If it
determines that an individual no longer needs a program or
service, the county board shall remove the individual from the
waiting list. If it determines that an individual needs a program
or service other than the one for which the individual is on the
waiting list, the county board shall provide the program or
service to the individual or place the individual on a waiting
list for the program or service in accordance with the board's
policy for waiting lists. The county board shall notify the
individual of the individual's placement and position on the
waiting list on which the individual is placed.

(I) A child subject to a determination made pursuant to
section 121.38 of the Revised Code who requires the home and
community-based services provided through a medicaid component
that the department of mental retardation and developmental
disabilities administers under section 5111.871 of the Revised
Code shall receive services through that medicaid component. For
all other services, a child subject to a determination made
pursuant to section 121.38 of the Revised Code shall be treated as
an emergency by the county boards and shall not be subject to a
waiting list.

(J) Not later than the fifteenth day of March of each
even-numbered year, each county board shall prepare and submit to
the director of mental retardation and developmental disabilities
its recommendations for the funding of services for individuals
with mental retardation and developmental disabilities and its
proposals for reducing the waiting lists for services.

(K)(1) The department of mental retardation and developmental
disabilities shall adopt rules in accordance with Chapter 119. of
the Revised Code governing waiting lists established under this
section. The rules shall include procedures to be followed to
ensure that the due process rights of individuals placed on

waiting lists are not violated.

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(2) As part of the rules adopted under this division, the department shall adopt rules establishing criteria a county board may use under division (F) of this section in determining the order in which individuals with priority for home and community-based services will be offered the services. The rules shall also specify conditions under which a county board, when there is no individual with priority for home and community-based services pursuant to division (D)(1) or (2) or (E) of this section available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services. The rules adopted under division (K)(2) of this section shall cease to have effect December 31, ~~2005~~ 2007.

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(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:

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(a) The number of years, which shall not exceed five, that the priority category will be in effect;

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(b) The date that the priority category is to go into effect.

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(L) The following shall take precedence over the applicable provisions of this section:

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(1) Medicaid rules and regulations;

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(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

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Sec. 5126.054. (A) Each county board of mental retardation and developmental disabilities shall, by resolution, develop a

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three-calendar year plan that includes the following four 63984
components: 63985

(1) An assessment component that includes all of the 63986
following: 63987

(a) The number of individuals with mental retardation or 63988
other developmental disability residing in the county who need the 63989
level of care provided by an intermediate care facility for the 63990
mentally retarded, may seek home and community-based services, are 63991
given priority for the services pursuant to division (D) of 63992
section 5126.042 of the Revised Code; the service needs of those 63993
individuals; and the projected annualized cost for services; 63994

(b) The source of funds available to the county board to pay 63995
the nonfederal share of medicaid expenditures that the county 63996
board is required by division (A) of section 5126.057 of the 63997
Revised Code to pay; 63998

(c) Any other applicable information or conditions that the 63999
department of mental retardation and developmental disabilities 64000
requires as a condition of approving the component under section 64001
5123.046 of the Revised Code. 64002

(2) A component that provides for the recruitment, training, 64003
and retention of existing and new direct care staff necessary to 64004
implement services included in individualized service plans, 64005
including behavior management services and health management 64006
services such as delegated nursing and other habilitation 64007
services, and protect the health and welfare of individuals 64008
receiving services included in the individual's individualized 64009
service plan by complying with safeguards for unusual and major 64010
unusual incidents, day-to-day program management, and other 64011
requirements the department shall identify. A county board shall 64012
develop this component in collaboration with providers of 64013
medicaid-funded services with which the county board contracts. A 64014

county board shall include all of the following in the component: 64015

(a) The source and amount of funds available for the 64016
component; 64017

(b) A plan and timeline for implementing the component with 64018
the medicaid providers under contract with the county board; 64019

(c) The mechanisms the county board shall use to ensure the 64020
financial and program accountability of the medicaid provider's 64021
implementation of the component. 64022

(3) A preliminary implementation component that specifies the 64023
number of individuals to be provided, during the first year that 64024
the plan is in effect, home and community-based services pursuant 64025
to the priority given to them under divisions (D)(1) and (2) of 64026
section 5126.042 of the Revised Code and the types of home and 64027
community-based services the individuals are to receive; 64028

(4) A component that provides for the implementation of 64029
~~habilitation center services,~~ medicaid case management services, 64030
and home and community-based services for individuals who begin to 64031
receive the services on or after the date the plan is approved 64032
under section 5123.046 of the Revised Code. A county board shall 64033
include all of the following in the component: 64034

(a) If the department of mental retardation and developmental 64035
disabilities or department of job and family services requires, an 64036
agreement to pay the nonfederal share of medicaid expenditures 64037
that the county board is required by division (A) of section 64038
5126.057 of the Revised Code to pay; 64039

(b) How the services are to be phased in over the period the 64040
plan covers, including how the county board will serve individuals 64041
on a waiting list established under division (C) of section 64042
5126.042 who are given priority status under division (D)(1) of 64043
that section; 64044

(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the department at the time the county board develops the component;

(d) Assurances adequate to the department that the county board will comply with all of the following requirements:

(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(3) of this section to at least the number of individuals specified in that component;

(ii) To use any additional funds the county board receives for the services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;

(iii) To employ a business manager who is either a new employee who has earned at least a bachelor's degree in business administration or a current employee who has the equivalent experience of a bachelor's degree in business administration. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee.

(iv) To employ or contract with a medicaid services manager who is either a new employee who has earned at least a bachelor's degree or a current employee who has the equivalent experience of a bachelor's degree. If the county board will employ a new employee, the county board shall include in the component a timeline for employing the employee. Two or three county boards that have a combined total enrollment in county board services not exceeding one thousand individuals as determined pursuant to certifications made under division (B) of section 5126.12 of the

Revised Code may satisfy this requirement by sharing the services of a medicaid services manager or using the services of a medicaid services manager employed by or under contract with a regional council that the county boards establish under section 5126.13 of the Revised Code.

(e) An agreement to comply with the method, developed by rules adopted under section 5123.0413 of the Revised Code, of paying for extraordinary costs, including extraordinary costs for services to individuals with mental retardation or other developmental disability, and ensuring the availability of adequate funds in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails;

(f) Programmatic and financial accountability measures and projected outcomes expected from the implementation of the plan;

(g) Any other applicable information or conditions that the department requires as a condition of approving the component under section 5123.046 of the Revised Code.

(B) For the purpose of obtaining the department's approval under section 5123.046 of the Revised Code of the plan the county board develops under division (A) of this section, a county board shall do all of the following:

(1) Submit the components required by divisions (A)(1) and (2) of this section to the department not later than August 1, 2001;

(2) Submit the component required by division (A)(3) of this section to the department not later than January 31, 2002;

(3) Submit the component required by division (A)(4) of this section to the department not later than July 1, 2002.

(C) A county board whose plan developed under division (A) of

this section is approved by the department under section 5123.046 64106
of the Revised Code shall update and renew the plan in accordance 64107
with a schedule the department shall develop. 64108

Sec. 5126.055. (A) Except as provided in section 5126.056 of 64109
the Revised Code, a county board of mental retardation and 64110
developmental disabilities has medicaid local administrative 64111
authority to, and shall, do all of the following for an individual 64112
with mental retardation or other developmental disability who 64113
resides in the county that the county board serves and seeks or 64114
receives home and community-based services: 64115

(1) Perform assessments and evaluations of the individual. As 64116
part of the assessment and evaluation process, the county board 64117
shall do all of the following: 64118

(a) Make a recommendation to the department of mental 64119
retardation and developmental disabilities on whether the 64120
department should approve or deny the individual's application for 64121
the services, including on the basis of whether the individual 64122
needs the level of care an intermediate care facility for the 64123
mentally retarded provides; 64124

(b) If the individual's application is denied because of the 64125
county board's recommendation and the individual requests a 64126
hearing under section 5101.35 of the Revised Code, present, with 64127
the department of mental retardation and developmental 64128
disabilities or department of job and family services, whichever 64129
denies the application, the reasons for the recommendation and 64130
denial at the hearing; 64131

(c) If the individual's application is approved, recommend to 64132
the departments of mental retardation and developmental 64133
disabilities and job and family services the services that should 64134
be included in the individual's individualized service plan and, 64135

if either department approves, reduces, denies, or terminates a
service included in the individual's individualized service plan
under section 5111.871 of the Revised Code because of the county
board's recommendation, present, with the department that made the
approval, reduction, denial, or termination, the reasons for the
recommendation and approval, reduction, denial, or termination at
a hearing under section 5101.35 of the Revised Code.

(2) If the individual has been identified by the department
of mental retardation and developmental disabilities as an
individual to receive priority for home and community-based
services pursuant to division (D)(3) of section 5126.042 of the
Revised Code, assist the department in expediting the transfer of
the individual from an intermediate care facility for the mentally
retarded or nursing facility to the home and community-based
services;

(3) In accordance with the rules adopted under section
5126.046 of the Revised Code, perform the county board's duties
under that section regarding assisting the individual's right to
choose a qualified and willing provider of the services and, at a
hearing under section 5101.35 of the Revised Code, present
evidence of the process for appropriate assistance in choosing
providers;

(4) Unless the county board provides the services under
division (A)(5) of this section, contract with the person or
government entity the individual chooses in accordance with
section 5126.046 of the Revised Code to provide the services if
the person or government entity is qualified and agrees to provide
the services. The contract shall contain all the provisions
required by section 5126.035 of the Revised Code and require the
provider to agree to furnish, in accordance with the provider's
medicaid provider agreement and for the authorized reimbursement
rate, the services the individual requires.

(5) If the county board is certified under section ~~5123.045~~ 64168
5123.16 of the Revised Code to provide the services and agrees to 64169
provide the services to the individual and the individual chooses 64170
the county board to provide the services, furnish, in accordance 64171
with the county board's medicaid provider agreement and for the 64172
authorized reimbursement rate, the services the individual 64173
requires; 64174

(6) Monitor the services provided to the individual and 64175
ensure the individual's health, safety, and welfare. The 64176
monitoring shall include quality assurance activities. If the 64177
county board provides the services, the department of mental 64178
retardation and developmental disabilities shall also monitor the 64179
services. 64180

(7) Develop, with the individual and the provider of the 64181
individual's services, an effective individualized service plan 64182
that includes coordination of services, recommend that the 64183
departments of mental retardation and developmental disabilities 64184
and job and family services approve the plan, and implement the 64185
plan unless either department disapproves it; 64186

(8) Have an investigative agent conduct investigations under 64187
section 5126.313 of the Revised Code that concern the individual; 64188

(9) Have a service and support administrator perform the 64189
duties under division (B)(9) of section 5126.15 of the Revised 64190
Code that concern the individual. 64191

(B) ~~Except as provided in section 5126.056 of the Revised~~ 64192
~~Code, a county board has medicaid local administrative authority~~ 64193
~~to, and shall, do all of the following for an individual with~~ 64194
~~mental retardation or other developmental disability who resides~~ 64195
~~in the county that the county board serves and seeks or receives~~ 64196
~~medicaid case management services or habilitation center services,~~ 64197
~~other than habilitation center services for which a school~~ 64198

~~district is required by division (E) of section 5111.041 of the Revised Code to pay the nonfederal share;~~

~~(1) Perform assessments and evaluations of the individual for the purpose of recommending to the departments of mental retardation and developmental disabilities and job and family services the services that should be included in the individual's individualized service plan;~~

~~(2) If the department of mental retardation and developmental disabilities or department of job and family services approves, reduces, denies, or terminates a service included in the individual's individualized service plan under section 5111.041 or 5111.042 of the Revised Code because of the county board's recommendation under division (B)(1) of this section, present, with the department that made the approval, reduction, denial, or termination, the reasons for the recommendation and approval, reduction, denial, or termination at a hearing under section 5101.35 of the Revised Code and inform the individual that the individual may file a complaint with the county board under section 5126.06 of the Revised Code at the same time the individual pursues an appeal under section 5101.35 of the Revised Code;~~

~~(3) In accordance with rules the departments of mental retardation and developmental disabilities and job and family services shall adopt in accordance with Chapter 119. of the Revised Code governing the process for individuals to choose providers of medicaid case management services and habilitation center services, assist the individual in choosing the provider of the services. The rules shall provide for both of the following;~~

~~(a) The county board providing the individual up to date information about qualified providers that the department of mental retardation and developmental disabilities shall make available to the county board;~~

~~(b) If the individual chooses a provider who is qualified and willing to provide the services but is denied that provider, the individual receiving timely notice that the individual may request a hearing under section 5101.35 of the Revised Code and, at the hearing, the county board presenting evidence of the process for appropriate assistance in choosing providers.~~

~~(4) Unless the county board provides the services under division (B)(5) of this section, contract with the person or government entity that the individual chooses in accordance with the rules adopted under division (B)(3) of this section to provide the services if the person or government entity is qualified and agrees to provide the services. The contract shall contain all the provisions required by section 5126.035 of the Revised Code and require the provider to agree to furnish, in accordance with the provider's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires.~~

~~(5) If the county board is certified under section 5123.041 of the Revised Code to provide the services and agrees to provide the services to the individual and the individual chooses the county board to provide the services, furnish, in accordance with the county board's medicaid provider agreement and for the authorized reimbursement rate, the services the individual requires;~~

~~(6) Monitor the services provided to the individual. The monitoring shall include quality assurance activities. If the county board provides the services, the department of mental retardation and developmental disabilities shall also monitor the services.~~

~~(7) Develop with the individual and the provider of the individual's services, and with the approval of the departments of mental retardation and developmental disabilities and job and~~

family services, implement an effective plan for coordinating the	64262
services in accordance with the individual's approved	64263
individualized service plan;	64264
(8) Have an investigative agent conduct investigations under	64265
section 5126.313 of the Revised Code that concern the individual;	64266
(9) Have a service and support administrator perform the	64267
duties under division (B)(9) of section 5126.15 of the Revised	64268
Code that concern the individual.	64269
(C) A county board shall perform its medicaid local	64270
administrative authority under this section in accordance with all	64271
of the following:	64272
(1) The county board's plan that the department of mental	64273
retardation and developmental disabilities approves under section	64274
5123.046 of the Revised Code;	64275
(2) All applicable federal and state laws;	64276
(3) All applicable policies of the departments of mental	64277
retardation and developmental disabilities and job and family	64278
services and the United States department of health and human	64279
services;	64280
(4) The department of job and family services' supervision	64281
under its authority under section 5111.01 of the Revised Code to	64282
act as the single state medicaid agency;	64283
(5) The department of mental retardation and developmental	64284
disabilities' oversight.	64285
(D)(C) The departments of mental retardation and	64286
developmental disabilities and job and family services shall	64287
communicate with and provide training to county boards regarding	64288
medicaid local administrative authority granted by this section.	64289
The communication and training shall include issues regarding	64290
audit protocols and other standards established by the United	64291

States department of health and human services that the 64292
departments determine appropriate for communication and training. 64293
County boards shall participate in the training. The departments 64294
shall assess the county board's compliance against uniform 64295
standards that the departments shall establish. 64296

~~(E)~~(D) A county board may not delegate its medicaid local 64297
administrative authority granted under this section but may 64298
contract with a person or government entity, including a council 64299
of governments, for assistance with its medicaid local 64300
administrative authority. A county board that enters into such a 64301
contract shall notify the director of mental retardation and 64302
developmental disabilities. The notice shall include the tasks and 64303
responsibilities that the contract gives to the person or 64304
government entity. The person or government entity shall comply in 64305
full with all requirements to which the county board is subject 64306
regarding the person or government entity's tasks and 64307
responsibilities under the contract. The county board remains 64308
ultimately responsible for the tasks and responsibilities. 64309

~~(F)~~(E) A county board that has medicaid local administrative 64310
authority under this section shall, through the departments of 64311
mental retardation and developmental disabilities and job and 64312
family services, reply to, and cooperate in arranging compliance 64313
with, a program or fiscal audit or program violation exception 64314
that a state or federal audit or review discovers. The department 64315
of job and family services shall timely notify the department of 64316
mental retardation and developmental disabilities and the county 64317
board of any adverse findings. After receiving the notice, the 64318
county board, in conjunction with the department of mental 64319
retardation and developmental disabilities, shall cooperate fully 64320
with the department of job and family services and timely prepare 64321
and send to the department a written plan of correction or 64322
response to the adverse findings. The county board is liable for 64323

any adverse findings that result from an action it takes or fails 64324
to take in its implementation of medicaid local administrative 64325
authority. 64326

~~(G)~~(F) If the department of mental retardation and 64327
developmental disabilities or department of job and family 64328
services determines that a county board's implementation of its 64329
medicaid local administrative authority under this section is 64330
deficient, the department that makes the determination shall 64331
require that county board do the following: 64332

(1) If the deficiency affects the health, safety, or welfare 64333
of an individual with mental retardation or other developmental 64334
disability, correct the deficiency within twenty-four hours; 64335

(2) If the deficiency does not affect the health, safety, or 64336
welfare of an individual with mental retardation or other 64337
developmental disability, receive technical assistance from the 64338
department or submit a plan of correction to the department that 64339
is acceptable to the department within sixty days and correct the 64340
deficiency within the time required by the plan of correction. 64341

Sec. 5126.056. (A) The department of mental retardation and 64342
developmental disabilities shall take action under division (B) of 64343
this section against a county board of mental retardation and 64344
developmental disabilities if any of the following are the case: 64345

(1) The county board fails to submit to the department all 64346
the components of its three-year plan required by section 5126.054 64347
of the Revised Code within the time required by division (B) of 64348
that section. 64349

(2) The department disapproves the county board's three-year 64350
plan under section 5123.046 of the Revised Code. 64351

(3) The county board fails, as required by division (C) of 64352
section 5126.054 of the Revised Code, to update and renew its 64353

three-year plan in accordance with a schedule the department
develops under that section. 64354
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(4) The county board fails to implement its initial or
renewed three-year plan approved by the department. 64356
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(5) The county board fails to correct a deficiency within the
time required by division ~~(G)~~(F) of section 5126.055 of the
Revised Code to the satisfaction of the department. 64358
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(6) The county board fails to submit an acceptable plan of
correction to the department within the time required by division
~~(G)~~(F)(2) of section 5126.055 of the Revised Code. 64361
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(B) If required by division (A) of this section to take
action against a county board, the department shall issue an order
terminating the county board's medicaid local administrative
authority over all or part of home and community-based services,
medicaid case management services, ~~habilitation center services,~~
~~all or part of two of those services,~~ or all or part of ~~all three~~
both of those services. The department shall provide a copy of the
order to the board of county commissioners, probate judge, county
auditor, and president and superintendent of the county board. The
department shall specify in the order the medicaid local
administrative authority that the department is terminating, the
reason for the termination, and the county board's option and
responsibilities under this division. 64364
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A county board whose medicaid local administrative authority
is terminated may, not later than thirty days after the department
issues the termination order, recommend to the department that
another county board that has not had any of its medicaid local
administrative authority terminated or another entity the
department approves administer the services for which the county
board's medicaid local administrative authority is terminated. The
department may contract with the other county board or entity to 64377
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administer the services. If the department enters into such a
contract, the county board shall adopt a resolution giving the
other county board or entity full medicaid local administrative
authority over the services that the other county board or entity
is to administer. The other county board or entity shall be known
as the contracting authority.

If the department rejects the county board's recommendation
regarding a contracting authority, the county board may appeal the
rejection under section 5123.043 of the Revised Code.

If the county board does not submit a recommendation to the
department regarding a contracting authority within the required
time or the department rejects the county board's recommendation
and the rejection is upheld pursuant to an appeal, if any, under
section 5123.043 of the Revised Code, the department shall appoint
an administrative receiver to administer the services for which
the county board's medicaid local administrative authority is
terminated. To the extent necessary for the department to appoint
an administrative receiver, the department may utilize employees
of the department, management personnel from another county board,
or other individuals who are not employed by or affiliated with in
any manner a person that provides home and community-based
services, or medicaid case management services, ~~or habilitation~~
~~center services~~ pursuant to a contract with any county board. The
administrative receiver shall assume full administrative
responsibility for the county board's services for which the
county board's medicaid local administrative authority is
terminated.

The contracting authority or administrative receiver shall
develop and submit to the department a plan of correction to
remediate the problems that caused the department to issue the
termination order. If, after reviewing the plan, the department
approves it, the contracting authority or administrative receiver

shall implement the plan.

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The county board shall transfer control of state and federal funds it is otherwise eligible to receive for the services for which the county board's medicaid local administrative authority is terminated and funds the county board may use under division (B) of section 5126.057 of the Revised Code to pay the nonfederal share of the services that the county board is required by division (A) of that section to pay. The county board shall transfer control of the funds to the contracting authority or administrative receiver administering the services. The amount the county board shall transfer shall be the amount necessary for the contracting authority or administrative receiver to fulfill its duties in administering the services, including its duties to pay its personnel for time worked, travel, and related matters. If the county board fails to make the transfer, the department may withhold the state and federal funds from the county board and bring a mandamus action against the county board in the court of common pleas of the county served by the county board or in the Franklin county court of common pleas. The mandamus action may not require that the county board transfer any funds other than the funds the county board is required by division (B) of this section to transfer.

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The contracting authority or administrative receiver has the right to authorize the payment of bills in the same manner that the county board may authorize payment of bills under this chapter and section 319.16 of the Revised Code.

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Sec. 5126.057. (A) A county board of mental retardation and developmental disabilities that has medicaid local administrative authority under division (A) of section 5126.055 of the Revised Code for home and community-based services shall pay the nonfederal share of medicaid expenditures for such services

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provided to an individual with mental retardation or other 64448
developmental disability who the county board determines under 64449
section 5126.041 of the Revised Code is eligible for county board 64450
services unless division ~~(C)(B)(2) or (3)~~ of section 5123.047 of 64451
the Revised Code requires the department of mental retardation and 64452
developmental disabilities to pay the nonfederal share. 64453

A county board that ~~has medicaid local administrative~~ 64454
~~authority under division (B) of section 5126.055 of the Revised~~ 64455
~~Code for~~ provides medicaid case management services shall pay the 64456
nonfederal share of medicaid expenditures for such services 64457
provided to an individual with mental retardation or other 64458
developmental disability who the county board determines under 64459
section 5126.041 of the Revised Code is eligible for county board 64460
services ~~unless division (B)(2) of section 5123.047 of the Revised~~ 64461
~~Code requires the department of mental retardation and~~ 64462
~~developmental disabilities to pay the nonfederal share.~~ 64463

~~A county board shall pay the nonfederal share of medicaid~~ 64464
~~expenditures for habilitation center services when required to do~~ 64465
~~so by division (D) of section 5111.041 of the Revised Code.~~ 64466

(B) A county board may use the following funds to pay the 64467
nonfederal share of the services that the county board is required 64468
by division (A) of this section to pay: 64469

(1) To the extent consistent with the levy that generated the 64470
taxes, the following taxes: 64471

(a) Taxes levied pursuant to division (L) of section 5705.19 64472
of the Revised Code and section 5705.222 of the Revised Code; 64473

(b) Taxes levied under section 5705.191 of the Revised Code 64474
that the board of county commissioners allocates to the county 64475
board to pay the nonfederal share of the services. 64476

(2) Funds that the department of mental retardation and 64477

developmental disabilities distributes to the county board under 64478
sections 5126.11, 5126.12, 5126.15, 5126.18, and 5126.44 of the 64479
Revised Code; 64480

~~(3) Funds that the department allocates to the county board 64481
for habilitation center services provided under section 5111.041 64482
of the Revised Code; 64483~~

~~(4) Earned federal revenue funds the county board receives 64484
for medicaid services the county board provides pursuant to the 64485
county board's valid medicaid provider agreement. 64486~~

(C) If by December 31, 2001, the United States secretary of 64487
health and human services approves at least five hundred more 64488
slots for home and community-based services for calendar year 2002 64489
than were available for calendar year 2001, each county board 64490
shall provide, by the last day of calendar year 2001, assurances 64491
to the department of mental retardation and developmental 64492
disabilities that the county board will have for calendar year 64493
2002 at least one-third of the value of one-half, effective mill 64494
levied in the county the preceding year available to pay the 64495
nonfederal share of the services that the county board is required 64496
by division (A) of this section to pay. 64497

If by December 31, 2002, the United States secretary approves 64498
at least five hundred more slots for home and community-based 64499
services for calendar year 2003 than were available for calendar 64500
year 2002, each county board shall provide, by the last day of 64501
calendar year 2002, assurances to the department that the county 64502
board will have for calendar year 2003 at least two-thirds of the 64503
value of one-half, effective mill levied in the county the 64504
preceding year available to pay the nonfederal share of the 64505
services that the county board is required by division (A) of this 64506
section to pay. 64507

If by December 31, 2003, the United States secretary approves 64508

at least five hundred more slots for home and community-based 64509
services for calendar year 2004 than were available for calendar 64510
year 2003, each county board shall provide, by the last day of 64511
calendar year 2003 and each calendar year thereafter, assurances 64512
to the department that the county board will have for calendar 64513
year 2004 and each calendar year thereafter at least the value of 64514
one-half, effective mill levied in the county the preceding year 64515
available to pay the nonfederal share of the services that the 64516
county board is required by division (A) of this section to pay. 64517

(D) Each year, each county board shall adopt a resolution 64518
specifying the amount of funds it will use in the next year to pay 64519
the nonfederal share of the services that the county board is 64520
required by division (A) of this section to pay. The amount 64521
specified shall be adequate to assure that the services will be 64522
available in the county in a manner that conforms to all 64523
applicable state and federal laws. A county board shall state in 64524
its resolution that the payment of the nonfederal share represents 64525
an ongoing financial commitment of the county board. A county 64526
board shall adopt the resolution in time for the county auditor to 64527
make the determination required by division (E) of this section. 64528

(E) Each year, a county auditor shall determine whether the 64529
amount of funds a county board specifies in the resolution it 64530
adopts under division (D) of this section will be available in the 64531
following year for the county board to pay the nonfederal share of 64532
the services that the county board is required by division (A) of 64533
this section to pay. The county auditor shall make the 64534
determination not later than the last day of the year before the 64535
year in which the funds are to be used. 64536

Sec. 5126.12. (A) As used in this section: 64537

(1) "Approved school age class" means a class operated by a 64538
county board of mental retardation and developmental disabilities 64539

and funded by the department of education under section 3317.20 of the Revised Code. 64540
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(2) "Approved preschool unit" means a class or unit operated by a county board of mental retardation and developmental disabilities and approved under division (B) of section 3317.05 of the Revised Code. 64542
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(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status. 64546
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(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care facility for the mentally retarded certified under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended; resides in a state institution operated by the department of mental retardation and developmental disabilities; or is enrolled in home and community-based services. 64555
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~~(5) "Community alternative funding system" means the program under which habilitation center services are reimbursed under the medicaid program pursuant to section 5111.041 of the Revised Code and rules adopted under that section.~~ 64563
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~~(6)~~ "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services. 64567
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(B) Each county board of mental retardation and developmental 64570

disabilities shall certify to the director of mental retardation 64571
and developmental disabilities all of the following: 64572

(1) On or before the fifteenth day of October, the average 64573
daily membership for the first full week of programs and services 64574
during October receiving: 64575

(a) Early childhood services provided pursuant to section 64576
5126.05 of the Revised Code for children who are less than three 64577
years of age on the thirtieth day of September of the academic 64578
year; 64579

(b) Special education for handicapped children in approved 64580
school age classes; 64581

(c) Adult services for persons sixteen years of age and older 64582
operated pursuant to section 5126.05 and division (B) of section 64583
5126.051 of the Revised Code. Separate counts shall be made for 64584
the following: 64585

(i) Persons enrolled in traditional adult services who are 64586
eligible for but not enrolled in active treatment ~~under the~~ 64587
~~community alternative funding system;~~ 64588

(ii) Persons enrolled in traditional adult services who are 64589
eligible for and enrolled in active treatment ~~under the community~~ 64590
~~alternative funding system;~~ 64591

(iii) Persons enrolled in traditional adult services but who 64592
are not eligible for active treatment ~~under the community~~ 64593
~~alternative funding system;~~ 64594

(iv) Persons participating in community employment services. 64595
To be counted as participating in community employment services, a 64596
person must have spent an average of no less than ten hours per 64597
week in that employment during the preceding six months. 64598

(d) Other programs in the county for individuals with mental 64599
retardation and developmental disabilities that have been approved 64600

for payment of subsidy by the department of mental retardation and 64601
developmental disabilities. 64602

The membership in each such program and service in the county 64603
shall be reported on forms prescribed by the department of mental 64604
retardation and developmental disabilities. 64605

The department of mental retardation and developmental 64606
disabilities shall adopt rules defining full-time equivalent 64607
enrollees and for determining the average daily membership 64608
therefrom, except that certification of average daily membership 64609
in approved school age classes shall be in accordance with rules 64610
adopted by the state board of education. The average daily 64611
membership figure shall be determined by dividing the amount 64612
representing the sum of the number of enrollees in each program or 64613
service in the week for which the certification is made by the 64614
number of days the program or service was offered in that week. No 64615
enrollee may be counted in average daily membership for more than 64616
one program or service. 64617

(2) By the fifteenth day of December, the number of children 64618
enrolled in approved preschool units on the first day of December; 64619

(3) On or before the thirtieth day of March, an itemized 64620
report of all income and operating expenditures for the 64621
immediately preceding calendar year, in the format specified by 64622
the department of mental retardation and developmental 64623
disabilities; 64624

(4) By the fifteenth day of February, a report of the total 64625
annual cost per enrollee for operation of programs and services in 64626
the preceding calendar year. The report shall include a grand 64627
total of all programs operated, the cost of the individual 64628
programs, and the sources of funds applied to each program. 64629

(5) That each required certification and report is in 64630
accordance with rules established by the department of mental 64631

retardation and developmental disabilities and the state board of
education for the operation and subsidization of the programs and
services. 64632
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(C) To compute payments under this section to the board for
the fiscal year, the department of mental retardation and
developmental disabilities shall use the certification of average
daily membership required by division (B)(1) of this section
exclusive of the average daily membership in any approved school
age class and the number in any approved preschool unit. 64635
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(D) The department shall pay each county board for each
fiscal year an amount equal to nine hundred fifty dollars times
the certified number of persons who on the first day of December
of the academic year are under three years of age and are not in
an approved preschool unit. For persons who are at least age
sixteen and are not in an approved school age class, the
department shall pay each county board for each fiscal year the
following amounts: 64641
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(1) One thousand dollars times the certified average daily
membership of persons enrolled in traditional adult services who
are eligible for but not enrolled in active treatment ~~under the
community alternative funding system;~~ 64649
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(2) One thousand two hundred dollars times the certified
average daily membership of persons enrolled in traditional adult
services who are eligible for and enrolled in active treatment
~~under the community alternative funding system;~~ 64653
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(3) No less than one thousand five hundred dollars times the
certified average daily membership of persons enrolled in
traditional adult services but who are not eligible for active
treatment ~~under the community alternative funding system;~~ 64657
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(4) No less than one thousand five hundred dollars times the
certified average daily membership of persons participating in 64661
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community employment services. 64663

(E) The department shall distribute this subsidy to county 64664
boards in quarterly installments of equal amounts. The 64665
installments shall be made not later than the thirtieth day of 64666
September, the thirty-first day of December, the thirty-first day 64667
of March, and the thirtieth day of June. 64668

(F) The director of mental retardation and developmental 64669
disabilities shall make efforts to obtain increases in the 64670
subsidies for early childhood services and adult services so that 64671
the amount of the subsidies is equal to at least fifty per cent of 64672
the statewide average cost of those services minus any applicable 64673
federal reimbursements for those services. The director shall 64674
advise the director of budget and management of the need for any 64675
such increases when submitting the biennial appropriations request 64676
for the department. 64677

(G) In determining the reimbursement of a county board for 64678
the provision of service and support administration, family 64679
support services, and other services required or approved by the 64680
director for which children three through twenty-one years of age 64681
are eligible, the department shall include the average daily 64682
membership in approved school age or preschool units. The 64683
department, in accordance with this section and upon receipt and 64684
approval of the certification required by this section and any 64685
other information it requires to enable it to determine a board's 64686
payments, shall pay the agency providing the specialized training 64687
the amounts payable under this section. 64688

Sec. 5139.01. (A) As used in this chapter: 64689

(1) "Commitment" means the transfer of the physical custody 64690
of a child or youth from the court to the department of youth 64691
services. 64692

(2) "Permanent commitment" means a commitment that vests legal custody of a child in the department of youth services. 64693
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(3) "Legal custody," insofar as it pertains to the status that is created when a child is permanently committed to the department of youth services, means a legal status in which the department has the following rights and responsibilities: the right to have physical possession of the child; the right and duty to train, protect, and control the child; the responsibility to provide the child with food, clothing, shelter, education, and medical care; and the right to determine where and with whom the child shall live, subject to the minimum periods of, or periods of, institutional care prescribed in sections 2152.13 to 2152.18 of the Revised Code; provided, that these rights and responsibilities are exercised subject to the powers, rights, duties, and responsibilities of the guardian of the person of the child, and subject to any residual parental rights and responsibilities. 64695
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(4) Unless the context requires a different meaning, "institution" means a state facility that is created by the general assembly and that is under the management and control of the department of youth services or a private entity with which the department has contracted for the institutional care and custody of felony delinquents. 64710
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(5) "Full-time care" means care for twenty-four hours a day for over a period of at least two consecutive weeks. 64716
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(6) "Placement" means the conditional release of a child under the terms and conditions that are specified by the department of youth services. The department shall retain legal custody of a child released pursuant to division (C) of section 2152.22 of the Revised Code or division (C) of section 5139.06 of the Revised Code until the time that it discharges the child or 64718
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until the legal custody is terminated as otherwise provided by law. 64724
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(7) "Home placement" means the placement of a child in the home of the child's parent or parents or in the home of the guardian of the child's person. 64726
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(8) "Discharge" means that the department of youth services' legal custody of a child is terminated. 64729
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(9) "Release" means the termination of a child's stay in an institution and the subsequent period during which the child returns to the community under the terms and conditions of supervised release. 64731
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(10) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code. 64735
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(11) "Felony delinquent" means any child who is at least ten years of age but less than eighteen years of age and who is adjudicated a delinquent child for having committed an act that if committed by an adult would be a felony. "Felony delinquent" includes any adult who is between the ages of eighteen and twenty-one and who is in the legal custody of the department of youth services for having committed an act that if committed by an adult would be a felony. 64737
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(12) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code. 64745
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(13) "Public safety beds" means all of the following: 64747

(a) Felony delinquents who have been committed to the department of youth services for the commission of an act, other than a violation of section 2911.01 or 2911.11 of the Revised Code, that is a category one offense or a category two offense and who are in the care and custody of an institution or have been diverted from care and custody in an institution and placed in a 64748
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community corrections facility; 64754

(b) Felony delinquents who, while committed to the department 64755
of youth services and in the care and custody of an institution or 64756
a community corrections facility, are adjudicated delinquent 64757
children for having committed in that institution or community 64758
corrections facility an act that if committed by an adult would be 64759
a misdemeanor or a felony; 64760

(c) Children who satisfy all of the following: 64761

(i) They are at least ten years of age but less than eighteen 64762
years of age. 64763

(ii) They are adjudicated delinquent children for having 64764
committed acts that if committed by an adult would be a felony. 64765

(iii) They are committed to the department of youth services 64766
by the juvenile court of a county that has had one-tenth of one 64767
per cent or less of the statewide adjudications for felony 64768
delinquents as averaged for the past four fiscal years. 64769

(iv) They are in the care and custody of an institution or a 64770
community corrections facility. 64771

(d) Felony delinquents who, while committed to the department 64772
of youth services and in the care and custody of an institution 64773
are serving disciplinary time for having committed an act 64774
described in division (A)~~(19)~~(18)(a), (b), or (c) of this section, 64775
and who have been institutionalized or institutionalized in a 64776
secure facility for the minimum period of time specified in 64777
divisions (A)(1)(b) to (e) of section 2152.16 of the Revised Code. 64778

(e) Felony delinquents who are subject to and serving a 64779
three-year period of commitment order imposed by a juvenile court 64780
pursuant to divisions (A) and (B) of section 2152.17 of the 64781
Revised Code for an act, other than a violation of section 2911.11 64782
of the Revised Code, that would be a category one offense or 64783

category two offense if committed by an adult. 64784

(f) Felony delinquents who are described in divisions 64785
(A)(13)(a) to (e) of this section, who have been granted a 64786
judicial release to court supervision under division (B) of 64787
section 2152.22 of the Revised Code or a judicial release to the 64788
department of youth services supervision under division (C) of 64789
that section from the commitment to the department of youth 64790
services for the act described in divisions (A)(13)(a) to (e) of 64791
this section, who have violated the terms and conditions of that 64792
release, and who, pursuant to an order of the court of the county 64793
in which the particular felony delinquent was placed on release 64794
that is issued pursuant to division (D) of section 2152.22 of the 64795
Revised Code, have been returned to the department for 64796
institutionalization or institutionalization in a secure facility. 64797

(g) Felony delinquents who have been committed to the custody 64798
of the department of youth services, who have been granted 64799
supervised release from the commitment pursuant to section 5139.51 64800
of the Revised Code, who have violated the terms and conditions of 64801
that supervised release, and who, pursuant to an order of the 64802
court of the county in which the particular child was placed on 64803
supervised release issued pursuant to division (F) of section 64804
5139.52 of the Revised Code, have had the supervised release 64805
revoked and have been returned to the department for 64806
institutionalization. A felony delinquent described in this 64807
division shall be a public safety bed only for the time during 64808
which the felony delinquent is institutionalized as a result of 64809
the revocation subsequent to the initial thirty-day period of 64810
institutionalization required by division (F) of section 5139.52 64811
of the Revised Code. 64812

(14) Unless the context requires a different meaning, 64813
"community corrections facility" means a county or multicounty 64814
rehabilitation center for felony delinquents who have been 64815

committed to the department of youth services and diverted from 64816
care and custody in an institution and placed in the 64817
rehabilitation center pursuant to division (E) of section 5139.36 64818
of the Revised Code. 64819

(15) "Secure facility" means any facility that is designed 64820
and operated to ensure that all of its entrances and exits are 64821
under the exclusive control of its staff and to ensure that, 64822
because of that exclusive control, no child who has been 64823
institutionalized in the facility may leave the facility without 64824
permission or supervision. 64825

(16) "Community residential program" means a program that 64826
satisfies both of the following: 64827

(a) It is housed in a building or other structure that has no 64828
associated major restraining construction, including, but not 64829
limited to, a security fence. 64830

(b) It provides twenty-four-hour care, supervision, and 64831
programs for felony delinquents who are in residence. 64832

(17) "Category one offense" and "category two offense" have 64833
the same meanings as in section 2151.26 of the Revised Code. 64834

(18) "Disciplinary time" means additional time that the 64835
department of youth services requires a felony delinquent to serve 64836
in an institution, that delays the felony delinquent's planned 64837
release, and that the department imposes upon the felony 64838
delinquent following the conduct of an internal due process 64839
hearing for having committed any of the following acts while 64840
committed to the department and in the care and custody of an 64841
institution: 64842

(a) An act that if committed by an adult would be a felony; 64843

(b) An act that if committed by an adult would be a 64844
misdemeanor; 64845

(c) An act that is not described in division (A)(18)(a) or 64846
(b) of this section and that violates an institutional rule of 64847
conduct of the department. 64848

(19) "Unruly child" has the same meaning as in section 64849
2151.022 of the Revised Code. 64850

(20) "Revocation" means the act of revoking a child's 64851
supervised release for a violation of a term or condition of the 64852
child's supervised release in accordance with section 5139.52 of 64853
the Revised Code. 64854

(21) "Release authority" means the release authority of the 64855
department of youth services that is established by section 64856
5139.50 of the Revised Code. 64857

(22) "Supervised release" means the event of the release of a 64858
child under this chapter from an institution and the period after 64859
that release during which the child is supervised and assisted by 64860
an employee of the department of youth services under specific 64861
terms and conditions for reintegration of the child into the 64862
community. 64863

(23) "Victim" means the person identified in a police report, 64864
complaint, or information as the victim of an act that would have 64865
been a criminal offense if committed by an adult and that provided 64866
the basis for adjudication proceedings resulting in a child's 64867
commitment to the legal custody of the department of youth 64868
services. 64869

(24) "Victim's representative" means a member of the victim's 64870
family or another person whom the victim or another authorized 64871
person designates in writing, pursuant to section 5139.56 of the 64872
Revised Code, to represent the victim with respect to proceedings 64873
of the release authority of the department of youth services and 64874
with respect to other matters specified in that section. 64875

(25) "Member of the victim's family" means a spouse, child, 64876
stepchild, sibling, parent, stepparent, grandparent, other 64877
relative, or legal guardian of a child but does not include a 64878
person charged with, convicted of, or adjudicated a delinquent 64879
child for committing a criminal or delinquent act against the 64880
victim or another criminal or delinquent act arising out of the 64881
same conduct, criminal or delinquent episode, or plan as the 64882
criminal or delinquent act committed against the victim. 64883

(26) "Judicial release to court supervision" means a release 64884
of a child from institutional care or institutional care in a 64885
secure facility that is granted by a court pursuant to division 64886
(B) of section 2152.22 of the Revised Code during the period 64887
specified in that division. 64888

(27) "Judicial release to department of youth services 64889
supervision" means a release of a child from institutional care or 64890
institutional care in a secure facility that is granted by a court 64891
pursuant to division (C) of section 2152.22 of the Revised Code 64892
during the period specified in that division. 64893

(28) "Juvenile justice system" includes all of the functions 64894
of the juvenile courts, the department of youth services, any 64895
public or private agency whose purposes include the prevention of 64896
delinquency or the diversion, adjudication, detention, or 64897
rehabilitation of delinquent children, and any of the functions of 64898
the criminal justice system that are applicable to children. 64899

(29) "Metropolitan county criminal justice services agency" 64900
means an agency that is established pursuant to division (A) of 64901
section ~~181.54~~ 5502.64 of the Revised Code. 64902

(30) "Administrative planning district" means a district that 64903
is established pursuant to division (A) or (B) of section ~~181.56~~ 64904
5502.66 of the Revised Code. 64905

(31) "Criminal justice coordinating council" means a criminal 64906

justice services agency that is established pursuant to division 64907
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 64908

(32) "Comprehensive plan" means a document that coordinates, 64909
evaluates, and otherwise assists, on an annual or multi-year 64910
basis, all of the functions of the juvenile justice systems of the 64911
state or a specified area of the state, that conforms to the 64912
priorities of the state with respect to juvenile justice systems, 64913
and that conforms with the requirements of all federal criminal 64914
justice acts. These functions include, but are not limited to, all 64915
of the following: 64916

(a) Delinquency; 64917

(b) Identification, detection, apprehension, and detention of 64918
persons charged with delinquent acts; 64919

(c) Assistance to crime victims or witnesses, except that the 64920
comprehensive plan does not include the functions of the attorney 64921
general pursuant to sections 109.91 and 109.92 of the Revised 64922
Code; 64923

(d) Adjudication or diversion of persons charged with 64924
delinquent acts; 64925

(e) Custodial treatment of delinquent children; 64926

(f) Institutional and noninstitutional rehabilitation of 64927
delinquent children. 64928

(B) There is hereby created the department of youth services. 64929
The governor shall appoint the director of the department with the 64930
advice and consent of the senate. The director shall hold office 64931
during the term of the appointing governor but subject to removal 64932
at the pleasure of the governor. Except as otherwise authorized in 64933
section 108.05 of the Revised Code, the director shall devote the 64934
director's entire time to the duties of the director's office and 64935
shall hold no other office or position of trust or profit during 64936

the director's term of office.

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The director is the chief executive and administrative officer of the department and has all the powers of a department head set forth in Chapter 121. of the Revised Code. The director may adopt rules for the government of the department, the conduct of its officers and employees, the performance of its business, and the custody, use, and preservation of the department's records, papers, books, documents, and property. The director shall be an appointing authority within the meaning of Chapter 124. of the Revised Code. Whenever this or any other chapter or section of the Revised Code imposes a duty on or requires an action of the department, the duty or action shall be performed by the director or, upon the director's order, in the name of the department.

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Sec. 5139.36. (A) In accordance with this section and the rules adopted under it and from funds appropriated to the department of youth services for the purposes of this section, the department shall make grants that provide financial resources to operate community corrections facilities for felony delinquents.

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(B)(1) Each community corrections facility that intends to seek a grant under this section shall file an application with the department of youth services at the time and in accordance with the procedures that the department shall establish by rules adopted in accordance with Chapter 119. of the Revised Code. In addition to other items required to be included in the application, a plan that satisfies both of the following shall be included:

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(a) It reduces the number of felony delinquents committed to the department from the county or counties associated with the community corrections facility.

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(b) It ensures equal access for minority felony delinquents 64967
to the programs and services for which a potential grant would be 64968
used. 64969

(2) The department of youth services shall review each 64970
application submitted pursuant to division (B)(1) of this section 64971
to determine whether the plan described in that division, the 64972
community corrections facility, and the application comply with 64973
this section and the rules adopted under it. 64974

(C) To be eligible for a grant under this section and for 64975
continued receipt of moneys comprising a grant under this section, 64976
a community corrections facility shall satisfy at least all of the 64977
following requirements: 64978

(1) Be constructed, reconstructed, improved, or financed by 64979
the Ohio building authority pursuant to section 307.021 of the 64980
Revised Code and Chapter 152. of the Revised Code for the use of 64981
the department of youth services and be designated as a community 64982
corrections facility; 64983

(2) Have written standardized criteria governing the types of 64984
felony delinquents that are eligible for the programs and services 64985
provided by the facility; 64986

(3) Have a written standardized intake screening process and 64987
an intake committee that at least performs both of the following 64988
tasks: 64989

(a) Screens all eligible felony delinquents who are being 64990
considered for admission to the facility in lieu of commitment to 64991
the department; 64992

(b) Notifies, within ten days after the date of the referral 64993
of a felony delinquent to the facility, the committing court 64994
whether the felony delinquent will be admitted to the facility. 64995

(4) Comply with all applicable fiscal and program rules that 64996

the department adopts in accordance with Chapter 119. of the
Revised Code and demonstrate that felony delinquents served by the
facility have been or will be diverted from a commitment to the
department.

(D) The department of youth services shall determine the
method of distribution of the funds appropriated for grants under
this section to community corrections facilities.

(E)(1) The department of youth services shall adopt rules in
accordance with Chapter 119. of the Revised Code to establish the
minimum occupancy threshold of community corrections facilities.

(2) The department may make referrals for the placement of
children in its custody to a community corrections facility ~~if the
community corrections facility is not meeting the minimum
occupancy threshold established by the department.~~ At least
forty-five days prior to the referral of a child or within any
shorter period prior to the referral of the child that the
committing court may allow, the department shall notify the
committing court of its intent to place the child in a community
corrections facility. The court shall have thirty days after the
receipt of the notice to approve or disapprove the placement. If
the court does not respond to the notice of the placement within
that thirty-day period, the department shall proceed with the
placement and debit the county in accordance with sections 5139.41
to 5139.43 of the Revised Code. A child placed in a community
corrections facility pursuant to this division shall remain in the
legal custody of the department of youth services during the
period in which the child is in the community corrections
facility.

(3) Counties that are not associated with a community
corrections facility may refer children to a community corrections
facility with the consent of the facility. The department of youth

services shall debit the county that makes the referral in 65028
accordance with sections 5139.41 to 5139.43 of the Revised Code. 65029

(F) If the board or other governing body of a community 65030
corrections facility establishes an advisory board, the board or 65031
other governing authority of the community corrections facility 65032
shall reimburse the members of the advisory board for their actual 65033
and necessary expenses incurred in the performance of their 65034
official duties on the advisory board. The members of advisory 65035
boards shall serve without compensation. 65036

Sec. 5153.16. (A) Except as provided in section 2151.422 of 65037
the Revised Code, in accordance with rules of the department of 65038
job and family services, and on behalf of children in the county 65039
whom the public children services agency considers to be in need 65040
of public care or protective services, the public children 65041
services agency shall do all of the following: 65042

(1) Make an investigation concerning any child alleged to be 65043
an abused, neglected, or dependent child; 65044

(2) Enter into agreements with the parent, guardian, or other 65045
person having legal custody of any child, or with the department 65046
of job and family services, department of mental health, 65047
department of mental retardation and developmental disabilities, 65048
other department, any certified organization within or outside the 65049
county, or any agency or institution outside the state, having 65050
legal custody of any child, with respect to the custody, care, or 65051
placement of any child, or with respect to any matter, in the 65052
interests of the child, provided the permanent custody of a child 65053
shall not be transferred by a parent to the public children 65054
services agency without the consent of the juvenile court; 65055

(3) Accept custody of children committed to the public 65056
children services agency by a court exercising juvenile 65057

jurisdiction; 65058

(4) Provide such care as the public children services agency 65059
considers to be in the best interests of any child adjudicated to 65060
be an abused, neglected, or dependent child the agency finds to be 65061
in need of public care or service; 65062

(5) Provide social services to any unmarried girl adjudicated 65063
to be an abused, neglected, or dependent child who is pregnant 65064
with or has been delivered of a child; 65065

(6) Make available to the bureau for children with medical 65066
handicaps of the department of health at its request any 65067
information concerning a crippled child found to be in need of 65068
treatment under sections 3701.021 to 3701.028 of the Revised Code 65069
who is receiving services from the public children services 65070
agency; 65071

(7) Provide temporary emergency care for any child considered 65072
by the public children services agency to be in need of such care, 65073
without agreement or commitment; 65074

(8) Find certified foster homes, within or outside the 65075
county, for the care of children, including handicapped children 65076
from other counties attending special schools in the county; 65077

(9) Subject to the approval of the board of county 65078
commissioners and the state department of job and family services, 65079
establish and operate a training school or enter into an agreement 65080
with any municipal corporation or other political subdivision of 65081
the county respecting the operation, acquisition, or maintenance 65082
of any children's home, training school, or other institution for 65083
the care of children maintained by such municipal corporation or 65084
political subdivision; 65085

(10) Acquire and operate a county children's home, establish, 65086
maintain, and operate a receiving home for the temporary care of 65087

children, or procure certified foster homes for this purpose; 65088

(11) Enter into an agreement with the trustees of any 65089
district children's home, respecting the operation of the district 65090
children's home in cooperation with the other county boards in the 65091
district; 65092

(12) Cooperate with, make its services available to, and act 65093
as the agent of persons, courts, the department of job and family 65094
services, the department of health, and other organizations within 65095
and outside the state, in matters relating to the welfare of 65096
children, except that the public children services agency shall 65097
not be required to provide supervision of or other services 65098
related to the exercise of parenting time rights granted pursuant 65099
to section 3109.051 or 3109.12 of the Revised Code or 65100
companionship or visitation rights granted pursuant to section 65101
3109.051, 3109.11, or 3109.12 of the Revised Code unless a 65102
juvenile court, pursuant to Chapter 2151. of the Revised Code, or 65103
a common pleas court, pursuant to division (E)(6) of section 65104
3113.31 of the Revised Code, requires the provision of supervision 65105
or other services related to the exercise of the parenting time 65106
rights or companionship or visitation rights; 65107

(13) Make investigations at the request of any superintendent 65108
of schools in the county or the principal of any school concerning 65109
the application of any child adjudicated to be an abused, 65110
neglected, or dependent child for release from school, where such 65111
service is not provided through a school attendance department; 65112

(14) Administer funds provided under Title IV-E of the 65113
"Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as 65114
amended, in accordance with rules adopted under section 5101.141 65115
of the Revised Code; 65116

(15) In addition to administering Title IV-E adoption 65117
assistance funds, enter into agreements to make adoption 65118

- assistance payments under section 5153.163 of the Revised Code; 65119
- (16) Implement a system of risk assessment, in accordance 65120
with rules adopted by the director of job and family services, to 65121
assist the public children services agency in determining the risk 65122
of abuse or neglect to a child; 65123
- (17) Enter into a plan of cooperation with the board of 65124
county commissioners under section 307.983 of the Revised Code and 65125
comply with each fiscal agreement the board enters into under 65126
section 307.98 of the Revised Code that include family services 65127
duties of public children services agencies and contracts the 65128
board enters into under sections 307.981 and 307.982 of the 65129
Revised Code that affect the public children services agency; 65130
- (18) Make reasonable efforts to prevent the removal of an 65131
alleged or adjudicated abused, neglected, or dependent child from 65132
the child's home, eliminate the continued removal of the child 65133
from the child's home, or make it possible for the child to return 65134
home safely, except that reasonable efforts of that nature are not 65135
required when a court has made a determination under division 65136
(A)(2) of section 2151.419 of the Revised Code; 65137
- (19) Make reasonable efforts to place the child in a timely 65138
manner in accordance with the permanency plan approved under 65139
division (E) of section 2151.417 of the Revised Code and to 65140
complete whatever steps are necessary to finalize the permanent 65141
placement of the child; 65142
- (20) Administer a Title IV-A program identified under 65143
division (A)~~(3)~~(4)(c) or ~~(d)~~(f) of section 5101.80 of the Revised 65144
Code that the department of job and family services provides for 65145
the public children services agency to administer under the 65146
department's supervision pursuant to section 5101.801 of the 65147
Revised Code; 65148
- (21) Administer the kinship permanency incentive program 65149

created under section 5101.802 of the Revised Code under the 65150
supervision of the director of job and family services; 65151

(22) Provide independent living services pursuant to sections 65152
2151.81 to 2151.84 of the Revised Code. 65153

(B) The public children services agency shall use the system 65154
implemented pursuant to division (B)(16) of this section in 65155
connection with an investigation undertaken pursuant to division 65156
(F)(1) of section 2151.421 of the Revised Code and may use the 65157
system at any other time the agency is involved with any child 65158
when the agency determines that risk assessment is necessary. 65159

(C) Except as provided in section 2151.422 of the Revised 65160
Code, in accordance with rules of the director of job and family 65161
services, and on behalf of children in the county whom the public 65162
children services agency considers to be in need of public care or 65163
protective services, the public children services agency may do 65164
the following: 65165

(1) Provide or find, with other child serving systems, 65166
specialized foster care for the care of children in a specialized 65167
foster home, as defined in section 5103.02 of the Revised Code, 65168
certified under section 5103.03 of the Revised Code; 65169

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of 65170
this section, contract with the following for the purpose of 65171
assisting the agency with its duties: 65172

(i) County departments of job and family services; 65173

(ii) Boards of alcohol, drug addiction, and mental health 65174
services; 65175

(iii) County boards of mental retardation and developmental 65176
disabilities; 65177

(iv) Regional councils of political subdivisions established 65178
under Chapter 167. of the Revised Code; 65179

(v) Private and government providers of services;	65180
(vi) Managed care organizations and prepaid health plans.	65181
(b) A public children services agency contract under division	65182
(C)(2)(a) of this section regarding the agency's duties under	65183
section 2151.421 of the Revised Code may not provide for the	65184
entity under contract with the agency to perform any service not	65185
authorized by the department's rules.	65186
(c) Only a county children services board appointed under	65187
section 5153.03 of the Revised Code that is a public children	65188
services agency may contract under division (C)(2)(a) of this	65189
section. If an entity specified in division (B) or (C) of section	65190
5153.02 of the Revised Code is the public children services agency	65191
for a county, the board of county commissioners may enter into	65192
contracts pursuant to section 307.982 of the Revised Code	65193
regarding the agency's duties.	65194
Sec. 5502.01. (A) The department of public safety shall	65195
administer and enforce the laws relating to the registration,	65196
licensing, sale, and operation of motor vehicles and the laws	65197
pertaining to the licensing of drivers of motor vehicles.	65198
The department shall compile, analyze, and publish statistics	65199
relative to motor vehicle accidents and the causes of them,	65200
prepare and conduct educational programs for the purpose of	65201
promoting safety in the operation of motor vehicles on the	65202
highways, and conduct research and studies for the purpose of	65203
promoting safety on the highways of this state.	65204
(B) The department shall administer the laws and rules	65205
relative to trauma and emergency medical services specified in	65206
Chapter 4765. of the Revised Code.	65207
(C) The department shall administer and enforce the laws	65208
contained in Chapters 4301. and 4303. of the Revised Code and	65209

enforce the rules and orders of the liquor control commission 65210
pertaining to retail liquor permit holders. 65211

(D) The department shall administer the laws governing the 65212
state emergency management agency and shall enforce all additional 65213
duties and responsibilities as prescribed in the Revised Code 65214
related to emergency management services. 65215

(E) The department shall conduct investigations pursuant to 65216
Chapter 5101. of the Revised Code in support of the duty of the 65217
department of job and family services to administer food stamp 65218
programs throughout this state. The department of public safety 65219
shall conduct investigations necessary to protect the state's 65220
property rights and interests in the food stamp program. 65221

(F) The department of public safety shall enforce compliance 65222
with orders and rules of the public utilities commission and 65223
applicable laws in accordance with Chapters 4919., 4921., and 65224
4923. of the Revised Code regarding commercial motor vehicle 65225
transportation safety, economic, and hazardous materials 65226
requirements. 65227

(G) Notwithstanding Chapter 4117. of the Revised Code, the 65228
department of public safety may establish requirements for its 65229
enforcement personnel, including its enforcement agents described 65230
in section 5502.14 of the Revised Code, that include standards of 65231
conduct, work rules and procedures, and criteria for eligibility 65232
as law enforcement personnel. 65233

(H) The department shall administer, maintain, and operate 65234
the Ohio criminal justice network. The Ohio criminal justice 65235
network shall be a computer network that supports state and local 65236
criminal justice activities. The network shall be an electronic 65237
repository for various data, which may include arrest warrants, 65238
notices of persons wanted by law enforcement agencies, criminal 65239
records, prison inmate records, stolen vehicle records, vehicle 65240

operator's licenses, and vehicle registrations and titles. 65241

(I) The department shall coordinate all homeland security 65242
activities of all state agencies and shall be a liaison between 65243
state agencies and local entities for those activities and related 65244
purposes. 65245

(J) Beginning July 1, 2004, the department shall administer 65246
and enforce the laws relative to private investigators and 65247
security service providers specified in Chapter 4749. of the 65248
Revised Code. 65249

(K) The department shall administer criminal justice services 65250
in accordance with sections 5502.61 to 5502.66 of the Revised 65251
Code. 65252

Sec. ~~181.51~~ 5502.61. As used in sections ~~181.51~~ 5502.61 to 65253
~~181.56~~ 5502.66 of the Revised Code: 65254

(A) "Federal criminal justice acts" means any federal law 65255
that authorizes financial assistance and other forms of assistance 65256
to be given by the federal government to the states to be used for 65257
the improvement of the criminal and juvenile justice systems of 65258
the states. 65259

(B)(1) "Criminal justice system" includes all of the 65260
functions of the following: 65261

(a) The state highway patrol, county sheriff offices, 65262
municipal and township police departments, and all other law 65263
enforcement agencies; 65264

(b) The courts of appeals, courts of common pleas, municipal 65265
courts, county courts, and mayor's courts, when dealing with 65266
criminal cases; 65267

(c) The prosecuting attorneys, city directors of law, village 65268
solicitors, and other prosecuting authorities when prosecuting or 65269

otherwise handling criminal cases and the county and joint county 65270
public defenders and other public defender agencies or offices; 65271

(d) The department of rehabilitation and correction, 65272
probation departments, county and municipal jails and workhouses, 65273
and any other department, agency, or facility that is concerned 65274
with the rehabilitation or correction of criminal offenders; 65275

(e) Any public or private agency whose purposes include the 65276
prevention of crime or the diversion, adjudication, detention, or 65277
rehabilitation of criminal offenders; 65278

(f) Any public or private agency, the purposes of which 65279
include assistance to crime victims or witnesses. 65280

(2) The inclusion of any public or private agency, the 65281
purposes of which include assistance to crime victims or 65282
witnesses, as part of the criminal justice system pursuant to 65283
division (B)(1) of this section does not limit, and shall not be 65284
construed as limiting, the discretion or authority of the attorney 65285
general with respect to crime victim assistance and criminal 65286
justice programs. 65287

(C) "Juvenile justice system" includes all of the functions 65288
of the juvenile courts, the department of youth services, any 65289
public or private agency whose purposes include the prevention of 65290
delinquency or the diversion, adjudication, detention, or 65291
rehabilitation of delinquent children, and any of the functions of 65292
the criminal justice system that are applicable to children. 65293

(D) "Comprehensive plan" means a document that coordinates, 65294
evaluates, and otherwise assists, on an annual or multi-year 65295
basis, any of the functions of the criminal and juvenile justice 65296
systems of the state or a specified area of the state, that 65297
conforms to the priorities of the state with respect to criminal 65298
and juvenile justice systems, and that conforms with the 65299
requirements of all federal criminal justice acts. These functions 65300

may include, but are not limited to, any of the following:	65301
(1) Crime and delinquency prevention;	65302
(2) Identification, detection, apprehension, and detention of persons charged with criminal offenses or delinquent acts;	65303 65304
(3) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;	65305 65306 65307 65308
(4) Adjudication or diversion of persons charged with criminal offenses or delinquent acts;	65309 65310
(5) Custodial treatment of criminal offenders, delinquent children, or both;	65311 65312
(6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.	65313 65314
(E) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 181.54 <u>5502.64</u> of the Revised Code.	65315 65316 65317
(F) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 181.56 <u>5502.66</u> of the Revised Code.	65318 65319 65320
(G) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 181.56 <u>5502.66</u> of the Revised Code.	65321 65322 65323
(H) "Local elected official" means any person who is a member of a board of county commissioners or township trustees or of a city or village council, judge of the court of common pleas, a municipal court, or a county court, sheriff, county coroner, prosecuting attorney, city director of law, village solicitor, or mayor.	65324 65325 65326 65327 65328 65329

(I) "Juvenile justice coordinating council" means a juvenile 65330
justice services agency that is established pursuant to division 65331
(D) of section ~~181.56~~ 5502.66 of the Revised Code. 65332

Sec. ~~181.52~~ 5502.62. (A) There is hereby created ~~an office in~~ 65333
~~the department of public safety a division~~ of criminal justice 65334
services. ~~The governor~~ director of public safety, with the 65335
concurrence of the governor, shall appoint a an executive director 65336
of the ~~office,~~ and ~~the director may appoint, within the office,~~ 65337
~~any professional and technical personnel and other employees that~~ 65338
~~are necessary to enable the office to comply with sections 181.51~~ 65339
~~to 181.56 of the Revised Code~~ division of criminal justice 65340
services. The executive director shall be the head of the 65341
division. The executive director shall serve at the pleasure of 65342
the director of public safety. To carry out the duties assigned 65343
under this section and to comply with sections 5502.63 to 5502.66 65344
of the Revised Code, the executive director, subject to the 65345
direction and control of the director of public safety, may 65346
appoint and maintain any necessary staff and may enter into any 65347
necessary contracts and other agreements. The executive director 65348
~~and the assistant director~~ of the ~~office~~ division, and all 65349
professional and technical personnel employed within the ~~office~~ 65350
division who are not public employees as defined in section 65351
4117.01 of the Revised Code, shall be in the unclassified civil 65352
service, and all other persons employed within the ~~office~~ division 65353
shall be in the classified civil service. ~~The director may enter~~ 65354
~~into any contracts, except contracts governed by Chapter 4117. of~~ 65355
~~the Revised Code, that are necessary for the operation of the~~ 65356
~~office.~~ 65357

(B) Subject to division (E) of this section and subject to 65358
divisions (D) to (F) of section 5120.09 of the Revised Code 65359
insofar as those divisions relate to federal criminal justice acts 65360

- that the governor requires the department of rehabilitation and
correction to administer, the ~~office~~ division of criminal justice
services shall do all of the following:
- (1) Serve as the state criminal justice services agency and
perform criminal justice system planning in the state, including
any planning that is required by any federal law;
 - (2) Collect, analyze, and correlate information and data
concerning the criminal justice system in the state;
 - (3) Cooperate with and provide technical assistance to state
departments, administrative planning districts, metropolitan
county criminal justice services agencies, criminal justice
coordinating councils, agencies, offices, and departments of the
criminal justice system in the state, and other appropriate
organizations and persons;
 - (4) Encourage and assist agencies, offices, and departments
of the criminal justice system in the state and other appropriate
organizations and persons to solve problems that relate to the
duties of the ~~office~~ division;
 - (5) Administer within the state any federal criminal justice
acts that the governor requires it to administer;
 - (6) Administer funds received under the "Family Violence
Prevention and Services Act," 98 Stat. 1757 (1984), 42 U.S.C.A.
10401, as amended, with all powers necessary for the adequate
administration of those funds, including the authority to
establish a family violence prevention and services program.
 - (7) Implement the state comprehensive plans;
 - (8) Audit grant activities of agencies, offices,
organizations, and persons that are financed in whole or in part
by funds granted through the ~~office~~ division;
 - (9) Monitor or evaluate the performance of criminal justice

system projects and programs in the state that are financed in whole or in part by funds granted through the ~~office~~ division; 65391
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(10) Apply for, allocate, disburse, and account for grants that are made available pursuant to federal criminal justice acts, or made available from other federal, state, or private sources, to improve the criminal justice system in the state. ~~All~~ Except as otherwise provided in this division, all money from such federal grants shall, if the terms under which the money is received require that the money be deposited into an interest-bearing fund or account, be deposited in the state treasury to the credit of the federal program purposes fund, which is hereby created. All investment earnings of the federal program purposes fund shall be credited to the fund. All money from such federal grants that require that the money be deposited into an interest-bearing fund or account, that are intended to provide funding to local criminal justice programs, and that require that investment earnings be distributed for program purposes shall be deposited in the state treasury to the credit of the federal justice programs fund, which is hereby created. All investment earnings of the federal justice programs fund shall be credited to the fund and distributed in accordance with the terms of the grant under which the money is received. 65393
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(11) Contract with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the ~~office~~ division; 65413
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(12) Oversee the activities of metropolitan county criminal justice services agencies, administrative planning districts, and criminal justice coordinating councils in the state; 65416
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(13) Advise the director of public safety, general assembly, and governor on legislation and other significant matters that pertain to the improvement and reform of criminal and juvenile 65419
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justice systems in the state;	65422
(14) Prepare and recommend legislation to the <u>director of public safety</u> , general assembly, and governor for the improvement of the criminal and juvenile justice systems in the state;	65423 65424 65425
(15) Assist, advise, and make any reports that are requested or required by the governor, <u>director of public safety</u> , attorney general, or general assembly;	65426 65427 65428
(16) Adopt <u>Subject to the approval of the director of public safety, adopt</u> rules pursuant to Chapter 119. of the Revised Code.	65429 65430
(C) Upon the request of the <u>director of public safety</u> or governor, the office <u>division</u> of criminal justice services may do any of the following:	65431 65432 65433
(1) Collect, analyze, or correlate information and data concerning the juvenile justice system in the state;	65434 65435
(2) Cooperate with and provide technical assistance to state departments, administrative planning districts, metropolitan county criminal justice service agencies, criminal justice coordinating councils, agency offices, and the departments of the juvenile justice system in the state and other appropriate organizations and persons;	65436 65437 65438 65439 65440 65441
(3) Encourage and assist agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the office <u>division</u> .	65442 65443 65444 65445
(D) Divisions (B) and (C) of this section do not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice programs.	65446 65447 65448
(E) Nothing in this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency.	65449 65450 65451

Sec. ~~181.251~~ 5502.63. The ~~office~~ division of criminal justice services in the department of public safety shall prepare a poster and a brochure that describe safe firearms practices. The poster and brochure shall contain typeface that is at least one-quarter inch tall. The ~~office~~ division shall furnish copies of the poster and brochure free of charge to each federally licensed firearms dealer in this state.

As used in this section, "federally licensed firearms dealer" means an importer, manufacturer, or dealer having a license to deal in destructive devices or their ammunition, issued and in effect pursuant to the federal "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C. 923 et seq., and any amendments or additions to that act or reenactments of that act.

Sec. ~~181.54~~ 5502.64. (A) A county may enter into an agreement with the largest city within the county to establish a metropolitan county criminal justice services agency, if the population of the county exceeds five hundred thousand or the population of the city exceeds two hundred fifty thousand.

(B) A metropolitan county criminal justice services agency shall do all of the following:

(1) Accomplish criminal and juvenile justice systems planning within its services area;

(2) Collect, analyze, and correlate information and data concerning the criminal and juvenile justice systems within its services area;

(3) Cooperate with and provide technical assistance to all criminal and juvenile justice agencies and systems and other appropriate organizations and persons within its services area;

(4) Encourage and assist agencies of the criminal and

juvenile justice systems and other appropriate organizations and persons to solve problems that relate to its duties; 65481
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(5) Administer within its services area any federal criminal justice acts or juvenile justice acts that the ~~office~~ division of criminal justice services pursuant to section 5139.11 of the Revised Code or the department of youth services administers within the state; 65483
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(6) Implement the comprehensive plans for its services area; 65488

(7) Monitor or evaluate, within its services area, the performance of the criminal and juvenile justice systems projects and programs that are financed in whole or in part by funds granted through it; 65489
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(8) Apply for, allocate, and disburse grants that are made available pursuant to any federal criminal justice acts, or pursuant to any other federal, state, or private sources for the purpose of improving the criminal and juvenile justice systems; 65493
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(9) Contract with federal, state, and local agencies, foundations, corporations, and other businesses or persons to carry out the duties of the agency. 65497
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Sec. ~~181.55~~ 5502.65. (A)(1) When funds are available for criminal justice purposes pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the ~~office~~ division of criminal justice services shall provide funds to metropolitan county criminal justice services agencies for the purpose of developing, coordinating, evaluating, and implementing comprehensive plans within their respective counties. The ~~office~~ division of criminal justice services shall provide funds to an agency only if it complies with the conditions of division (B) of this section. 65500
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(2) When funds are available for juvenile justice purposes pursuant to section ~~181.54~~ 5502.64 of the Revised Code, the 65509
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department of youth services shall provide funds to metropolitan 65511
county criminal justice services agencies for the purpose of 65512
developing, coordinating, evaluating, and implementing 65513
comprehensive plans within their respective counties. The 65514
department shall provide funds to an agency only if it complies 65515
with the conditions of division (B) of this section. 65516

(B) A metropolitan county criminal justice services agency 65517
shall do all of the following: 65518

(1) Submit, in a form that is acceptable to the ~~office~~ 65519
division of criminal justice services or the department of youth 65520
services pursuant to section 5139.01 of the Revised Code, a 65521
comprehensive plan for the county; 65522

(2) Establish a metropolitan county criminal justice services 65523
supervisory board whose members shall include a majority of the 65524
local elected officials in the county and representatives from law 65525
enforcement agencies, courts, prosecuting authorities, public 65526
defender agencies, rehabilitation and correction agencies, 65527
community organizations, juvenile justice services agencies, 65528
professionals, and private citizens in the county, and that shall 65529
have the authority set forth in division (C) of this section; 65530

(3) Organize in the manner provided in sections 167.01 to 65531
167.03, 302.21 to 302.24, or 713.21 to 713.27 of the Revised Code, 65532
unless the board created pursuant to division (B)(2) of this 65533
section organizes pursuant to these sections. 65534

(C) A metropolitan county criminal justice services 65535
supervisory board shall do all of the following: 65536

(1) Exercise leadership in improving the quality of the 65537
criminal and juvenile justice systems in the county; 65538

(2) Review, approve, and maintain general oversight of the 65539
comprehensive plans for the county and the implementation of the 65540
plans; 65541

(3) Review and comment on the overall needs and 65542
accomplishments of the criminal and juvenile justice systems in 65543
the county; 65544

(4) Establish, as required to comply with this division, task 65545
forces, ad hoc committees, and other committees, whose members 65546
shall be appointed by the chairperson of the board; 65547

(5) Establish any rules that the board considers necessary 65548
and that are consistent with the federal criminal justice acts and 65549
section ~~181.52~~ 5502.62 of the Revised Code. 65550

Sec. ~~181.56~~ 5502.66. (A) In counties in which a metropolitan 65551
county criminal justice services agency does not exist, the ~~office~~ 65552
division of criminal justice services shall discharge the ~~office's~~ 65553
division's duties that the ~~governor~~ director of public safety 65554
requires it to administer by establishing administrative planning 65555
districts for criminal justice programs. An administrative 65556
planning district shall contain a group of contiguous counties in 65557
which no county has a metropolitan county criminal justice 65558
services agency. 65559

(B) In counties in which a metropolitan county criminal 65560
justice services agency does not exist, the department of youth 65561
services shall discharge pursuant to section 5139.11 of the 65562
Revised Code the department's duty by establishing administrative 65563
planning districts for juvenile justice programs. 65564

(C) All administrative planning districts shall contain a 65565
group of contiguous counties in which no county has a metropolitan 65566
county criminal justice services agency. 65567

(D) Any county or any combination of contiguous counties 65568
within an administrative planning district may form a criminal 65569
justice coordinating council or a juvenile justice coordinating 65570
council for its respective programs, if the county or the group of 65571

counties has a total population in excess of two hundred fifty
thousand. The council shall comply with the conditions set forth
in divisions (B) and (C) of section ~~181.55~~ 5502.65 of the Revised
Code, and exercise within its jurisdiction the powers and duties
set forth in division (B) of section ~~181.54~~ 5502.64 of the Revised
Code.

Sec. 5531.10. (A) As used in this chapter: 65578

(1) "Bond proceedings" means the resolution, order, trust
agreement, indenture, lease, lease-purchase agreements, and other
agreements, amendments and supplements to the foregoing, or any
one or more or combination thereof, authorizing or providing for
the terms and conditions applicable to, or providing for the
security or liquidity of, obligations issued pursuant to this
section, and the provisions contained in such obligations.

(2) "Bond service charges" means principal, including
mandatory sinking fund requirements for retirement of obligations,
and interest, and redemption premium, if any, required to be paid
by the state on obligations.

(3) "Bond service fund" means the applicable fund and
accounts therein created for and pledged to the payment of bond
service charges, which may be, or may be part of, the state
infrastructure bank revenue bond service fund created by division
(R) of this section including all moneys and investments, and
earnings from investments, credited and to be credited thereto.

(4) "Issuing authority" means the treasurer of state, or the
officer who by law performs the functions of the treasurer of
state.

(5) "Obligations" means bonds, notes, or other evidence of
obligation including interest coupons pertaining thereto, issued
pursuant to this section.

(6) "Pledged receipts" means moneys accruing to the state 65602
from the lease, lease-purchase, sale, or other disposition, or 65603
use, of qualified projects, and from the repayment, including 65604
interest, of loans made from proceeds received from the sale of 65605
obligations; accrued interest received from the sale of 65606
obligations; income from the investment of the special funds; any 65607
gifts, grants, donations, and pledges, and receipts therefrom, 65608
available for the payment of bond service charges; and any amounts 65609
in the state infrastructure bank pledged to the payment of such 65610
charges. If the amounts in the state infrastructure bank are 65611
insufficient for the payment of such charges, "pledged receipts" 65612
also means moneys that are apportioned by the United States 65613
secretary of transportation under United States Code, Title XXIII, 65614
as amended, or any successor legislation, or under any other 65615
federal law relating to aid for highways, and that are to be 65616
received as a grant by the state, to the extent the state is not 65617
prohibited by state or federal law from using such moneys and the 65618
moneys are pledged to the payment of such bond service charges. 65619

(7) "Special funds" or "funds" means, except where the 65620
context does not permit, the bond service fund, and any other 65621
funds, including reserve funds, created under the bond 65622
proceedings, and the state infrastructure bank revenue bond 65623
service fund created by division (R) of this section to the extent 65624
provided in the bond proceedings, including all moneys and 65625
investments, and earnings from investment, credited and to be 65626
credited thereto. 65627

(8) "State infrastructure project" means any public 65628
transportation project undertaken by the state, including, but not 65629
limited to, all components of any such project, as described in 65630
division (D) of section ~~5131.09~~ 5531.09 of the Revised Code. 65631

(9) "District obligations" means bonds, notes, or other 65632
evidence of obligation including interest coupons pertaining 65633

thereto, issued to finance a qualified project by a transportation 65634
improvement district created pursuant to section 5540.02 of the 65635
Revised Code, of which the principal, including mandatory sinking 65636
fund requirements for retirement of such obligations, and interest 65637
and redemption premium, if any, are payable by the department of 65638
transportation. 65639

(B) The issuing authority, after giving written notice to the 65640
director of budget and management and upon the certification by 65641
the director of transportation to the issuing authority of the 65642
amount of moneys or additional moneys needed either for state 65643
infrastructure projects or to provide financial assistance for any 65644
of the purposes for which the state infrastructure bank may be 65645
used under section 5531.09 of the Revised Code, or needed for 65646
capitalized interest, funding reserves, and paying costs and 65647
expenses incurred in connection with the issuance, carrying, 65648
securing, paying, redeeming, or retirement of the obligations or 65649
any obligations refunded thereby, including payment of costs and 65650
expenses relating to letters of credit, lines of credit, 65651
insurance, put agreements, standby purchase agreements, indexing, 65652
marketing, remarketing and administrative arrangements, interest 65653
swap or hedging agreements, and any other credit enhancement, 65654
liquidity, remarketing, renewal, or refunding arrangements, all of 65655
which are authorized by this section, shall issue obligations of 65656
the state under this section in the required amount. The proceeds 65657
of such obligations, except for the portion to be deposited in 65658
special funds, including reserve funds, as may be provided in the 65659
bond proceedings, shall as provided in the bond proceedings be 65660
credited to the infrastructure bank obligations fund of the state 65661
infrastructure bank created by section 5531.09 of the Revised 65662
Code. The issuing authority may appoint trustees, paying agents, 65663
transfer agents, and authenticating agents, and may retain the 65664
services of financial advisors, accounting experts, and attorneys, 65665

and retain or contract for the services of marketing, remarketing, 65666
indexing, and administrative agents, other consultants, and 65667
independent contractors, including printing services, as are 65668
necessary in the issuing authority's judgment to carry out this 65669
section. The costs of such services are payable from funds of the 65670
state infrastructure bank. 65671

(C) The holders or owners of such obligations shall have no 65672
right to have moneys raised by taxation by the state of Ohio 65673
obligated or pledged, and moneys so raised shall not be obligated 65674
or pledged, for the payment of bond service charges. The right of 65675
such holders and owners to the payment of bond service charges is 65676
limited to all or that portion of the pledged receipts and those 65677
special funds pledged thereto pursuant to the bond proceedings for 65678
such obligations in accordance with this section, and each such 65679
obligation shall bear on its face a statement to that effect. 65680

(D) Obligations shall be authorized by order of the issuing 65681
authority and the bond proceedings shall provide for the purpose 65682
thereof and the principal amount or amounts, and shall provide for 65683
or authorize the manner or agency for determining the principal 65684
maturity or maturities, not exceeding twenty-five years from the 65685
date of issuance, the interest rate or rates or the maximum 65686
interest rate, the date of the obligations and the dates of 65687
payment of interest thereon, their denomination, and the 65688
establishment within or without the state of a place or places of 65689
payment of bond service charges. Sections 9.98 to 9.983 of the 65690
Revised Code are applicable to obligations issued under this 65691
section. The purpose of such obligations may be stated in the bond 65692
proceedings in terms describing the general purpose or purposes to 65693
be served. The bond proceedings also shall provide, subject to the 65694
provisions of any other applicable bond proceedings, for the 65695
pledge of all, or such part as the issuing authority may 65696
determine, of the pledged receipts and the applicable special fund 65697

or funds to the payment of bond service charges, which pledges may
be made either prior or subordinate to other expenses, claims, or
payments, and may be made to secure the obligations on a parity
with obligations theretofore or thereafter issued, if and to the
extent provided in the bond proceedings. The pledged receipts and
special funds so pledged and thereafter received by the state
immediately are subject to the lien of such pledge without any
physical delivery thereof or further act, and the lien of any such
pledges is valid and binding against all parties having claims of
any kind against the state or any governmental agency of the
state, irrespective of whether such parties have notice thereof,
and shall create a perfected security interest for all purposes of
Chapter 1309. of the Revised Code, without the necessity for
separation or delivery of funds or for the filing or recording of
the bond proceedings by which such pledge is created or any
certificate, statement, or other document with respect thereto;
and the pledge of such pledged receipts and special funds is
effective and the money therefrom and thereof may be applied to
the purposes for which pledged without necessity for any act of
appropriation. Every pledge, and every covenant and agreement made
with respect thereto, made in the bond proceedings may therein be
extended to the benefit of the owners and holders of obligations
authorized by this section, and to any trustee therefor, for the
further security of the payment of the bond service charges.

(E) The bond proceedings may contain additional provisions as
to:

(1) The redemption of obligations prior to maturity at the
option of the issuing authority at such price or prices and under
such terms and conditions as are provided in the bond proceedings;

(2) Other terms of the obligations;

(3) Limitations on the issuance of additional obligations;

(4) The terms of any trust agreement or indenture securing the obligations or under which the same may be issued; 65729
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(5) The deposit, investment, and application of special funds, and the safeguarding of moneys on hand or on deposit, without regard to Chapter 131. or 135. of the Revised Code, but subject to any special provisions of this section with respect to particular funds or moneys, provided that any bank or trust company which acts as depository of any moneys in the special funds may furnish such indemnifying bonds or may pledge such securities as required by the issuing authority; 65731
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(6) Any or every provision of the bond proceedings being binding upon such officer, board, commission, authority, agency, department, or other person or body as may from time to time have the authority under law to take such actions as may be necessary to perform all or any part of the duty required by such provision; 65739
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(7) Any provision that may be made in a trust agreement or indenture; 65744
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(8) Any other or additional agreements with the holders of the obligations, or the trustee therefor, relating to the obligations or the security therefor, including the assignment of mortgages or other security relating to financial assistance for qualified projects under section 5531.09 of the Revised Code. 65746
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(F) The obligations may have the great seal of the state or a facsimile thereof affixed thereto or printed thereon. The obligations and any coupons pertaining to obligations shall be signed or bear the facsimile signature of the issuing authority. Any obligations or coupons may be executed by the person who, on the date of execution, is the proper issuing authority although on the date of such bonds or coupons such person was not the issuing authority. In case the issuing authority whose signature or a facsimile of whose signature appears on any such obligation or 65751
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coupon ceases to be the issuing authority before delivery thereof, 65760
such signature or facsimile nevertheless is valid and sufficient 65761
for all purposes as if the former issuing authority had remained 65762
the issuing authority until such delivery; and in case the seal to 65763
be affixed to obligations has been changed after a facsimile of 65764
the seal has been imprinted on such obligations, such facsimile 65765
seal shall continue to be sufficient as to such obligations and 65766
obligations issued in substitution or exchange therefor. 65767

(G) All obligations are negotiable instruments and securities 65768
under Chapter 1308. of the Revised Code, subject to the provisions 65769
of the bond proceedings as to registration. The obligations may be 65770
issued in coupon or in registered form, or both, as the issuing 65771
authority determines. Provision may be made for the registration 65772
of any obligations with coupons attached thereto as to principal 65773
alone or as to both principal and interest, their exchange for 65774
obligations so registered, and for the conversion or reconversion 65775
into obligations with coupons attached thereto of any obligations 65776
registered as to both principal and interest, and for reasonable 65777
charges for such registration, exchange, conversion, and 65778
reconversion. 65779

(H) Obligations may be sold at public sale or at private 65780
sale, as determined in the bond proceedings. 65781

(I) Pending preparation of definitive obligations, the 65782
issuing authority may issue interim receipts or certificates which 65783
shall be exchanged for such definitive obligations. 65784

(J) In the discretion of the issuing authority, obligations 65785
may be secured additionally by a trust agreement or indenture 65786
between the issuing authority and a corporate trustee which may be 65787
any trust company or bank having its principal place of business 65788
within the state. Any such agreement or indenture may contain the 65789
order authorizing the issuance of the obligations, any provisions 65790

that may be contained in any bond proceedings, and other 65791
provisions which are customary or appropriate in an agreement or 65792
indenture of such type, including, but not limited to: 65793

(1) Maintenance of each pledge, trust agreement, indenture, 65794
or other instrument comprising part of the bond proceedings until 65795
the state has fully paid the bond service charges on the 65796
obligations secured thereby, or provision therefor has been made; 65797

(2) In the event of default in any payments required to be 65798
made by the bond proceedings, or any other agreement of the 65799
issuing authority made as a part of the contract under which the 65800
obligations were issued, enforcement of such payments or agreement 65801
by mandamus, the appointment of a receiver, suit in equity, action 65802
at law, or any combination of the foregoing; 65803

(3) The rights and remedies of the holders of obligations and 65804
of the trustee, and provisions for protecting and enforcing them, 65805
including limitations on the rights of individual holders of 65806
obligations; 65807

(4) The replacement of any obligations that become mutilated 65808
or are destroyed, lost, or stolen; 65809

(5) Such other provisions as the trustee and the issuing 65810
authority agree upon, including limitations, conditions, or 65811
qualifications relating to any of the foregoing. 65812

(K) Any holder of obligations or a trustee under the bond 65813
proceedings, except to the extent that the holder's or trustee's 65814
rights are restricted by the bond proceedings, may by any suitable 65815
form of legal proceedings, protect and enforce any rights under 65816
the laws of this state or granted by such bond proceedings. Such 65817
rights include the right to compel the performance of all duties 65818
of the issuing authority and the director of transportation 65819
required by the bond proceedings or sections 5531.09 and 5531.10 65820
of the Revised Code; to enjoin unlawful activities; and in the 65821

event of default with respect to the payment of any bond service charges on any obligations or in the performance of any covenant or agreement on the part of the issuing authority or the director of transportation in the bond proceedings, to apply to a court having jurisdiction of the cause to appoint a receiver to receive and administer the pledged receipts and special funds, other than those in the custody of the treasurer of state, which are pledged to the payment of the bond service charges on such obligations or which are the subject of the covenant or agreement, with full power to pay, and to provide for payment of bond service charges on, such obligations, and with such powers, subject to the direction of the court, as are accorded receivers in general equity cases, excluding any power to pledge additional revenues or receipts or other income or moneys of the state or local governmental entities, or agencies thereof, to the payment of such principal and interest and excluding the power to take possession of, mortgage, or cause the sale or otherwise dispose of any project facilities.

Each duty of the issuing authority and the issuing authority's officers and employees, and of each state or local governmental agency and its officers, members, or employees, undertaken pursuant to the bond proceedings or any loan, loan guarantee, lease, lease-purchase agreement, or other agreement made under authority of section 5531.09 of the Revised Code, and in every agreement by or with the issuing authority, is hereby established as a duty of the issuing authority, and of each such officer, member, or employee having authority to perform such duty, specifically enjoined by the law resulting from an office, trust, or station within the meaning of section 2731.01 of the Revised Code.

The person who is at the time the issuing authority, or the issuing authority's officers or employees, are not liable in their

personal capacities on any obligations issued by the issuing 65854
authority or any agreements of or with the issuing authority. 65855

(L) The issuing authority may authorize and issue obligations 65856
for the refunding, including funding and retirement, and advance 65857
refunding with or without payment or redemption prior to maturity, 65858
of any obligations previously issued by the issuing authority or 65859
of district obligations. Such refunding obligations may be issued 65860
in amounts sufficient for payment of the principal amount of the 65861
prior obligations or district obligations, any redemption premiums 65862
thereon, principal maturities of any such obligations or district 65863
obligations maturing prior to the redemption of the remaining 65864
obligations or district obligations on a parity therewith, 65865
interest accrued or to accrue to the maturity dates or dates of 65866
redemption of such obligations or district obligations, and any 65867
expenses incurred or to be incurred in connection with such 65868
issuance and such refunding, funding, and retirement. Subject to 65869
the bond proceedings therefor, the portion of proceeds of the sale 65870
of refunding obligations issued under this division to be applied 65871
to bond service charges on the prior obligations or district 65872
obligations shall be credited to an appropriate account held by 65873
the trustee for such prior or new obligations or to the 65874
appropriate account in the bond service fund for such obligations 65875
or district obligations. Obligations authorized under this 65876
division shall be deemed to be issued for those purposes for which 65877
such prior obligations or district obligations were issued and are 65878
subject to the provisions of this section pertaining to other 65879
obligations, except as otherwise provided in this section. The 65880
last maturity of obligations authorized under this division shall 65881
not be later than twenty-five years from the date of issuance of 65882
the original securities issued for the original purpose. 65883

(M) The authority to issue obligations under this section 65884
includes authority to issue obligations in the form of bond 65885

anticipation notes and to renew the same from time to time by the
issuance of new notes. The holders of such notes or interest
coupons pertaining thereto shall have a right to be paid solely
from the pledged receipts and special funds that may be pledged to
the payment of the bonds anticipated, or from the proceeds of such
bonds or renewal notes, or both, as the issuing authority provides
in the order authorizing such notes. Such notes may be
additionally secured by covenants of the issuing authority to the
effect that the issuing authority and the state will do such or
all things necessary for the issuance of such bonds or renewal
notes in the appropriate amount, and apply the proceeds thereof to
the extent necessary, to make full payment of the principal of and
interest on such notes at the time or times contemplated, as
provided in such order. For such purpose, the issuing authority
may issue bonds or renewal notes in such principal amount and upon
such terms as may be necessary to provide funds to pay when
required the principal of and interest on such notes,
notwithstanding any limitations prescribed by or for purposes of
this section. Subject to this division, all provisions for and
references to obligations in this section are applicable to notes
authorized under this division.

The issuing authority in the bond proceedings authorizing the
issuance of bond anticipation notes shall set forth for such bonds
an estimated interest rate and a schedule of principal payments
for such bonds and the annual maturity dates thereof.

(N) Obligations issued under this section are lawful
investments for banks, societies for savings, savings and loan
associations, deposit guarantee associations, trust companies,
trustees, fiduciaries, insurance companies, including domestic for
life and domestic not for life, trustees or other officers having
charge of sinking and bond retirement or other special funds of
political subdivisions and taxing districts of this state, the

commissioners of the sinking fund of the state, the administrator
of workers' compensation in accordance with the investment policy
established by the workers' compensation oversight commission
pursuant to section 4121.12 of the Revised Code, the state
teachers retirement system, the public employees retirement
system, the school employees retirement system, and the Ohio
police and fire pension fund, notwithstanding any other provisions
of the Revised Code or rules adopted pursuant thereto by any
agency of the state with respect to investments by them, and are
also acceptable as security for the deposit of public moneys.

(O) Unless otherwise provided in any applicable bond
proceedings, moneys to the credit of or in the special funds
established by or pursuant to this section may be invested by or
on behalf of the issuing authority only in notes, bonds, or other
obligations of the United States, or of any agency or
instrumentality of the United States, obligations guaranteed as to
principal and interest by the United States, obligations of this
state or any political subdivision of this state, and certificates
of deposit of any national bank located in this state and any
bank, as defined in section 1101.01 of the Revised Code, subject
to inspection by the superintendent of financial institutions. If
the law or the instrument creating a trust pursuant to division
(J) of this section expressly permits investment in direct
obligations of the United States or an agency of the United
States, unless expressly prohibited by the instrument, such moneys
also may be invested in no-front-end-load money market mutual
funds consisting exclusively of obligations of the United States
or an agency of the United States and in repurchase agreements,
including those issued by the fiduciary itself, secured by
obligations of the United States or an agency of the United
States; and in collective investment funds as defined in division
(A) of section 1111.01 of the Revised Code and consisting

exclusively of any such securities. The income from such 65950
investments shall be credited to such funds as the issuing 65951
authority determines, and such investments may be sold at such 65952
times as the issuing authority determines or authorizes. 65953

(P) Provision may be made in the applicable bond proceedings 65954
for the establishment of separate accounts in the bond service 65955
fund and for the application of such accounts only to the 65956
specified bond service charges on obligations pertinent to such 65957
accounts and bond service fund and for other accounts therein 65958
within the general purposes of such fund. Unless otherwise 65959
provided in any applicable bond proceedings, moneys to the credit 65960
of or in the several special funds established pursuant to this 65961
section shall be disbursed on the order of the treasurer of state, 65962
provided that no such order is required for the payment from the 65963
bond service fund when due of bond service charges on obligations. 65964

(Q)(1) The issuing authority may pledge all, or such portion 65965
as the issuing authority determines, of the pledged receipts to 65966
the payment of bond service charges on obligations issued under 65967
this section, and for the establishment and maintenance of any 65968
reserves, as provided in the bond proceedings, and make other 65969
provisions therein with respect to pledged receipts as authorized 65970
by this chapter, which provisions are controlling notwithstanding 65971
any other provisions of law pertaining thereto. 65972

(2) An action taken under division (Q)(2) of this section 65973
does not limit the generality of division (Q)(1) of this section, 65974
and is subject to division (C) of this section and, if and to the 65975
extent otherwise applicable, Section 13 of Article VIII, Ohio 65976
Constitution. The bond proceedings may contain a covenant that, in 65977
the event the pledged receipts primarily pledged and required to 65978
be used for the payment of bond service charges on obligations 65979
issued under this section, and for the establishment and 65980
maintenance of any reserves, as provided in the bond proceedings, 65981

are insufficient to make any such payment in full when due, or to
maintain any such reserve, the director of transportation shall so
notify the governor, and shall determine to what extent, if any,
the payment may be made or moneys may be restored to the reserves
from lawfully available moneys previously appropriated for that
purpose to the department of transportation. The covenant also may
provide that if the payments are not made or the moneys are not
immediately and fully restored to the reserves from such moneys,
the director shall promptly submit to the governor and to the
director of budget and management a written request for either or
both of the following:

(a) That the next biennial budget submitted by the governor
to the general assembly include an amount to be appropriated from
lawfully available moneys to the department for the purpose of and
sufficient for the payment in full of bond service charges
previously due and for the full replenishment of the reserves;

(b) That the general assembly be requested to increase
appropriations from lawfully available moneys for the department
in the current biennium sufficient for the purpose of and for the
payment in full of bond service charges previously due and to come
due in the biennium and for the full replenishment of the
reserves.

The director of transportation shall include with such
requests a recommendation that the payment of the bond service
charges and the replenishment of the reserves be made in the
interest of maximizing the benefits of the state infrastructure
bank. Any such covenant shall not obligate or purport to obligate
the state to pay the bond service charges on such bonds or notes
or to deposit moneys in a reserve established for such payments
other than from moneys that may be lawfully available and
appropriated for that purpose during the then-current biennium.

(R) There is hereby created the state infrastructure bank revenue bond service fund, which shall be in the custody of the treasurer of state but shall not be a part of the state treasury. All moneys received by or on account of the issuing authority or state agencies and required by the applicable bond proceedings, consistent with this section, to be deposited, transferred, or credited to the bond service fund, and all other moneys transferred or allocated to or received for the purposes of the fund, shall be deposited and credited to such fund and to any separate accounts therein, subject to applicable provisions of the bond proceedings, but without necessity for any act of appropriation. The state infrastructure bank revenue bond service fund is a trust fund and is hereby pledged to the payment of bond service charges to the extent provided in the applicable bond proceedings, and payment thereof from such fund shall be made or provided for by the treasurer of state in accordance with such bond proceedings without necessity for any act of appropriation.

(S) The obligations issued pursuant to this section, the transfer thereof, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within this state.

Sec. 5540.01. As used in this chapter:

(A) "Transportation improvement district" or "district" means a transportation improvement district designated pursuant to section 5540.02 of the Revised Code.

(B) "Governmental agency" means a department, division, or other unit of state government; a county, township, or municipal corporation or other political subdivision; a regional transit authority or regional transit commission created pursuant to Chapter 306. of the Revised Code; a port authority created pursuant to Chapter 4582. of the Revised Code; and the United

States or any agency thereof. 66044

(C) "Project" means a street, highway, or other 66045
transportation project constructed or improved under this chapter 66046
and includes all bridges, tunnels, overpasses, underpasses, 66047
interchanges, approaches, those portions of connecting streets or 66048
highways that serve interchanges and are determined by the 66049
district to be necessary for the safe merging of traffic between 66050
the project and those streets or highways, service facilities, and 66051
administration, storage, and other buildings, property, and 66052
facilities, that the district considers necessary for the 66053
operation of the project, together with all property and rights 66054
that must be acquired by the district for the construction, 66055
maintenance, or operation of the project. 66056

(D) "Cost," as applied to the construction of a project, 66057
includes the cost of construction, including bridges over or under 66058
existing highways and railroads, acquisition of all property 66059
acquired by the district for such construction, demolishing or 66060
removing any buildings or structures on land so acquired, 66061
including the cost of acquiring any lands to which such buildings 66062
or structures may be moved, site clearance, improvement, and 66063
preparation, diverting streets or highways, interchanges with 66064
streets or highways, access roads to private property, including 66065
the cost of land or easements therefor, all machinery, 66066
furnishings, and equipment, communications facilities, financing 66067
expenses, interest prior to and during construction and for one 66068
year after completion of construction, traffic estimates, 66069
indemnity and surety bonds and premiums on insurance, and 66070
guarantees, engineering, feasibility studies, and legal expenses, 66071
plans, specifications, surveys, estimates of cost and revenues, 66072
other expenses necessary or incidental to determining the 66073
feasibility or practicability of constructing a project, and such 66074
other expense as may be necessary or incident to the construction 66075

of the project and the financing of such construction. Any 66076
obligation or expense incurred by any governmental agency or 66077
person for surveys, borings, preparation of plans and 66078
specifications, and other engineering services, or any other cost 66079
described above, in connection with the construction of a project 66080
may be regarded as part of the cost of the project and reimbursed 66081
from revenues, taxes, or the proceeds of bonds as authorized by 66082
this chapter. 66083

(E) "Owner" includes any person having any title or interest 66084
in any property authorized to be acquired by a district under this 66085
chapter. 66086

(F) "Revenues" means all moneys received by a district with 66087
respect to the lease, sublease, or sale, including installment 66088
sale, conditional sale, or sale under a lease-purchase agreement, 66089
of a project, all moneys received by a district under an agreement 66090
pursuant to section 5540.032 of the Revised Code, any gift or 66091
grant received with respect to a project, tolls, special 66092
assessments levied by the district, proceeds of bonds to the 66093
extent the use thereof for payment of principal or of premium, if 66094
any, or interest on the bonds is authorized by the district, 66095
proceeds from any insurance, condemnation, or guaranty pertaining 66096
to a project or property mortgaged to secure bonds or pertaining 66097
to the financing of a project, and income and profit from the 66098
investment of the proceeds of bonds or of any revenues. 66099

(G) "Street or highway" has the same meaning as in section 66100
4511.01 of the Revised Code. 66101

(H) "Financing expenses" means all costs and expenses 66102
relating to the authorization, issuance, sale, delivery, 66103
authentication, deposit, custody, clearing, registration, 66104
transfer, exchange, fractionalization, replacement, payment, and 66105
servicing of bonds including, without limitation, costs and 66106

expenses for or relating to publication and printing, postage, 66107
delivery, preliminary and final official statements, offering 66108
circulars, and informational statements, travel and 66109
transportation, underwriters, placement agents, investment 66110
bankers, paying agents, registrars, authenticating agents, 66111
remarketing agents, custodians, clearing agencies or corporations, 66112
securities depositories, financial advisory services, 66113
certifications, audits, federal or state regulatory agencies, 66114
accounting and computation services, legal services and obtaining 66115
approving legal opinions and other legal opinions, credit ratings, 66116
redemption premiums, and credit enhancement facilities. 66117

(I) "Bond proceedings" means the resolutions, trust 66118
agreements, certifications, notices, sale proceedings, leases, 66119
lease-purchase agreements, assignments, credit enhancement 66120
facility agreements, and other agreements, instruments, and 66121
documents, as amended and supplemented, or any one or more of 66122
combination thereof, authorizing, or authorizing or providing for 66123
the terms and conditions applicable to, or providing for the 66124
security or sale or award or liquidity of, bonds, and includes the 66125
provisions set forth or incorporated in those bonds and bond 66126
proceedings. 66127

(J) "Bond service charges" means principal, including any 66128
mandatory sinking fund or mandatory redemption requirements for 66129
retirement of bonds, and interest and any redemption premium 66130
payable on bonds, as those payments come due and are payable to 66131
the bondholder or to a person making payment under a credit 66132
enhancement facility of those bond service charges to a 66133
bondholder. 66134

(K) "Bond service fund" means the applicable fund created by 66135
the bond proceedings for and pledged to the payment of bond 66136
service charges on bonds provided for by those proceedings, 66137
including all moneys and investments, and earnings from 66138

investments, credited and to be credited to that fund as provided 66139
in the bond proceedings. 66140

(L) "Bonds" means bonds, notes, including notes anticipating 66141
bonds or other notes, commercial paper, certificates of 66142
participation, or other evidences of obligation, including any 66143
interest coupons pertaining thereto, issued pursuant to this 66144
chapter. 66145

(M) "Net revenues" means revenues lawfully available to pay 66146
both current operating expenses of a district and bond service 66147
charges in any fiscal year or other specified period, less current 66148
operating expenses of the district and any amount necessary to 66149
maintain a working capital reserve for that period. 66150

(N) "Pledged revenues" means net revenues, moneys and 66151
investments, and earnings on those investments, in the applicable 66152
bond service fund and any other special funds, and the proceeds of 66153
any bonds issued for the purpose of refunding prior bonds, all as 66154
lawfully available and by resolution of the district committed for 66155
application as pledged revenues to the payment of bond service 66156
charges on particular issues of bonds. 66157

(O) "Special funds" means the applicable bond service fund 66158
and any accounts and subaccounts in that fund, any other funds or 66159
accounts permitted by and established under, and identified as a 66160
special fund or special account in, the bond proceedings, 66161
including any special fund or account established for purposes of 66162
rebate or other requirements under federal income tax laws. 66163

(P) "Credit enhancement facilities" means letters of credit, 66164
lines of credit, standby, contingent, or firm securities purchase 66165
agreements, insurance, or surety arrangements, guarantees, and 66166
other arrangements that provide for direct or contingent payment 66167
of bond service charges, for security or additional security in 66168
the event of nonpayment or default in respect of bonds, or for 66169

making payment of bond service charges and at the option and on 66170
demand of bondholders or at the option of the district or upon 66171
certain conditions occurring under put or similar arrangements, or 66172
for otherwise supporting the credit or liquidity of the bonds, and 66173
includes credit, reimbursement, marketing, remarketing, indexing, 66174
carrying, interest rate hedge, and subrogation agreements, and 66175
other agreements and arrangements for payment and reimbursement of 66176
the person providing the credit enhancement facility and the 66177
security for that payment and reimbursement. 66178

(Q) "Refund" means to fund and retire outstanding bonds, 66179
including advance refunding with or without payment or redemption 66180
prior to stated maturity. 66181

(R) "Property" includes interests in property. 66182

(S) "Administrative agent," "agent," "commercial paper," 66183
"floating rate interest structure," "indexing agent," "interest 66184
rate hedge," "interest rate period," "put arrangement," and 66185
"remarketing agent" have the same meanings as in section 9.98 of 66186
the Revised Code. 66187

(T) "Outstanding" as applied to bonds means outstanding in 66188
accordance with the terms of the bonds and the applicable bond 66189
proceedings. 66190

(U) "Interstate system" has the same meaning as in section 66191
5516.01 of the Revised Code. 66192

Sec. 5540.032. (A) A transportation improvement district and 66193
any governmental agency may enter into an agreement providing for 66194
the joint financing, construction, acquisition, or improvement of 66195
any project benefiting the parties thereto and providing for the 66196
joint management, maintenance, and repair thereof. Any such 66197
agreement shall be approved by resolution or ordinance passed by 66198
the legislative authority of each of the parties to such 66199

agreement, which resolution or ordinance shall authorize the 66200
execution thereof by a designated official or officials of each of 66201
such parties, and such agreement, when so approved and executed, 66202
shall be in full force and effect. 66203

(B)(1) Subject to division (B)(2) of this section, any party 66204
to such an agreement may issue and, notwithstanding any other 66205
provision of the Revised Code, a district may purchase directly 66206
from the party as an investment, securities to evidence the 66207
obligations of that party to the district pursuant to the 66208
agreement for its portion of the cost of the project pursuant to 66209
Chapter 133. or other applicable provisions of the Revised Code. 66210

(2) More than half of the property necessary for any project 66211
undertaken pursuant to an agreement under this section for which a 66212
district is purchasing securities under division (B)(1) of this 66213
section shall be located within the territory of the 66214
transportation improvement district. 66215

Sec. 5540.09. (A) The bonds do not constitute a debt, or a 66216
pledge of the faith and credit, of the state or of any political 66217
subdivision of the state. Bond service charges on outstanding 66218
bonds are payable solely from the pledged revenues pledged for 66219
their payment as authorized by this chapter and as provided in the 66220
bond proceedings. All bonds shall contain on their face a 66221
statement to that effect. 66222

(B) All expenses incurred in carrying out this chapter shall 66223
be payable solely from revenues provided under this chapter. ~~This~~ 66224
Except as provided in section 5540.032 of the Revised Code, this 66225
chapter does not authorize the board of trustees of a district to 66226
incur indebtedness or liability on behalf of or payable by the 66227
state or any political subdivision of the state. 66228

Sec. 5552.01. As used in this chapter: 66229

(A) "Metropolitan planning organization" ~~has the same meaning~~ 66230
~~as in division (A)(7) of section 3704.14 of the Revised Code~~ 66231
means a metropolitan planning organization designated under section 9(a) 66232
of the "Federal-Aid Highway Act of 1962," 76 Stat. 1148, 23 U.S.C. 66233
134, as amended. 66234

(B) "Urban township" means a township that has a population 66235
in the unincorporated area of the township of fifteen thousand or 66236
more and that has adopted a limited home rule government under 66237
section 504.02 of the Revised Code. 66238

Sec. 5703.052. (A) There is hereby created in the state 66239
treasury the tax refund fund, from which refunds shall be paid for 66240
taxes illegally or erroneously assessed or collected, or for any 66241
other reason overpaid, that are levied by Chapter 4301., 4305., 66242
5728., 5729., 5733., 5735., 5739., 5741., 5743., 5747., 5748., 66243
5749., or ~~5753-~~ 5751., and sections 3737.71, 3905.35, 3905.36, 66244
4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 66245
of the Revised Code. Refunds for fees illegally or erroneously 66246
assessed or collected, or for any other reason overpaid, that are 66247
levied by sections 3734.90 to 3734.9014 of the Revised Code also 66248
shall be paid from the fund. However, refunds for taxes levied 66249
under section 5739.101 of the Revised Code shall not be paid from 66250
the tax refund fund, but shall be paid as provided in section 66251
5739.104 of the Revised Code. 66252

(B)(1) Upon certification by the tax commissioner to the 66253
treasurer of state of a tax refund or fee refund, or by the 66254
superintendent of insurance of a domestic or foreign insurance tax 66255
refund, the treasurer of state shall place the amount certified to 66256
the credit of the fund. The certified amount transferred shall be 66257
derived from current receipts of the same tax or the fee from 66258
which the refund arose. If current receipts from the tax or fee 66259
from which the refund arose are inadequate to make the transfer of 66260

the amount so certified, the treasurer of state shall transfer 66261
such certified amount from current receipts of the sales tax 66262
levied by section 5739.02 of the Revised Code. 66263

(2) When the treasurer of state provides for the payment of a 66264
refund of a tax or fee from the current receipts of the sales tax, 66265
and the refund is for a tax or fee that is not levied by the 66266
state, the tax commissioner shall recover the amount of that 66267
refund from the next distribution of that tax or fee that 66268
otherwise would be made to the taxing jurisdiction. If the amount 66269
to be recovered would exceed twenty-five per cent of the next 66270
distribution of that tax or fee, the commissioner may spread the 66271
recovery over more than one future distribution, taking into 66272
account the amount to be recovered and the amount of the 66273
anticipated future distributions. In no event may the commissioner 66274
spread the recovery over a period to exceed twenty-four months. 66275

Sec. 5703.053. As used in this section, "postal service" 66276
means the United States postal service. 66277

An application to the tax commissioner for a tax refund under 66278
section 4307.05, 4307.07, 5727.28, 5727.91, 5728.061, 5735.122, 66279
5735.13, 5735.14, 5735.141, 5735.142, 5739.07, 5741.10, 5743.05, 66280
5743.53, 5745.11, 5749.08, or ~~5753.06~~ 5751.08 of the Revised Code 66281
or division (B) of section 5703.05 of the Revised Code, or a fee 66282
refunded under section 3734.905 of the Revised Code, that is 66283
received after the last day for filing under such section shall be 66284
considered to have been filed in a timely manner if: 66285

(A) The application is delivered by the postal service and 66286
the earliest postal service postmark on the cover in which the 66287
application is enclosed is not later than the last day for filing 66288
the application; 66289

(B) The application is delivered by the postal service, the 66290

only postmark on the cover in which the application is enclosed 66291
was affixed by a private postal meter, the date of that postmark 66292
is not later than the last day for filing the application, and the 66293
application is received within seven days of such last day; or 66294

(C) The application is delivered by the postal service, no 66295
postmark date was affixed to the cover in which the application is 66296
enclosed or the date of the postmark so affixed is not legible, 66297
and the application is received within seven days of the last day 66298
for making the application. 66299

Sec. 5703.057. (A) For the efficient administration of the 66300
taxes and fees administered by the tax commissioner, the 66301
commissioner may require that any person filing a tax document 66302
with the department of taxation provide identifying information, 66303
which may include the person's social security number, federal 66304
employer identification number, or other identification number 66305
requested by the commissioner. A person required by the 66306
commissioner to provide identifying information who has 66307
experienced any change with respect to that information shall 66308
notify the commissioner of the change prior to, or upon, filing 66309
the next tax document requiring such identifying information. 66310

(B) When transmitting or otherwise making use of a tax 66311
document that contains a person's social security number, the 66312
commissioner shall take all reasonable measures necessary to 66313
ensure that the number is not capable of being viewed by the 66314
general public, including, when necessary, masking the number so 66315
that it is not readily discernible by the general public. 66316

(C)(1) If the commissioner makes a request for identifying 66317
information and the commissioner does not receive valid 66318
identifying information within thirty days of making the request, 66319
the commissioner may impose a penalty upon the person to whom the 66320
request was directed of up to one hundred dollars. If, after the 66321

expiration of this thirty day period, the commissioner makes one 66322
or more subsequent requests for identifying information and the 66323
person to whom the subsequent request is directed fails to provide 66324
valid identifying information within thirty days of the 66325
commissioner's subsequent request, the commissioner may impose an 66326
additional penalty of up to two hundred dollars for each 66327
subsequent request not complied with in a timely fashion. 66328

(2) If a person required by the commissioner to provide 66329
identifying information does not notify the commissioner of a 66330
change with respect to that information as required under division 66331
(A) of this section within thirty days after filing the next tax 66332
document requiring such identifying information, the commissioner 66333
may impose a penalty of up to fifty dollars. 66334

(3) The penalties provided for under divisions (C)(1) and (2) 66335
of this section may be billed and assessed in the same manner as 66336
the tax or fee with respect to which the identifying information 66337
is sought and are in addition to any applicable criminal penalties 66338
described in division (D) of this section and any other penalties 66339
that may be imposed by the commissioner by law. 66340

(D) Section 5703.26 of the Revised Code applies with respect 66341
to false or fraudulent identifying information provided by a 66342
person to the commissioner under this section. 66343

Sec. 5703.26. No person shall knowingly make, present, aid, 66344
or assist in the preparation or presentation of a false or 66345
fraudulent report, return, schedule, statement, claim, or document 66346
authorized or required by law to be filed with the department of 66347
taxation, the treasurer of state, a county auditor, a county 66348
treasurer, or a county clerk of courts, or knowingly procure, 66349
counsel, or advise the preparation or presentation of such report, 66350
return, schedule, statement, claim, or document, or knowingly 66351
change, alter, or amend, or knowingly procure, counsel, or advise 66352

such change, alteration, or amendment of the records upon which 66353
such report, return, schedule, statement, claim, or document is 66354
based with intent to defraud the state or any of its subdivisions. 66355

~~With respect to such acts or conduct, no conviction shall be 66356
had under any other section of the Revised Code. 66357~~

Sec. 5703.50. As used in sections 5703.50 to 5703.53 of the 66358
Revised Code: 66359

(A) "Tax" includes only those taxes imposed on tangible 66360
personal property listed in accordance with Chapter 5711. of the 66361
Revised Code and taxes imposed under Chapters 5733., 5739., 5741., 66362
~~and 5747., and 5751.~~ of the Revised Code. 66363

(B) "Taxpayer" means a person subject to or potentially 66364
subject to a tax including an employer required to deduct and 66365
withhold any amount under section 5747.06 of the Revised Code. 66366

(C) "Audit" means the examination of a taxpayer or the 66367
inspection of the books, records, memoranda, or accounts of a 66368
taxpayer for the purpose of determining liability for a tax. 66369

(D) "Assessment" means a notice of underpayment or nonpayment 66370
of a tax issued pursuant to section 5711.26, 5711.32, 5733.11, 66371
5739.13, 5741.11, 5741.13, ~~or 5747.13,~~ or 5751.09 of the Revised 66372
Code. 66373

(E) "County auditor" means the auditor of the county in which 66374
the tangible personal property subject to a tax is located. 66375

Sec. 5703.70. (A) On the filing of an application for refund 66376
under section 3734.905, 4307.05, 4307.07, 5727.28, 5727.91, 66377
5728.061, 5733.12, 5735.122, 5735.13, 5735.14, 5735.141, 5735.142, 66378
5735.18, 5739.07, 5739.071, 5739.104, 5741.10, 5743.05, 5743.53, 66379
~~or 5749.08,~~ or 5751.08 of the Revised Code, or an application for 66380
compensation under section 5739.123 of the Revised Code, if the 66381

tax commissioner determines that the amount of the refund or 66382
compensation to which the applicant is entitled is less than the 66383
amount claimed in the application, the commissioner shall give the 66384
applicant written notice by ordinary mail of the amount. The 66385
notice shall be sent to the address shown on the application 66386
unless the applicant notifies the commissioner of a different 66387
address. The applicant shall have sixty days from the date the 66388
commissioner mails the notice to provide additional information to 66389
the commissioner or request a hearing, or both. 66390

(B) If the applicant neither requests a hearing nor provides 66391
additional information to the tax commissioner within the time 66392
prescribed by division (A) of this section, the commissioner shall 66393
take no further action, and the refund amount or compensation 66394
amount denied becomes final. 66395

(C)(1) If the applicant requests a hearing within the time 66396
prescribed by division (A) of this section, the tax commissioner 66397
shall assign a time and place for the hearing and notify the 66398
applicant of such time and place, but the commissioner may 66399
continue the hearing from time to time as necessary. After the 66400
hearing, the commissioner may make such adjustments to the refund 66401
or compensation as the commissioner finds proper, and shall issue 66402
a final determination thereon. 66403

(2) If the applicant does not request a hearing, but provides 66404
additional information, within the time prescribed by division (A) 66405
of this section, the commissioner shall review the information, 66406
make such adjustments to the refund or compensation as the 66407
commissioner finds proper, and issue a final determination 66408
thereon. 66409

(3) The commissioner shall serve a copy of the final 66410
determination made under division (C)(1) or (2) of this section on 66411
the applicant in the manner provided in section 5703.37 of the 66412

Revised Code, and the decision is final, subject to appeal under
section 5717.02 of the Revised Code.

(D) The tax commissioner shall certify to the director of
budget and management and treasurer of state for payment from the
tax refund fund created by section 5703.052 of the Revised Code,
the amount of the refund to be refunded under division (B) or (C)
of this section. The commissioner also shall certify to the
director and treasurer of state for payment from the general
revenue fund the amount of compensation to be paid under division
(B) or (C) of this section.

Sec. 5703.80. There is hereby created in the state treasury
the property tax administration fund. All money to the credit of
the fund shall be used to defray the costs incurred by the
department of taxation in administering the taxation of property
and the equalization of real property valuation.

Each fiscal year between the first and fifteenth days of
July, the tax commissioner shall compute the following amounts for
the property in each taxing district in each county, and certify
to the director of budget and management the sum of those amounts
for all taxing districts in all counties:

(A) ~~Three-tenths~~ For fiscal year 2006, thirty-three
hundredths of one per cent of the total amount by which taxes
charged against real property on the general tax list of real and
public utility property were reduced under section 319.302 of the
Revised Code for the preceding tax year;

(B) ~~Fifteen-hundredths~~ For fiscal year 2007 and thereafter,
thirty-five hundredths of one per cent of the total amount by
which taxes charged against real property on the general tax list
of real and public utility property were reduced under section
319.302 of the Revised Code for the preceding tax year;

(C) For fiscal year 2006, one-half of one per cent of the 66443
total amount of taxes charged and payable against public utility 66444
personal property on the general tax list of real and public 66445
utility property for the preceding tax year and of the total 66446
amount of taxes charged and payable against tangible personal 66447
property on the general tax list of personal property of the 66448
preceding tax year and for which returns were filed with the tax 66449
commissioner under section 5711.13 of the Revised Code; 66450

~~(C) Seventy five~~ (D) For fiscal year 2007, fifty-six 66451
hundredths of one per cent of the total amount of taxes charged 66452
and payable against public utility personal property on the 66453
general tax list of real and public utility property for the 66454
preceding tax year and of the total amount of taxes charged and 66455
payable against tangible personal property on the general tax list 66456
of personal property of the preceding tax year and for which 66457
returns were filed with the tax commissioner under section 5711.13 66458
of the Revised Code; 66459

(E) For fiscal year 2008 and thereafter, six-tenths of one 66460
per cent of the total amount of taxes charged and payable against 66461
public utility personal property on the general tax list of real 66462
and public utility property for the preceding tax year and of the 66463
total amount of taxes charged and payable against tangible 66464
personal property on the general tax list of personal property of 66465
the preceding tax year and for which returns were filed with the 66466
tax commissioner under section 5711.13 of the Revised Code. 66467

After receiving the tax commissioner's certification, the 66468
director of budget and management shall transfer from the general 66469
revenue fund to the property tax administration fund one-fourth of 66470
the amount certified on or before each of the following days: the 66471
first days of August, November, February, and May. 66472

On or before the thirtieth day of June of the fiscal year, 66473

the tax commissioner shall certify to the director of budget and
management the sum of the amounts by which the amounts computed
for a taxing district under ~~divisions (A), (B), and (C)~~ of this
section exceeded the distributions to the taxing district under
division (F) of section 321.24 of the Revised Code, and the
director shall transfer that sum from the property tax
administration fund to the general revenue fund.

Sec. 5703.99. (A) Whoever violates section 5703.21 of the
Revised Code shall be fined not less than fifty nor more than one
hundred dollars.

(B) Whoever violates section 5703.26 of the Revised Code is
guilty of a felony of the fifth degree, ~~and the court may impose
upon the offender an additional fine of not more than seven
thousand five hundred dollars.~~

(C) Whoever violates section 5703.43 of the Revised Code
~~shall be fined not more than one thousand dollars~~ is guilty of a
misdemeanor of the first degree.

(D) Whoever violates any law that the department of taxation
is required to administer, or fails to perform any duty required
by such law, for which a penalty has not otherwise been provided,
or fails to obey any lawful requirement or order made by the
department of taxation, shall be fined not less than ~~twenty-five
one hundred fifty~~ nor more than one thousand dollars.

Sec. 5705.091. The board of county commissioners of each
county shall establish a county mental retardation and
developmental disabilities general fund. Notwithstanding sections
5705.09 and 5705.10 of the Revised Code, proceeds from levies
under section 5705.222 and division (L) of section 5705.19 of the
Revised Code shall be deposited to the credit of the county mental
retardation and developmental disabilities general fund. Accounts

shall be established within the county mental retardation and 66504
developmental disabilities general fund for each of the several 66505
particular purposes of the levies as specified in the resolutions 66506
under which the levies were approved, and proceeds from different 66507
levies that were approved for the same particular purpose shall be 66508
credited to accounts for that purpose. Other money received by the 66509
county for the purposes of Chapters 3323. and 5126. of the Revised 66510
Code and not required by state or federal law to be deposited to 66511
the credit of a different fund shall also be deposited to the 66512
credit of the county mental retardation and developmental 66513
disabilities general fund, in an account appropriate to the 66514
particular purpose for which the money was received. Unless 66515
otherwise provided by law, an unexpended balance at the end of a 66516
fiscal year in any account in the county mental retardation and 66517
developmental disabilities general fund shall be appropriated the 66518
next fiscal year to the same fund. 66519

A county board of mental retardation and developmental 66520
disabilities may request, by resolution, that the board of county 66521
commissioners establish a county mental retardation and 66522
developmental disabilities capital fund for money to be used for 66523
acquisition, construction, or improvement of capital facilities or 66524
acquisition of capital equipment used in providing services to 66525
mentally retarded and developmentally disabled persons. The county 66526
board of mental retardation and developmental disabilities shall 66527
transmit a certified copy of the resolution to the board of county 66528
commissioners. Upon receiving the resolution, the board of county 66529
commissioners shall establish a county mental retardation and 66530
developmental disabilities capital fund. 66531

A county board shall request, by resolution, that the board 66532
of county commissioners establish a county MR/DD medicaid reserve 66533
fund. On receipt of the resolution, the board of county 66534
commissioners shall establish a county MR/DD medicaid reserve 66535

fund. The portion of federal revenue funds that the county board 66536
earns for providing ~~habilitation center services~~, medicaid case 66537
management services, and home and community-based services that is 66538
needed for the county board to pay for extraordinary costs, 66539
including extraordinary costs for services to individuals with 66540
mental retardation or other developmental disability, and ensure 66541
the availability of adequate funds in the event a county property 66542
tax levy for services for individuals with mental retardation or 66543
other developmental disability fails shall be deposited into the 66544
fund. The county board shall use money in the fund for those 66545
purposes in accordance with rules adopted under section 5123.0413 66546
of the Revised Code. 66547

Sec. 5705.19. This section does not apply to school districts 66548
or county school financing districts. 66549

The taxing authority of any subdivision at any time and in 66550
any year, by vote of two-thirds of all the members of the taxing 66551
authority, may declare by resolution and certify the resolution to 66552
the board of elections not less than seventy-five days before the 66553
election upon which it will be voted that the amount of taxes that 66554
may be raised within the ten-mill limitation will be insufficient 66555
to provide for the necessary requirements of the subdivision and 66556
that it is necessary to levy a tax in excess of that limitation 66557
for any of the following purposes: 66558

(A) For current expenses of the subdivision, except that the 66559
total levy for current expenses of a detention facility district 66560
or district organized under section 2151.65 of the Revised Code 66561
shall not exceed two mills and that the total levy for current 66562
expenses of a combined district organized under sections 2151.65 66563
and 2152.41 of the Revised Code shall not exceed four mills; 66564

(B) For the payment of debt charges on certain described 66565
bonds, notes, or certificates of indebtedness of the subdivision 66566

issued subsequent to January 1, 1925;	66567
(C) For the debt charges on all bonds, notes, and	66568
certificates of indebtedness issued and authorized to be issued	66569
prior to January 1, 1925;	66570
(D) For a public library of, or supported by, the subdivision	66571
under whatever law organized or authorized to be supported;	66572
(E) For a municipal university, not to exceed two mills over	66573
the limitation of one mill prescribed in section 3349.13 of the	66574
Revised Code;	66575
(F) For the construction or acquisition of any specific	66576
permanent improvement or class of improvements that the taxing	66577
authority of the subdivision may include in a single bond issue;	66578
(G) For the general construction, reconstruction,	66579
resurfacing, and repair of streets, roads, and bridges in	66580
municipal corporations, counties, or townships;	66581
(H) For parks and recreational purposes;	66582
(I) For the purpose of providing and maintaining fire	66583
apparatus, appliances, buildings, or sites therefor, or sources of	66584
water supply and materials therefor, or the establishment and	66585
maintenance of lines of fire alarm telegraph, or the payment of	66586
permanent, part-time, or volunteer firefighters or firefighting	66587
companies to operate the same, including the payment of the	66588
firefighter employers' contribution required under section 742.34	66589
of the Revised Code, or the purchase of ambulance equipment, or	66590
the provision of ambulance, paramedic, or other emergency medical	66591
services operated by a fire department or firefighting company;	66592
(J) For the purpose of providing and maintaining motor	66593
vehicles, communications, other equipment, buildings, and sites	66594
for such buildings used directly in the operation of a police	66595
department, or the payment of salaries of permanent police	66596

personnel, including the payment of the police officer employers' 66597
contribution required under section 742.33 of the Revised Code, or 66598
the payment of the costs incurred by townships as a result of 66599
contracts made with other political subdivisions in order to 66600
obtain police protection, or the provision of ambulance or 66601
emergency medical services operated by a police department; 66602

(K) For the maintenance and operation of a county home or 66603
detention facility; 66604

(L) For community mental retardation and developmental 66605
disabilities programs and services pursuant to Chapter 5126. of 66606
the Revised Code, except that the procedure for such levies shall 66607
be as provided in section 5705.222 of the Revised Code; 66608

(M) For regional planning; 66609

(N) For a county's share of the cost of maintaining and 66610
operating schools, district detention facilities, forestry camps, 66611
or other facilities, or any combination thereof, established under 66612
section 2151.65 or 2152.41 of the Revised Code or both of those 66613
sections; 66614

(O) For providing for flood defense, providing and 66615
maintaining a flood wall or pumps, and other purposes to prevent 66616
floods; 66617

(P) For maintaining and operating sewage disposal plants and 66618
facilities; 66619

(Q) For the purpose of purchasing, acquiring, constructing, 66620
enlarging, improving, equipping, repairing, maintaining, or 66621
operating, or any combination of the foregoing, a county transit 66622
system pursuant to sections 306.01 to 306.13 of the Revised Code, 66623
or of making any payment to a board of county commissioners 66624
operating a transit system or a county transit board pursuant to 66625
section 306.06 of the Revised Code; 66626

(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;	66627 66628 66629 66630
(S) For the prevention, control, and abatement of air pollution;	66631 66632
(T) For maintaining and operating cemeteries;	66633
(U) For providing ambulance service, emergency medical service, or both;	66634 66635
(V) For providing for the collection and disposal of garbage or refuse, including yard waste;	66636 66637
(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;	66638 66639 66640
(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;	66641 66642
(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;	66643 66644 66645
(Z) For the provision and maintenance of zoological park services and facilities, <u>or of a facility that encourages the study of and promotes the sciences</u> , as authorized under section 307.76 of the Revised Code;	66646 66647 66648 66649
(AA) For the maintenance and operation of a free public museum of art, science, or history;	66650 66651
(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;	66652 66653
(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this	66654 66655

division, "rail property" and "rail service" have the same 66656
meanings as in section 4981.01 of the Revised Code. This division 66657
applies only to a county, township, or municipal corporation. 66658

(DD) For the purpose of acquiring property for, constructing, 66659
operating, and maintaining community centers as provided for in 66660
section 755.16 of the Revised Code; 66661

(EE) For the creation and operation of an office or joint 66662
office of economic development, for any economic development 66663
purpose of the office, and to otherwise provide for the 66664
establishment and operation of a program of economic development 66665
pursuant to sections 307.07 and 307.64 of the Revised Code; 66666

(FF) For the purpose of acquiring, establishing, 66667
constructing, improving, equipping, maintaining, or operating, or 66668
any combination of the foregoing, a township airport, landing 66669
field, or other air navigation facility pursuant to section 505.15 66670
of the Revised Code; 66671

(GG) For the payment of costs incurred by a township as a 66672
result of a contract made with a county pursuant to section 66673
505.263 of the Revised Code in order to pay all or any part of the 66674
cost of constructing, maintaining, repairing, or operating a water 66675
supply improvement; 66676

(HH) For a board of township trustees to acquire, other than 66677
by appropriation, an ownership interest in land, water, or 66678
wetlands, or to restore or maintain land, water, or wetlands in 66679
which the board has an ownership interest, not for purposes of 66680
recreation, but for the purposes of protecting and preserving the 66681
natural, scenic, open, or wooded condition of the land, water, or 66682
wetlands against modification or encroachment resulting from 66683
occupation, development, or other use, which may be styled as 66684
protecting or preserving "greenspace" in the resolution, notice of 66685
election, or ballot form; 66686

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit corporation or association under section 307.62 of the Revised Code; 66687
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(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a township. 66691
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(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties. 66694
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(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code; 66697
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(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code; 66699
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(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county. 66702
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(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements; 66705
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(PP) For both of the purposes set forth in divisions (G) and (OO) of this section. 66709
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(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township. 66711
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(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and 66713
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to supervise and enforce the easements. 66717

(SS) For both of the purposes set forth in divisions (BB) and 66718
(KK) of this section. This division applies only to a county. 66719

The resolution shall be confined to the purpose or purposes 66720
described in one division of this section, to which the revenue 66721
derived therefrom shall be applied. The existence in any other 66722
division of this section of authority to levy a tax for any part 66723
or all of the same purpose or purposes does not preclude the use 66724
of such revenues for any part of the purpose or purposes of the 66725
division under which the resolution is adopted. 66726

The resolution shall specify the amount of the increase in 66727
rate that it is necessary to levy, the purpose of that increase in 66728
rate, and the number of years during which the increase in rate 66729
shall be in effect, which may or may not include a levy upon the 66730
duplicate of the current year. The number of years may be any 66731
number not exceeding five, except as follows: 66732

(1) When the additional rate is for the payment of debt 66733
charges, the increased rate shall be for the life of the 66734
indebtedness. 66735

(2) When the additional rate is for any of the following, the 66736
increased rate shall be for a continuing period of time: 66737

(a) For the current expenses for a detention facility 66738
district, a district organized under section 2151.65 of the 66739
Revised Code, or a combined district organized under sections 66740
2151.65 and 2152.41 of the Revised Code; 66741

(b) For providing a county's share of the cost of maintaining 66742
and operating schools, district detention facilities, forestry 66743
camps, or other facilities, or any combination thereof, 66744
established under section 2151.65 or 2152.41 of the Revised Code 66745
or under both of those sections. 66746

(3) When the additional rate is for either of the following, 66747
the increased rate may be for a continuing period of time: 66748

(a) For the purposes set forth in division (I), (J), (U), or 66749
(KK) of this section; 66750

(b) For the maintenance and operation of a joint recreation 66751
district. 66752

(4) When the increase is for the purpose or purposes set 66753
forth in division (D), (G), (H), (CC), or (PP) of this section, 66754
the tax levy may be for any specified number of years or for a 66755
continuing period of time, as set forth in the resolution. 66756

(5) When the additional rate is for the purpose described in 66757
division (Z) of this section, the increased rate shall be for any 66758
number of years not exceeding ten. 66759

A levy for one of the purposes set forth in division (G), 66760
(I), (J), or (U) of this section may be reduced pursuant to 66761
section 5705.261 or 5705.31 of the Revised Code. A levy for one of 66762
the purposes set forth in division (G), (I), (J), or (U) of this 66763
section may also be terminated or permanently reduced by the 66764
taxing authority if it adopts a resolution stating that the 66765
continuance of the levy is unnecessary and the levy shall be 66766
terminated or that the millage is excessive and the levy shall be 66767
decreased by a designated amount. 66768

A resolution of a detention facility district, a district 66769
organized under section 2151.65 of the Revised Code, or a combined 66770
district organized under both sections 2151.65 and 2152.41 of the 66771
Revised Code may include both current expenses and other purposes, 66772
provided that the resolution shall apportion the annual rate of 66773
levy between the current expenses and the other purpose or 66774
purposes. The apportionment need not be the same for each year of 66775
the levy, but the respective portions of the rate actually levied 66776
each year for the current expenses and the other purpose or 66777

purposes shall be limited by the apportionment.

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Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

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The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

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When the electors of a subdivision have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

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~~Sec. 5705.391. (A) A board of education shall adopt as part of its annual appropriation measure a spending plan or in the case of an amendment or supplement to an appropriation measure, an amended spending plan, setting forth a schedule of expenses and expenditures of all appropriated funds by the school district for the fiscal year. A copy of the annual appropriation measure and any amendment or supplement to it and the spending plan or amended plan shall be submitted to the superintendent of public instruction and shall set forth all revenues available for~~

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~~appropriation by the district during the fiscal year and their 66809
sources; the nature and amount of expenses to be incurred by the 66810
district during such year, the outstanding and unpaid expenses on 66811
the date the appropriation measure, amendment, or supplement is 66812
adopted; the date or dates by which such expenses must be paid; 66813
and such other information as the superintendent requires to 66814
enable the superintendent to determine whether during such year 66815
the district will incur any expenses that will impair its ability 66816
to operate its schools with the revenue available to it from 66817
existing revenue sources. The plan or amended plan shall be 66818
presented in such detail and form as the superintendent 66819
prescribes. 66820~~

~~(B)(A) No later than July 1, 1998, the department of 66821
education and the auditor of state shall jointly adopt rules 66822
requiring ~~school districts to include~~ boards of education to 66823
submit five-year projections of operational revenues and 66824
expenditures ~~in the spending plan required by this section~~. The 66825
rules shall provide for the auditor of state or the department to 66826
examine the five-year projections and to determine whether any 66827
further fiscal analysis is needed to ascertain whether a district 66828
has the potential to incur a deficit during the first three years 66829
of the five-year period. 66830~~

~~The auditor of state or the department may conduct any 66831
further audits or analyses necessary to assess any district's 66832
fiscal condition. If further audits or analyses are conducted by 66833
the auditor of state, the auditor of state shall notify the 66834
department of the district's fiscal condition, and the department 66835
shall immediately notify the district of any potential to incur a 66836
deficit in the current fiscal year or of any strong indications 66837
that a deficit will be incurred in either of the ensuing two 66838
years. If such audits or analyses are conducted by the department, 66839
the department shall immediately notify the district and the 66840~~

auditor of state of such potential deficit or strong indications 66841
thereof. 66842

A district notified under this section shall take immediate 66843
steps to eliminate any deficit in the current fiscal year and 66844
shall begin to plan to avoid the projected future deficits. 66845

~~(C)~~(B) The state board of education, in accordance with 66846
sections 3319.31 and 3319.311 of the Revised Code, may limit, 66847
suspend, or revoke a license as defined under section 3319.31 of 66848
the Revised Code that has been issued to any school employee found 66849
to have willfully contributed erroneous, inaccurate, or incomplete 66850
data required for the submission of the ~~appropriation measure and~~ 66851
~~spending plan~~ five-year projection required by this section. 66852

Sec. 5707.031. (A) As used in this section: 66853

(1) "Qualifying dealer in intangibles" has the same meaning 66854
as in section 5733.45 of the Revised Code; 66855

(2) "Tax otherwise due" means the tax imposed on a qualifying 66856
dealer in intangibles under section 5707.03 and Chapter 5725. of 66857
the Revised Code reduced by the total amount of all other 66858
nonrefundable credits, if any, that the qualifying dealer in 66859
intangibles is entitled to claim. 66860

(B) Upon the issuance of a tax credit certificate by the Ohio 66861
venture capital authority under section 150.07 of the Revised 66862
Code, a credit may be claimed against the tax imposed on a 66863
qualifying dealer in intangibles under section 5707.03 and Chapter 66864
5725. of the Revised Code. The credit shall be claimed on a return 66865
due under section 5725.14 of the Revised Code after the 66866
certificate is issued by the authority. 66867

(C) If the qualifying dealer in intangibles elected a 66868
refundable credit under section 150.07 of the Revised Code and if 66869
the amount of the credit shown on the certificate does not exceed 66870

the tax otherwise due, then for the calendar year the qualifying dealer in intangibles shall claim a refundable credit equal to the amount of the credit shown on the certificate. 66871
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(D) If the qualifying dealer in intangibles elected a refundable credit under section 150.07 of the Revised Code, and if the amount of the refundable credit shown on the certificate exceeds the tax otherwise due, then for the calendar year the qualifying dealer in intangibles shall claim a refundable credit equal to the sum of the following: 66874
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(1) The amount, if any, of the tax otherwise due; 66880

(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due. 66881
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(E) If the qualifying dealer in intangibles elected a nonrefundable credit under section 150.07 of the Revised Code and if the nonrefundable credit to which the qualifying dealer in intangibles would otherwise be entitled under this section for any calendar year is greater than the tax otherwise due, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten calendar years, but the amount of any excess nonrefundable credit allowed in the ensuing calendar year shall be deducted from the balance carried forward to the next calendar year. 66884
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Sec. 5709.112. For tax year 2006 and each tax year thereafter, all tangible personal property used in the recovery of oil or gas, when installed and located on the premises or leased premises of the owner, shall be exempt from taxation. Such tangible personal property shall be subject to taxation if it is not installed on the premises or leased premises of the owner, or if it is used for the transmission, transportation, or distribution of oil or gas, as provided in section 5711.22 of the 66893
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Revised Code. The tax commissioner may adopt rules governing the 66901
administration of the exemption provided by this section. 66902

This section does not apply to any taxpayer that is required 66903
to file a report under section 5727.08 of the Revised Code. 66904

Sec. 5711.16. (A) As used in this section, ~~manufacturer:~~ 66905

(1) "Manufacturer" means a person who purchases, receives, or 66906
holds personal property for the purpose of adding to its value by 66907
manufacturing, refining, rectifying, or combining different 66908
materials with a view of making a gain or profit by so doing. 66909

(2) "Manufacturing equipment" means machinery and equipment, 66910
and tools and implements, including any associated patterns, jigs, 66911
dies, drawings, and business fixtures, used at a manufacturing 66912
facility by a manufacturer, and includes any such property leased 66913
to the manufacturer. "Manufacturing equipment" excludes property 66914
used for general office purposes. Nothing in this division is to 66915
be construed to change the definition of personal property, as 66916
defined in section 5701.03 of the Revised Code. 66917

(3) "Manufacturing facility" means a facility or portion of a 66918
facility used for manufacturing, mining, refining, rectifying, or 66919
combining different materials with a view of making a gain or 66920
profit by so doing. "Manufacturing facility" includes that portion 66921
of a facility used to store or transport raw materials, 66922
work-in-process, or finished goods inventory, for packaging, for 66923
research, or to test for quality control, as long as 66924
manufacturing, mining, refining, rectifying, or combining is also 66925
performed at the facility. "Manufacturing facility" does not 66926
include any portion of a facility used primarily for making retail 66927
sales. 66928

(4) "Manufacturing inventory" means all articles purchased, 66929
received, or otherwise held for the purpose of being used, in 66930

whole or in part, in manufacturing, mining, combining, rectifying, 66931
or refining, and of all articles that were at any time 66932
manufactured or changed in any way by a manufacturer, either by 66933
mining, combining, rectifying, refining, or adding thereto. 66934

(B) When a manufacturer is required to return a statement of 66935
the amount of the manufacturer's personal property used in 66936
business, the manufacturer shall include the average value, 66937
estimated as provided in this section, of ~~all articles purchased,~~ 66938
~~received, or otherwise held for the purpose of being used, in~~ 66939
~~whole or in part, in manufacturing, combining, rectifying, or~~ 66940
~~refining, and of all articles that were at any time manufactured~~ 66941
~~or changed in any way by the manufacturer, either by combining,~~ 66942
~~rectifying, refining, or adding thereto,~~ manufacturing inventory 66943
that the manufacturer has had on hand during the year ending on 66944
the day the property is listed for taxation annually, or the part 66945
of such year during which the manufacturer was engaged in 66946
business. The manufacturer shall separately list finished products 66947
not kept or stored at the place of manufacture or at a warehouse 66948
in the same county. 66949

The average value of such property shall be ascertained by 66950
taking the value of all property subject to be listed on the 66951
average basis, owned by the manufacturer on the last business day 66952
of each month the manufacturer was engaged in business during the 66953
year, adding the monthly values together, and dividing the result 66954
by the number of months the manufacturer was engaged in such 66955
business during the year. The result shall be the average value to 66956
be listed. 66957

~~(B)(C)~~ A manufacturer also shall list all ~~engines and~~ 66958
~~machinery, and tools and implements, of every kind used, or~~ 66959
~~designed to be used, in refining and manufacturing, and~~ equipment 66960
owned or used by the manufacturer. 66961

Sec. 5711.21. (A) In assessing taxable property the assessor 66962
shall be governed by the rules of assessment prescribed by 66963
sections 5711.01 to 5711.36 of the Revised Code. Wherever any 66964
taxable property is required to be assessed at its true value in 66965
money or at any percentage of true value, the assessor shall be 66966
guided by the statements contained in the taxpayer's return and 66967
such other rules and evidence as will enable the assessor to 66968
arrive at such true value. Wherever the income yield of taxable 66969
property is required to be assessed, and the method of determining 66970
between income and return or distribution of principal, or that of 66971
allocating expenses in determining net income, or that of 66972
ascertaining the source from which partial distributions of income 66973
have been made is not expressly prescribed by sections 5711.01 to 66974
5711.36 of the Revised Code, the assessor shall be guided by the 66975
statements contained in the taxpayer's return and such general 66976
rules as the tax commissioner adopts to enable the assessor to 66977
make such determination. 66978

(B) ~~The~~ For tax years before tax year 2009, the true value of 66979
the boilers, machinery, equipment, and any personal property used 66980
to generate or distribute the electricity shall be the sum of the 66981
following: 66982

(1) The true value of the property as it would be determined 66983
under this chapter if none of the electricity were distributed to 66984
others multiplied by the per cent of the electricity generated in 66985
the preceding calendar year that was used by the person who 66986
generated it; plus 66987

(2) The true value of the property that is production 66988
equipment as it would be determined for an electric company under 66989
section 5727.11 of the Revised Code multiplied by the per cent of 66990
the electricity generated in the preceding calendar year that was 66991
not used by the person who generated it; plus 66992

(3) The true value of the property that is not production 66993
equipment as it would be determined for an electric company under 66994
section 5727.11 of the Revised Code multiplied by the per cent of 66995
the electricity generated in the preceding calendar year that was 66996
not used by the person who generated it. 66997

(C) The For tax years before tax year 2009, the true value of 66998
personal property leased to a public utility or interexchange 66999
telecommunications company as defined in section 5727.01 of the 67000
Revised Code and used by the utility or interexchange 67001
telecommunications company directly in the rendition of a public 67002
utility service as defined in division (P) of section 5739.01 of 67003
the Revised Code shall be determined in the same manner that the 67004
true value of such property is determined under section 5727.11 of 67005
the Revised Code if owned by the public utility or interexchange 67006
telecommunications company. 67007

Sec. 5711.22. (A) Deposits not taxed at the source shall be 67008
listed and assessed at their amount in dollars on the day they are 67009
required to be listed. Moneys shall be listed and assessed at the 67010
amount thereof in dollars on hand on the day that they are 67011
required to be listed. In listing investments, the amount of the 67012
income yield of each for the calendar year next preceding the date 67013
of listing shall, except as otherwise provided in this chapter, be 67014
stated in dollars and cents and the assessment thereof shall be at 67015
the amount of such income yield; but any property defined as 67016
investments in either division (A) or (B) of section 5701.06 of 67017
the Revised Code that has not been outstanding for the full 67018
calendar year next preceding the date of listing, except shares of 67019
stock of like kind as other shares of the same corporation 67020
outstanding for the full calendar year next preceding the date of 67021
listing, or which has yielded no income during such calendar year 67022
shall be listed and assessed as unproductive investments, at their 67023

true value in money on the day that such investments are required 67024
to be listed. 67025

Credits and other taxable intangibles shall be listed and 67026
assessed at their true value in money on the day as of which the 67027
same are required to be listed. 67028

Shares of stock of a bank holding company, as defined in 67029
Title 12 U.S.C.A., section 1841, that are required to be listed 67030
for taxation under this division and upon which dividends were 67031
paid during the year of their issuance, which dividends are 67032
subject to taxation under the provisions of Chapter 5747. of the 67033
Revised Code, shall be exempt from the intangibles tax for the 67034
year immediately succeeding their issuance. If such shares bear 67035
dividends the first calendar year after their issuance, which 67036
dividends are subject to taxation under the provisions of Chapter 67037
5747. of the Revised Code, it shall be deemed that the 67038
nondelinquent intangible property tax pursuant to division (A) of 67039
section 5707.04 of the Revised Code was paid on those dividends 67040
paid that first calendar year after the issuance of the shares. 67041

(B)~~(1)~~ Boilers For tax years before tax year 2009, boilers, 67042
machinery, equipment, and personal property the true value of 67043
which is determined under division (B) of section 5711.21 of the 67044
Revised Code shall be listed and assessed at an amount equal to 67045
the sum of the products determined under divisions (B)(1)~~(a)~~, 67046
~~(b)~~(2), and ~~(c)~~(3) of this section-: 67047

~~(a)~~(1) Multiply the portion of the true value determined 67048
under division (B)(1) of section 5711.21 of the Revised Code by 67049
the assessment rate for the tax year in division ~~(F)~~(G) of this 67050
section; 67051

~~(b)~~(2) Multiply the portion of the true value determined 67052
under division (B)(2) of section 5711.21 of the Revised Code by 67053
the assessment rate in section 5727.111 of the Revised Code that 67054

is applicable to the production equipment of an electric company; 67055

~~(e)(3)~~ Multiply the portion of the true value determined 67056
under division (B)(3) of section 5711.21 of the Revised Code by 67057
the assessment rate in section 5727.111 of the Revised Code that 67058
is applicable to the property of an electric company that is not 67059
production equipment. 67060

~~(2) Personal (C) For tax years before tax year 2009, personal~~ 67061
property leased to a public utility or interexchange 67062
telecommunications company as defined in section 5727.01 of the 67063
Revised Code and used directly in the rendition of a public 67064
utility service as defined in division (P) of section 5739.01 of 67065
the Revised Code shall be listed and assessed at the same 67066
percentage of true value in money that such property is required 67067
to be assessed by section 5727.111 of the Revised Code if owned by 67068
the public utility or interexchange telecommunications company. 67069

~~(C)(D)(1)~~ Merchandise or an agricultural product shipped from 67070
outside this state and held in this state in a warehouse or a 67071
place of storage without further manufacturing or processing and 67072
for storage only and for shipment outside this state, but that ~~is~~ 67073
~~taxable because it~~ does not qualify as "not used in business in 67074
this state" under division (B)(1) or (2) of section 5701.08 of the 67075
Revised Code, ~~shall be listed and assessed at a rate of~~ 67076
~~twenty five one hundredths of its true value in money until~~ 67077
~~reduced in accordance with the following schedule:~~ 67078

~~(a) For any year, subtract five one hundredths from the rate~~ 67079
~~at which such property was required to be listed and assessed in~~ 67080
~~the preceding year, if the total statewide collection of all real~~ 67081
~~and tangible personal property taxes for the second preceding year~~ 67082
~~exceeded the total statewide collection of all real and tangible~~ 67083
~~personal property taxes for the third preceding year by more than~~ 67084
~~the greater of four per cent or the rate of increase from the~~ 67085
~~third to the second preceding years in the average consumer price~~ 67086

~~index (all urban consumers, all items) prepared by the bureau of labor statistics of the United States department of labor;~~ 67087
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~~(b) If no reduction in the assessment rate is made for a year, the rate is the same as for the preceding year.~~ 67089
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~~(2) Each year until the year the assessment rate equals zero, the tax commissioner shall determine the assessment rate required under this division and shall notify all county auditors of that rate.~~ 67091
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~~(3) Notwithstanding provisions to the contrary in division (B) of section 5701.08 of the Revised Code, during and after the year for which the assessment rate as calculated under this division equals zero, any merchandise or agricultural product shipped from outside this state and held in this state in any warehouse or place of storage, whether public or private, without further manufacturing or processing and for storage only and for shipment outside this state to any person for any purpose is nevertheless not used in business in this state for property tax purposes.~~ 67095
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~~(D)(1)(2) Merchandise or an agricultural product owned by a qualified out-of-state person shipped from outside this state and held in this state in a public warehouse without further manufacturing or processing and for temporary storage only and for shipment inside this state, but that is taxable because it does not qualify as "not used in business in this state" under division (B)(1) or (2) of section 5701.08 of the Revised Code, shall be listed and assessed at a rate of twenty five one hundredths of its true value in money until reduced in accordance with the following schedule:~~ 67105
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~~(a) For any year, subtract five one hundredths from the rate at which such property was required to be listed and assessed in the preceding year, if the total statewide collection of all real~~ 67115
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~~and tangible personal property taxes for the second preceding year~~ 67118
~~exceeded the total statewide collection of all real and tangible~~ 67119
~~personal property taxes for the third preceding year by more than~~ 67120
~~the greater of four per cent or the rate of increase from the~~ 67121
~~third to the second preceding years in the average consumer price~~ 67122
~~index (all urban consumers, all items) prepared by the bureau of~~ 67123
~~labor statistics of the United States department of labor;~~ 67124

~~(b) If no reduction in the assessment rate is made for a~~ 67125
~~year, the rate is the same as for the preceding year.~~ 67126

~~(2) Each year until the year the assessment rate equals zero,~~ 67127
~~the tax commissioner shall determine the assessment rate required~~ 67128
~~under this division and shall notify all county auditors of that~~ 67129
~~rate.~~ 67130

~~(3) Notwithstanding provisions to the contrary in division~~ 67131
~~(B) of section 5701.08 of the Revised Code, during and after the~~ 67132
~~year for which the assessment rate as calculated under this~~ 67133
~~division equals zero, any merchandise or agricultural product~~ 67134
~~described in division (D)(1) of this section is nevertheless not~~ 67135
~~used in business in this state for property tax purposes.~~ 67136

~~(4)~~(3) As used in division (D)(2) of this section: 67137

(a) "Qualified out-of-state person" means a person that does 67138
not own, lease, or use property, other than merchandise or an 67139
agricultural product described in this division, in this state, 67140
and does not have employees, agents, or representatives in this 67141
state; 67142

(b) "Public warehouse" means a warehouse in this state that 67143
is not subject to the control of or under the supervision of the 67144
owner of the merchandise or agricultural product stored in it, or 67145
staffed by the owner's employees, and from which the property is 67146
to be shipped inside this state. 67147

(E) Personal property valued pursuant to section 5711.15 of 67148
the Revised Code and personal property required to be listed on 67149
the average basis by division (A) of section 5711.16 of the 67150
Revised Code, except property described in division ~~(C)~~ or (D) of 67151
this section, business fixtures, and furniture not held for sale 67152
in the course of business, shall be listed and assessed at the 67153
rate of ~~twenty five per cent of its true value in money until~~ 67154
~~reduced to zero in accordance with the following schedule:~~ 67155

~~(1) Beginning in tax year 2002 and for each of tax years 2003 67156
and 2004, subtract one percentage point from the rate at which the 67157
property was required to be listed and assessed in the preceding 67158
year, if the total statewide collection of tangible personal 67159
property taxes for the second preceding year exceeded the total 67160
statewide collection of tangible personal property taxes for the 67161
third preceding year. If no reduction in the assessment rate is 67162
made for a year, the rate is the same as for the preceding year. 67163~~

~~(2) In tax years 2005 and 2006, the assessment rate shall be 67164
reduced by two percentage points, if the total statewide 67165
collection of tangible personal property taxes for the second 67166
preceding year exceeded the total statewide collection of tangible 67167
personal property taxes for the third preceding year. If no 67168
reduction in the assessment rate is made for a year, the rate is 67169
the same as for the preceding year. 67170~~

~~(3) For tax year 2007 and each tax year thereafter, the 67171
assessment rate shall be reduced by two percentage points. During 67172
and after the tax year that the assessment rate equals zero, the 67173
property described in division (E) of this section shall not be 67174
listed for taxation. 67175~~

~~Each year until the year the assessment rate equals zero, the 67176
tax commissioner shall determine the assessment rate required 67177
under this division and shall notify all county auditors of that 67178~~

rate. 67179

~~For purposes of division (E) of this section, "total statewide collection of tangible person property taxes" excludes taxes collected from public utilities and interexchange telecommunications companies on property that is determined to be taxable pursuant to section 5727.06 of the Revised Code twenty-three per cent of its true value in money for tax year 2005 and at the percentage of such true value specified in division (G) of this section for tax year 2006 and each tax year thereafter.~~ 67180
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(F) All manufacturing equipment as defined in section 5711.16 of the Revised Code shall be listed and assessed at the following percentage of its true value in money: 67188
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(1) For all such property not previously used in business in this state by the owner thereof, or by related member or predecessor of the owner, other than as inventory, before January 1, 2005, zero per cent of true value; 67191
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(2) For all other such property, at the percentage of true value specified in division (G) of this section for tax year 2005 and each tax year thereafter. 67195
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~~(F)~~(G) Unless otherwise provided by law, all other personal property used in business that has not been legally regarded as an improvement on land and considered in arriving at the value of the real property assessed for taxation shall be listed and assessed at the ~~rate of twenty five per cent~~ following percentages of its true value in money: 67198
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(1) For tax year 2005, twenty-five per cent of true value; 67204

(2) For tax year 2006, eighteen and three-fourths per cent of true value; 67205
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(3) For tax year 2007, twelve and one-half per cent of true value; 67207
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(4) For tax year 2008, six and one-fourth per cent of true value; 67209
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(5) For tax year 2009 and each tax year thereafter, zero per cent of true value. 67211
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(H) During and after the tax year in which the assessment rate equals zero per cent, the property described in division (E), (F), or (G) of this section shall not be listed for taxation. 67213
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(I) Divisions (E), (F), and (G) of this section apply to the property of a person described in divisions (E)(3) to (11) of section 5751.01 of the Revised Code. Division (I) of this section does not prevent the application of the exemption of property from taxation under section 5725.25 or 5725.26 of the Revised Code. 67216
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Sec. 5711.28. Whenever the assessor imposes a penalty prescribed by section 5711.27 or 5725.17 of the Revised Code, the assessor shall send notice of such penalty assessment to the taxpayer by mail. If the notice also reflects the assessment of any property not listed in or omitted from a return, or the assessment of any item or class of taxable property listed in a return by the taxpayer in excess of the value or amount thereof as so listed, or without allowing a claim duly made for deduction from the net book value of accounts receivable, or depreciated book value of personal property used in business, so listed, and the taxpayer objects to one or more of such corrections in addition to the penalty, the taxpayer shall proceed as prescribed by section 5711.31 of the Revised Code, but if no such correction is reflected in the notice, or if the taxpayer does not object to any such correction made, ~~he~~ the taxpayer shall proceed as prescribed herein. 67221
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Within sixty days after the mailing of the notice of a penalty assessment prescribed by this section, the taxpayer may 67237
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file with the tax commissioner, in person or by certified mail, a
petition for abatement of such penalty assessment. If the petition
is filed by certified mail, the date of the United States postmark
placed on the sender's receipt by the postal employee to whom the
petition is presented shall be treated as the date of filing. The
petition shall have attached thereto and incorporated therein by
reference a true copy of the notice of assessment complained of,
but the failure to attach a copy of such notice and incorporate it
by reference does not invalidate the petition. The petition shall
also indicate that the taxpayer's only objection is to the
assessed penalty and the reason for such objection.

Upon the filing of a petition for abatement of penalty, the
commissioner shall notify the treasurer of state or the auditor
and treasurer of each county having any part of the penalty
assessment entered on the tax list or duplicate. The commissioner
shall review the petition without the need for hearing. If it
appears that the failure of the taxpayer to timely return or list
as required under this chapter, or to file a complying report and
pay tax under Chapter 5725. of the Revised Code, whichever the
case may be, was due to reasonable cause and not willful neglect,
the commissioner may abate in whole or in part the penalty
assessment. The commissioner shall transmit a certificate of the
commissioner's determination to the taxpayer, and if no appeal is
taken therefrom as provided by law, or upon the final
determination of an appeal which may be taken, the commissioner
shall notify the treasurer of state or the proper county auditor
of such final determination. If the final determination orders
abatement of the penalty assessment, the notification may be in
the form of an amended assessment certificate. Upon receipt of the
notification, the treasurer of state or county auditor shall make
any corrections to the treasurer's or auditor's records and tax
lists and duplicates required in accordance therewith and proceed

as prescribed by section 5711.32 or 5725.22 of the Revised Code. 67271

The decision of the commissioner shall be final with respect 67272
to the percentage of penalty, if any, the commissioner finds 67273
appropriate ~~for the failure to return timely or list the property,~~ 67274
but neither the commissioner's decision nor a final judgment of 67275
the board of tax appeals or any court to which such final 67276
determination may be appealed shall finalize the assessment of 67277
such property. 67278

Sec. 5715.01. (A) The tax commissioner shall direct and 67279
supervise the assessment for taxation of all real property. The 67280
commissioner shall adopt, prescribe, and promulgate rules for the 67281
determination of true value and taxable value of real property by 67282
uniform rule for such values and for the determination of the 67283
current agricultural use value of land devoted exclusively to 67284
agricultural use. The uniform rules shall prescribe methods of 67285
determining the true value and taxable value of real property and 67286
shall also prescribe the method for determining the current 67287
agricultural use value of land devoted exclusively to agricultural 67288
use, which method shall reflect standard and modern appraisal 67289
techniques, that take into consideration: the productivity of the 67290
soil under normal management practices; the average price patterns 67291
of the crops and products produced to determine the income 67292
potential to be capitalized; the market value of the land for 67293
agricultural use; and other pertinent factors. The rules shall 67294
provide that in determining the true value of lands or 67295
improvements thereon for tax purposes, all facts and circumstances 67296
relating to the value of the property, its availability for the 67297
purposes for which it is constructed or being used, its obsolete 67298
character, if any, the income capacity of the property, if any, 67299
and any other factor that tends to prove its true value shall be 67300
used. The In determining the true value of minerals or rights to 67301
minerals for the purpose of real property taxation, the tax 67302

commissioner shall not include in the value of the minerals or 67303
rights to minerals the value of any tangible personal property 67304
used in the recovery of those minerals. 67305

(B) The taxable value shall be that per cent of true value in 67306
money, or current agricultural use value in the case of land 67307
valued in accordance with section 5713.31 of the Revised Code, the 67308
commissioner by rule establishes, but it shall not exceed 67309
thirty-five per cent. The uniform rules shall also prescribe 67310
methods of making the appraisals set forth in section 5713.03 of 67311
the Revised Code. The taxable value of each tract, lot, or parcel 67312
of real property and improvements thereon, determined in 67313
accordance with the uniform rules and methods prescribed thereby, 67314
shall be the taxable value of the tract, lot, or parcel for all 67315
purposes of sections 5713.01 to 5713.26, 5715.01 to 5715.51, and 67316
5717.01 to 5717.06 of the Revised Code. County auditors shall, 67317
under the direction and supervision of the commissioner, be the 67318
chief assessing officers of their respective counties, and shall 67319
list and value the real property within their respective counties 67320
for taxation in accordance with this section and sections 5713.03 67321
and 5713.31 of the Revised Code and with such rules of the 67322
commissioner. There shall also be a board in each county, known as 67323
the county board of revision, which shall hear complaints and 67324
revise assessments of real property for taxation. 67325

(C) The commissioner shall neither adopt nor enforce any rule 67326
that requires true value for any tax year to be any value other 67327
than the true value in money on the tax lien date of such tax year 67328
or that requires taxable value to be obtained in any way other 67329
than by reducing the true value, or in the case of land valued in 67330
accordance with section 5713.31 of the Revised Code, its current 67331
agricultural use value, by a specified, uniform percentage. 67332

Sec. 5715.24. (A) The tax commissioner, annually, shall 67333

determine whether the real property and the various classes 67334
thereof in the several counties, municipal corporations, and 67335
taxing districts which have completed a sexennial reappraisal in 67336
the current year and which will have the new taxable values placed 67337
on the tax list and duplicate have been assessed as required by 67338
law, and whether the values set forth in the agricultural land tax 67339
list in such taxing districts correctly reflect the true and 67340
agricultural use values of the lands contained therein. The 67341
determination shall be made prior to the first Monday in August 67342
unless the commissioner, for good cause, extends the date. If the 67343
commissioner finds that the real property or any class thereof in 67344
any such county, municipal corporation, or taxing district, as 67345
reported to it by the several county auditors of the counties that 67346
have completed such reappraisal is not listed for taxation or 67347
recorded on the agricultural land tax list in accordance 67348
therewith, ~~he~~ the commissioner shall increase or decrease the 67349
appropriate aggregate value of the real property or any class 67350
thereof in any such county, township, municipal corporation, 67351
taxing district, or ward or division of a municipal corporation, 67352
by a per cent or amount that will cause such property to be 67353
correctly valued on the agricultural land tax list and to be 67354
correctly assessed on the tax list at its taxable value so that 67355
every class of real property shall be listed and valued for 67356
taxation and valued for purposes of sections 5713.33 to 5713.35 of 67357
the Revised Code as required by law. In determining whether a 67358
class of real property has been assessed at its correct taxable 67359
value and in determining any per cent or amount by which the 67360
aggregate value of the class from a prior year shall be increased 67361
or decreased to be correctly assessed, the commissioner shall 67362
consider only the aggregate values of property that existed in the 67363
prior year and that is to be taxed in the current year. In 67364
addition to any other adjustments the commissioner considers 67365
necessary to comply with this requirement, the value of new 67366

construction shall not be regarded as an increase in such 67367
aggregate value from the prior year, and the value of property 67368
destroyed or demolished since the prior year shall be deducted 67369
from the aggregate value of that class for the prior year. 67370

In implementing any increase or decrease in valuation of real 67371
property ordered by the commissioner pursuant to this section, the 67372
county auditor shall, when practicable, increase or decrease the 67373
taxable valuation of parcels in accordance with actual changes in 67374
valuation of real property which occur in different subdivisions, 67375
neighborhoods, or among classes of real property in the county. 67376

(B) Division (A) of this section also applies to a county in 67377
the third calendar year following the year in which a sexennial 67378
reappraisal is completed. 67379

Sec. 5725.01. As used in sections 5725.01 to 5725.26 of the 67380
Revised Code: 67381

(A) "Financial institution" means: 67382

(1) A national bank organized and existing as a national bank 67383
association pursuant to the "National Bank Act," 12 U.S.C. 21; 67384

(2) A federal savings association or federal savings bank 67385
that is chartered under 12 U.S.C. 1464; 67386

(3) A bank, banking association, trust company, savings and 67387
loan association, savings bank, or other banking institution that 67388
is incorporated or organized under the laws of any state; 67389

(4) Any corporation organized under 12 U.S.C. 611 to 631; 67390

(5) Any agency or branch of a foreign depository as defined 67391
in 12 U.S.C. 3101; 67392

(6) A company licensed as a small business investment company 67393
under the "Small Business Investment Act of 1958," 72 Stat. 689, 67394
15 U.S.C. 661, as amended; or 67395

(7) A company chartered under the "Farm Credit Act of 1933," 67396
48 Stat. 257, 12 U.S.C. 1131(d), as amended. 67397

Corporations or institutions organized under the "Federal 67398
Farm Loan Act" and amendments thereto, insurance companies, and 67399
credit unions shall not be considered financial institutions or 67400
dealers in intangibles within the meaning of such sections. 67401

(B)(1) "Dealer in intangibles" includes every person who 67402
keeps an office or other place of business in this state and 67403
engages at such office or other place in ~~the~~ a business that 67404
consists primarily of lending money, or discounting, buying, or 67405
selling bills of exchange, drafts, acceptances, notes, mortgages, 67406
or other evidences of indebtedness, or of buying or selling bonds, 67407
stocks, or other investment securities, whether on the person's 67408
own account with a view to profit, or as agent or broker for 67409
others, with a view to profit or personal earnings. Dealer in 67410
intangibles excludes institutions used exclusively for charitable 67411
purposes, insurance companies, and financial institutions. ~~Neither~~ 67412
~~casual nor isolated transactions of any of the kinds enumerated in~~ 67413
~~this division of this section, nor the~~ The investment of funds as 67414
personal accumulations or as business reserves or working capital 67415
does not constitute engaging in a business within the meaning of 67416
this division ~~of this section~~; but a person who, having engaged in 67417
~~the~~ a business that consists primarily of lending money, or 67418
discounting, buying, or selling bills of exchange, drafts, 67419
acceptances, notes, mortgages, or other evidences of indebtedness 67420
on the person's own account, remains in business primarily for the 67421
purpose of realizing upon the assets of ~~such~~ the business is 67422
deemed a dealer in intangibles, though not presently engaged in a 67423
business that consists primarily of lending money or discounting 67424
or buying such securities. 67425

(2) The tax commissioner shall adopt a rule defining 67426
"primarily" as that term is used in division (B)(1) of this 67427

section. 67428

(C) "Insurance company" includes every corporation, 67429
association, and society engaged in the business of insurance of 67430
any character, or engaged in the business of entering into 67431
contracts substantially amounting to insurance of any character, 67432
or of indemnifying or guaranteeing against loss or damage, or 67433
acting as surety on bonds or undertakings. "Insurance company" 67434
also includes any health insuring corporation as defined in 67435
section 1751.01 of the Revised Code. 67436

(D) "Domestic insurance company" includes every insurance 67437
company organized and existing under the laws of this state, and 67438
every unincorporated association and society formed under the laws 67439
of this state for the purpose of engaging in said business, except 67440
a company, association, or society that is an insurance holding 67441
company affiliate controlled by a nonresident affiliate and has 67442
risks in this state formerly written by its foreign affiliates in 67443
a total amount exceeding the risks outstanding on the taxpayer's 67444
latest annual report that arise from business initially written by 67445
it in this state; and excludes every foreign insurance company. As 67446
used in this division, terms defined in section 3901.32 of the 67447
Revised Code have the same meanings given to them in that section. 67448

(E) "Foreign insurance company" includes every insurance 67449
company organized or existing under the laws of any other state, 67450
territory, country, or the United States and every insurance 67451
holding company affiliate excepted under division (D) of this 67452
section. 67453

Sec. 5725.19. (A) As used in this section, "tax otherwise 67454
due" means the tax imposed on a domestic insurance company under 67455
section 5725.18 of the Revised Code reduced by the total amount of 67456
all other nonrefundable credits, if any, that the domestic 67457
insurance company is entitled to claim. 67458

(B) Upon the issuance of a tax credit certificate by the Ohio
venture capital authority under section 150.07 of the Revised
Code, a credit may be claimed against the tax imposed on a
domestic insurance company under section 5725.18 of the Revised
Code. The credit shall be claimed in the calendar year specified
in the certificate issued by the authority.

(C) If the company elected a refundable credit under section
150.07 of the Revised Code and if the amount of the credit shown
on the certificate does not exceed the tax otherwise due, then for
the calendar year the company shall claim a refundable credit
equal to the amount of the credit shown on the certificate.

(D) If the company elected a refundable credit under section
150.07 of the Revised Code, and the amount of the credit shown on
the certificate exceeds the tax otherwise due ~~under section
5725.18 of the Revised Code~~, then for the calendar year the
company may receive a refund equal to seventy five per cent of
such excess. If shall claim a refundable credit equal to the sum
of the following:

(1) The amount, if any, of the tax otherwise due;

(2) Seventy-five per cent of the difference between the
amount of the refundable credit shown on the certificate and the
tax otherwise due.

(E) If the company elected a nonrefundable credit, the amount
of the credit shown on the certificate shall not exceed the amount
of tax otherwise due. If the company elected a nonrefundable
credit and the credit to which the company would otherwise be
entitled under this section for any calendar year is greater than
the tax otherwise due ~~under section 5725.18 of the Revised Code~~,
the excess shall be allowed as a nonrefundable credit in each of
the ensuing ten calendar years, but the amount of any excess
credit allowed in the ensuing calendar year shall be deducted from

the balance carried forward to the next calendar year. 67490

Sec. 5725.32. A refundable credit granted by the tax credit 67491
authority under section 122.17 of the Revised Code may be claimed 67492
against the tax imposed by section 5725.18 of the Revised Code. 67493

Sec. 5727.01. As used in this chapter: 67494

(A) "Public utility" means each person referred to as a 67495
telephone company, telegraph company, electric company, natural 67496
gas company, pipe-line company, water-works company, water 67497
transportation company, heating company, rural electric company, 67498
railroad company, or combined company. 67499

(B) "Gross receipts" means the entire receipts for business 67500
done by any person from operations as a public utility, or 67501
incidental thereto, or in connection therewith, including any 67502
receipts received under Chapter 4928. of the Revised Code. The 67503
gross receipts for business done by an incorporated company 67504
engaged in operation as a public utility includes the entire 67505
receipts for business done by such company under the exercise of 67506
its corporate powers, whether from the operation as a public 67507
utility or from any other business. 67508

(C) "Rural electric company" means any nonprofit corporation, 67509
organization, association, or cooperative engaged in the business 67510
of supplying electricity to its members or persons owning an 67511
interest therein in an area the major portion of which is rural. 67512

(D) Any person: 67513

(1) Is a telegraph company when engaged in the business of 67514
transmitting telegraphic messages to, from, through, or in this 67515
state; 67516

(2) Is a telephone company when primarily engaged in the 67517
business of providing local exchange telephone service, excluding 67518

cellular radio service, in this state; 67519

(3) Is an electric company when engaged in the business of 67520
generating, transmitting, or distributing electricity within this 67521
state for use by others, but excludes a rural electric company; 67522

(4) Is a natural gas company when engaged in the business of 67523
supplying or distributing natural gas for lighting, power, or 67524
heating purposes to consumers within this state, excluding a 67525
person that is a governmental aggregator or retail natural gas 67526
supplier as defined in section 4929.01 of the Revised Code; 67527

(5) Is a pipe-line company when engaged in the business of 67528
transporting natural gas, oil, or coal or its derivatives through 67529
pipes or tubing, either wholly or partially within this state; 67530

(6) Is a water-works company when engaged in the business of 67531
supplying water through pipes or tubing, or in a similar manner, 67532
to consumers within this state; 67533

(7) Is a water transportation company when engaged in the 67534
transportation of passengers or property, by boat or other 67535
watercraft, over any waterway, whether natural or artificial, from 67536
one point within this state to another point within this state, or 67537
between points within this state and points without this state; 67538

(8) Is a heating company when engaged in the business of 67539
supplying water, steam, or air through pipes or tubing to 67540
consumers within this state for heating purposes; 67541

(9) Is a railroad company when engaged in the business of 67542
owning or operating a railroad either wholly or partially within 67543
this state on rights-of-way acquired and held exclusively by such 67544
company, or otherwise, and includes a passenger, street, suburban, 67545
or interurban railroad company. 67546

As used in division (D)(2) of this section, "local exchange 67547
telephone service" means making available or furnishing access and 67548

a dial tone to all persons within a local calling area for use in
originating and receiving voice grade communications over a
switched network operated by the provider of the service within
the area and for gaining access to other telecommunication
services.

(E) "Taxable property" means the property required by section
5727.06 of the Revised Code to be assessed by the tax
commissioner, but does not include either of the following:

(1) An item of tangible personal property that for the period
subsequent to the effective date of an air, water, or noise
pollution control certificate and continuing so long as the
certificate is in force, has been certified as part of the
pollution control facility with respect to which the certificate
has been issued;

(2) An item of tangible personal property that during the
construction of a plant or facility and until the item is first
capable of operation, whether actually used in operation or not,
is incorporated in or being held exclusively for incorporation in
that plant or facility.

Notwithstanding section 5701.03 of the Revised Code, for tax
year 2006 and thereafter, "taxable property" includes patterns,
jigs, dies, and drawings of an electric company or a combined
company for use in the activity of an electric company.

(F) "Taxing district" means a municipal corporation of
township, or part thereof, in which the aggregate rate of taxation
is uniform.

(G) "Telecommunications service" has the same meaning as in
division (AA) of section 5739.01 of the Revised Code.

(H) "Interexchange telecommunications company" means a person
that is engaged in the business of transmitting telephonic

messages to, from, through, or in this state, but that is not a 67579
telephone company. 67580

(I) "Sale and leaseback transaction" means a transaction in 67581
which a public utility or interexchange telecommunications company 67582
sells any tangible personal property to a person other than a 67583
public utility or interexchange telecommunications company and 67584
leases that property back from the buyer. 67585

(J) "Production equipment" means all taxable steam, nuclear, 67586
hydraulic, and other production plant equipment used to generate 67587
electricity. For tax years prior to 2001, "production equipment" 67588
includes taxable station equipment that is located at a production 67589
plant. 67590

(K) "Tax year" means the year for which property or gross 67591
receipts are subject to assessment under this chapter. This 67592
division does not limit the tax commissioner's ability to assess 67593
and value property or gross receipts outside the tax year. 67594

(L) "Combined company" means any person engaged in the 67595
activity of an electric company or rural electric company that is 67596
also engaged in the activity of a heating company or a natural gas 67597
company, or any combination thereof. 67598

(M) "Public utility property lessor" means any, other than a 67599
public utility or an interexchange telecommunications company,
that leases personal property, other than in a sale and leaseback 67600
transaction, to a public utility, other than a railroad or water 67601
transportation company, or to an interexchange telecommunications 67602
company, if the property would be taxable property if owned by the 67603
public utility or interexchange telecommunications company. A 67604
public utility property lessor is subject to this chapter only for 67605
the purposes of reporting and paying tax on taxable property it 67606
leases to a public utility or interexchange telecommunications 67607
company. A public utility property lessor that leases property to 67608
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a public utility or an interexchange telecommunications company is 67610
not a public utility or interexchange telecommunications company, 67611
but it shall report its property and be assessed in the same 67612
manner as the utility or company to which it leases the property. 67613

Sec. 5727.02. As used in this chapter, "public utility," 67614
"electric company," "natural gas company," "pipe-line company," 67615
"water-works company," "water transportation company" or "heating 67616
company" does not include any of the following: 67617

(A) Any (1) Except as provided in division (A)(2) of this 67618
section, any person that is engaged in some other primary business 67619
to which the supplying of electricity, heat, natural gas, water, 67620
water transportation, steam, or air to others is incidental. As 67621
used in this division (A) of this section and in section 5727.031 67622
of the Revised Code, "supplying of electricity" means generating, 67623
transmitting, or distributing electricity. 67624

(2) For tax year 2006 and each tax year thereafter, a person 67625
that is engaged in some other primary business to which the 67626
supplying of electricity to others is incidental shall be treated 67627
as an "electric company" and a "public utility" for purposes of 67628
this chapter solely to the extent required by section 5727.031 of 67629
the Revised Code. 67630

(B) Any person that supplies electricity, natural gas, water, 67631
water transportation, steam, or air to its tenants, whether for a 67632
separate charge or otherwise; 67633

(C) Any person whose primary business in this state consists 67634
of producing, refining, or marketing petroleum or its products. 67635

(D) Any person whose primary business in this state consists 67636
of producing or gathering natural gas rather than supplying or 67637
distributing natural gas to consumers. 67638

Sec. 5727.031. (A) For tax year 2006 and each tax year 67639

thereafter, a person that is engaged in some other primary 67640
business to which the supplying of electricity to others is 67641
incidental shall file a report under section 5727.08 of the 67642
Revised Code as an electric company but shall only report therein 67643
as taxable property the amounts required in divisions (B) and (C) 67644
of this section. All time limits and other procedural requirements 67645
of this chapter for the reporting and assessment of property of 67646
electric companies apply to persons required to file a report 67647
under this section. 67648

(B) A person subject to this section shall report the true 67649
value of the boilers, machinery, equipment, and any personal 67650
property used to supply electricity to others, which shall be the 67651
sum of the following: 67652

(1) The true value of the property that is production 67653
equipment as it would be determined for an electric company under 67654
section 5727.11 of the Revised Code multiplied by the per cent of 67655
the electricity generated in the preceding calendar year that was 67656
not used by the person who generated it; plus 67657

(2) The true value of the property that is not production 67658
equipment as it would be determined for an electric company under 67659
section 5727.11 of the Revised Code multiplied by the per cent of 67660
the electricity generated in the preceding calendar year that was 67661
not used by the person who generated it. 67662

(C) The property reported under division (B) of this section 67663
shall be listed and assessed at an amount equal to the sum of the 67664
products determined under divisions (C)(1) and (2) of this 67665
section. 67666

(1) Multiply the portion of the true value determined under 67667
division (B)(1) of this section by the assessment rate in section 67668
5727.111 of the Revised Code that is applicable to the production 67669

equipment of an electric company; 67670

(2) Multiply the portion of the true value determined under 67671
division (B)(2) of this section by the assessment rate in section 67672
5727.111 of the Revised Code that is applicable to the property of 67673
an electric company that is not production equipment. 67674

Sec. 5727.06. (A) Except as otherwise provided by law, the 67675
following constitutes the taxable property of a public utility ~~or,~~ 67676
interexchange telecommunications company, or public utility 67677
property lessor that shall be assessed by the tax commissioner: 67678

(1) For tax years before tax year 2006: 67679

(a) In the case of a railroad company, all real property and 67680
tangible personal property owned or operated by the railroad 67681
company in this state on the thirty-first day of December of the 67682
preceding year; 67683

~~(2)~~(b) In the case of a water transportation company, all 67684
tangible personal property, except watercraft, owned or operated 67685
by the water transportation company in this state on the 67686
thirty-first day of December of the preceding year and all 67687
watercraft owned or operated by the water transportation company 67688
in this state during the preceding calendar year; 67689

~~(3)~~(c) In the case of all other public utilities and 67690
interexchange telecommunications companies, all tangible personal 67691
property that on the thirty-first day of December of the preceding 67692
year was both located in this state and: 67693

~~(a)~~(i) Owned by the public utility or interexchange 67694
telecommunications company; or 67695

~~(b)~~(ii) Leased by the public utility or interexchange 67696
telecommunications company under a sale and leaseback transaction. 67697

(2) For tax years 2006, 2007, and 2008: 67698

(a) In the case of a railroad company, all real property and tangible personal property owned, or operated by the railroad company in this state on the thirty-first day of December of the preceding year; 67699
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(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned, or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned, or operated by the water transportation company in this state during the preceding calendar year; 67703
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(c) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding year was both located in this state and either owned by the public utility or interexchange telecommunications company or leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction. 67709
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(3) For tax year 2009 and each tax year thereafter: 67716

(a) In the case of a railroad company, all real property used in railroad operations and tangible personal property owned or operated by the railroad company in this state on the thirty-first day of December of the preceding year; 67717
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(b) In the case of a water transportation company, all tangible personal property, except watercraft, owned or operated by the water transportation company in this state on the thirty-first day of December of the preceding year and all watercraft owned or operated by the water transportation company in this state during the preceding calendar year; 67721
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(c) In the case of all other public utilities and interexchange telecommunications companies, all tangible personal property that on the thirty-first day of December of the preceding 67727
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year was both located in this state and either owned by the public utility or interexchange telecommunications company or leased by the public utility or interexchange telecommunications company under a sale and leaseback transaction; 67730
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(d) In the case of a public utility property lessor, all personal property that on the thirty-first day of December of the preceding year was both located in this state and leased, in other than a sale and leaseback transaction, to an interexchange telecommunications company or a public utility other than a railroad company or water transportation company. The assessment rate used under section 5727.111 of the Revised Code shall be based on the assessment rate that would apply if the interexchange telecommunications company or public utility owned the property. 67734
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(B) In the case of an interexchange telecommunications company, all taxable property shall be subject to the provisions of this chapter and shall be valued by the commissioner in accordance with division (A) of section 5727.11 of the Revised Code. A person described by this division shall file the report required by section 5727.08 of the Revised Code. Persons described in this division shall not be considered taxpayers, as defined in division (B) of section 5711.01 of the Revised Code, and shall not be required to file a return and list their taxable property under any provision of Chapter 5711. of the Revised Code. 67743
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(C) The lien of the state for taxes levied each year on the real and personal property of public utilities and interexchange telecommunications companies and on the personal property of public utility property lessors shall attach thereto on the thirty-first day of December of the preceding year. 67753
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(D) Property that is required by division (A)(3)(b) of this section to be assessed by the tax commissioner under this chapter shall not be listed by the owner of the property under Chapter 5711. of the Revised Code. 67758
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(E) The tax commissioner may adopt rules governing the 67762
listing of the taxable property of public utilities and 67763
interexchange telecommunications companies and the determination 67764
of true value. 67765

Sec. 5727.08. On or before the first day of March, annually, 67766
each public utility and interexchange telecommunications company, 67767
and, for tax years 2009 and thereafter, each public utility 67768
property lessor, shall file a report with the tax commissioner, on 67769
a form prescribed by the tax commissioner. The report shall 67770
include such information as the tax commissioner requires to 67771
enable the tax commissioner to make any assessment or 67772
apportionment required under this chapter. 67773

The report shall be signed by either the owner of the public 67774
utility interexchange telecommunications company, or public 67775
utility property lessor or the president, secretary, treasurer, or 67776
another duly authorized person. 67777

If such a public utility company, or lessor fails to file the 67778
report on or before the first day of March, or the date it is due 67779
under an extension allowed pursuant to section 5727.48 of the 67780
Revised Code, or fails to accurately report all taxable property, 67781
the tax commissioner may impose a penalty of up to fifty per cent 67782
of the taxable value of the property that was not timely or 67783
accurately reported. However, if the such a public utility, 67784
company, or lessor files, within sixty days after the first day of 67785
March or the extended due date, the report or an amended report 67786
and discloses all items of taxable property that are required by 67787
this chapter to be reported, the penalty shall not be more than 67788
five per cent of the taxable value that was not timely or 67789
accurately reported. The penalty shall be added to and considered 67790
a part of the total taxable value of the property that was not 67791
timely or accurately reported, and may be abated in whole or in 67792

part by the tax commissioner pursuant to a petition for 67793
reassessment filed under section 5727.47 of the Revised Code. 67794

Sec. 5727.10. Annually, the tax commissioner shall determine, 67795
in accordance with section 5727.11 of the Revised Code, the true 67796
value in money of all taxable property, except property of a 67797
railroad company, required by ~~division (A)(2) or (3) of~~ section 67798
5727.06 of the Revised Code to be assessed by the commissioner. 67799
The commissioner also shall determine the total taxable value of 67800
such property based on the percentages of true value at which the 67801
property is required to be assessed by section 5727.111 of the 67802
Revised Code. 67803

The commissioner shall be guided by the information contained 67804
in the report filed by the public utility and such other evidence 67805
and rules as will enable ~~him~~ the commissioner to make these 67806
determinations. 67807

Before issuing the preliminary assessment under section 67808
5727.23 of the Revised Code, the commissioner shall notify each 67809
public utility of the proposed total taxable value of its taxable 67810
property, including any proposed penalty. After receiving such 67811
notice, a public utility may, upon written application, within the 67812
time prescribed by the commissioner, appear before ~~him~~ the 67813
commissioner and be heard in the matter of the proposal. The 67814
commissioner may, on the application of a public utility, or on 67815
~~his~~ the commissioner's own motion, correct the proposal. 67816

Sec. 5727.11. (A) Except as otherwise provided in this 67817
section, the true value of all taxable property, except property 67818
of a railroad company, required by ~~division (A)(2) or (3) of~~ 67819
section 5727.06 of the Revised Code to be assessed by the tax 67820
commissioner shall be determined by a method of valuation using 67821
cost as capitalized on the public utility's books and records less 67822

composite annual allowances as prescribed by the commissioner. If 67823
the commissioner finds that application of this method will not 67824
result in the determination of true value of the public utility's 67825
taxable property, the commissioner may use another method of 67826
valuation. 67827

(B)(1) Except as provided in division (B)(2) of this section, 67828
the true value of current gas stored underground is the cost of 67829
that gas shown on the books and records of the public utility on 67830
the thirty-first day of December of the preceding year. 67831

(2) For tax year 2001 and thereafter, the true value of 67832
current gas stored underground is the quotient obtained by 67833
dividing (a) the average value of the current gas stored 67834
underground, which shall be determined by adding the value of the 67835
gas on hand at the end of each calendar month in the calendar year 67836
preceding the tax year, or, if applicable, the last day of 67837
business of each month for a partial month, divided by (b) the 67838
total number of months the natural gas company was in business 67839
during the calendar year prior to the beginning of the tax year. 67840
with the approval of the tax commissioner, a natural gas company 67841
may use a date other than the end of a calendar month to value its 67842
current gas stored underground. 67843

(C) The true value of noncurrent gas stored underground is 67844
thirty-five per cent of the cost of that gas shown on the books 67845
and records of the public utility on the thirty-first day of 67846
December of the preceding year. 67847

(D)(1) Except as provided in division (D)(2) of this section, 67848
the true value of the production equipment of an electric company 67849
and the true value of all taxable property of a rural electric 67850
company is the equipment's or property's cost as capitalized on 67851
the company's books and records less fifty per cent of that cost 67852
as an allowance for depreciation and obsolescence. 67853

(2) The true value of the production equipment of an electric company or rural electric company purchased, transferred, or placed into service after the effective date of this amendment is the purchase price of the equipment as capitalized on the company's books and records less composite annual allowances as prescribed by the tax commissioner.

(E) The true value of taxable property ~~described in division (A)(2) or (3) of~~, except property of a railroad company, required by section 5727.06 of the Revised Code to be assessed by the tax commissioner shall not include the allowance for funds used during construction or interest during construction that has been capitalized on the public utility's books and records as part of the total cost of the taxable property. This division shall not apply to the taxable property of an electric company or a rural electric company, excluding transmission and distribution property, first placed into service after December 31, 2000, or to the taxable property a person purchases, which includes transfers, if that property was used in business by the seller prior to the purchase.

(F) The true value of watercraft owned or operated by a water transportation company shall be determined by multiplying the true value of the watercraft as determined under division (A) of this section by a fraction, the numerator of which is the number of revenue-earning miles traveled by the watercraft in the waters of this state and the denominator of which is the number of revenue-earning miles traveled by the watercraft in all waters.

(G) The cost of property subject to a sale and leaseback transaction is the cost of the property as capitalized on the books and records of the public utility owning the property immediately prior to the sale and leaseback transaction.

(H) The cost as capitalized on the books and records of a

public utility includes amounts capitalized that represent 67885
regulatory assets, if such amounts previously were included on the 67886
company's books and records as capitalized costs of taxable 67887
personal property. 67888

(I) Any change in the composite annual allowances as 67889
prescribed by the commissioner on a prospective basis shall not be 67890
admissible in any judicial or administrative action or proceeding 67891
as evidence of value with regard to prior years' taxes. 67892
Information about the business, property, or transactions of any 67893
taxpayer obtained by the commissioner for the purpose of adopting 67894
or modifying the composite annual allowances shall not be subject 67895
to discovery or disclosure. 67896

Sec. 5727.111. The taxable property of each public utility, 67897
except a railroad company, and of each interexchange 67898
telecommunications company shall be assessed at the following 67899
percentages of true value: 67900

~~(A)(1) Except as provided in division (A)(2) of this section,~~ 67901
~~fifty per cent in the case of a rural electric company;~~ 67902

~~(2) For tax year 2001 and thereafter, fifty~~ Fifty per cent in 67903
the case of the taxable transmission and distribution property of 67904
a rural electric company, and twenty-five per cent for all its 67905
other taxable property; 67906

(B) In the case of a telephone or telegraph company, 67907
twenty-five per cent for taxable property first subject to 67908
taxation in this state for tax year 1995 or thereafter, and the 67909
following for all other taxable property: 67910

(1) For tax years prior to 2005, eighty-eight per cent; 67911

(2) For tax year 2005, sixty-seven per cent; 67912

(3) For tax year 2006, forty-six per cent; 67913

(4) For tax year 2007 and thereafter, twenty-five per cent.	67914
(C) Twenty-five per cent in the case of a natural gas company.	67915 67916
(D) Eighty-eight per cent in the case of a pipe-line, water-works, or heating company;	67917 67918
(E)(1) Except as provided in division (E)(2) or (3) of this section, one hundred per cent in the case of the taxable production equipment of an electric company and eighty eight per cent for all its other taxable property;	67919 67920 67921 67922
(2) For tax year 2001 and thereafter 2005, eighty-eight per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-five per cent for all its other taxable property;	67923 67924 67925 67926
(3) Property listed and assessed under divisions (B)(1) and (2) of section 5711.22 of the Revised Code and leased to an electric company shall continue to be assessed at one hundred per cent for production equipment and eighty eight (2) For tax year 2006 and each tax year thereafter, eighty-five per cent in the case of the taxable transmission and distribution property of an electric company, and twenty-four per cent for all such its other taxable property until January 1, 2002.	67927 67928 67929 67930 67931 67932 67933 67934
(F) Twenty-five per cent in the case of an interexchange telecommunications company;	67935 67936
(G) Twenty-five per cent in the case of a water transportation company.	67937 67938
Sec. 5727.12. As used in this chapter, "property used in railroad operations" means property used in or determined by the tax commissioner to be held by a railroad for use in railroad operations. In determining the true value of all real and personal property owned or leased by each railroad company and used in	67939 67940 67941 67942 67943

railroad operations, the commissioner shall use the unitary method 67944
and value all of the property of the company's railroad system as 67945
a whole, considering the factors generally used in that method, 67946
and weighing each factor appropriately. The true value of the 67947
property used in railroad operations shall be apportioned to this 67948
state as provided in section 5727.14 of the Revised Code. The 67949
commissioner shall separately determine the true value of property 67950
owned by the company that the commissioner determines is not used 67951
in railroad operations. The commissioner may require the advice of 67952
county auditors concerning such values. 67953

All property of a railroad shall be assessed for taxation at 67954
the same percentage of true value at which all other real property 67955
in this state is assessed, in the case of real property, and at 67956
the percentage of true value provided under divisions (E) ~~and~~, 67957
(F), and (G) of section 5711.22 of the Revised Code, in the case 67958
of personal property. 67959

A determination of the value of each tract, lot, or parcel of 67960
real property or each item of personal property not used in 67961
railroad operations shall be considered a separate determination 67962
with respect to which a separate petition for reassessment may be 67963
filed under section 5727.47 of the Revised Code. 67964

Where a line of railroad is subsidized under the terms of the 67965
federal regional rail reorganization act or the federal rail 67966
revitalization and regulatory reform act, the real and other fixed 67967
property shall be assessed solely in the name of its owner. 67968

Sec. 5727.23. On or before the first Monday in October, 67969
annually, the tax commissioner shall assess the taxable property 67970
of each public utility. The and interexchange telecommunications 67971
company, and for tax year 2009 and thereafter of each public 67972
utility property lessor. If the taxpayer failed to file its annual 67973
report required by section 5727.08 of the Revised Code at least 67974

sixty days prior to such date, the commissioner may make the 67975
assessment under this section within sixty days after the taxpayer 67976
files the report, but this does not preclude the commissioner from 67977
making an assessment without receiving the report. 67978

The action of the tax commissioner shall be evidenced by a 67979
preliminary assessment that reflects the taxable value apportioned 67980
to each county and each taxing district in the county. The 67981
commissioner may amend the preliminary assessment as provided in 67982
this section. Each preliminary assessment and amended preliminary 67983
assessment shall be certified to the public utility, interexchange 67984
telecommunications company, or public utility property lessor, and 67985
to, the auditor of each county to which taxable value has been 67986
apportioned. 67987

The county auditor shall place the apportioned taxable value 67988
on the general tax list and duplicate of real and public utility 67989
property, and taxes shall be levied and collected thereon at the 67990
same rates and in the same manner as taxes are levied and 67991
collected on real property in the taxing district in question. 67992

Unless a petition for reassessment of an assessment has been 67993
properly filed pursuant to section 5727.47 of the Revised Code, 67994
each preliminary assessment and, if amended, each preliminary 67995
assessment as last amended shall become final ninety days after 67996
certification of the preliminary assessment or thirty days after 67997
certification of the amended preliminary assessment, whichever is 67998
later. If a petition for reassessment is properly filed, the 67999
assessment shall become final when the tax commissioner issues a 68000
final determination. 68001

Neither the certification of any preliminary or amended 68002
assessment nor the expiration of the period of time that makes any 68003
assessment final constitutes a final determination, assessment, 68004
reassessment, valuation, finding, computation, or order of the 68005
commissioner that is appealable under section 5717.02 of the 68006

Revised Code.	68007
<u>Sec. 5727.241. (A) As used in this section:</u>	68008
<u>(1) "Tax otherwise due" means the tax imposed on a taxpayer</u>	68009
<u>under section 5727.24 of the Revised Code reduced by the total</u>	68010
<u>amount of all other nonrefundable credits, if any, that the</u>	68011
<u>taxpayer is entitled to claim.</u>	68012
<u>(2) "Taxpayer" means any person subject to the tax imposed by</u>	68013
<u>section 5727.24 of the Revised Code.</u>	68014
<u>(B) Upon the issuance of a tax credit certificate by the Ohio</u>	68015
<u>venture capital authority under section 150.07 of the Revised</u>	68016
<u>Code, a credit may be claimed against the tax imposed on a</u>	68017
<u>taxpayer under section 5727.24 of the Revised Code. The credit</u>	68018
<u>shall be claimed on a return due under section 5727.25 of the</u>	68019
<u>Revised Code after the certificate is issued by the authority.</u>	68020
<u>(C) If the taxpayer elected a refundable credit under section</u>	68021
<u>150.07 of the Revised Code and if the amount of the credit shown</u>	68022
<u>on the certificate does not exceed the tax otherwise due, then for</u>	68023
<u>the calendar year the taxpayer shall claim a refundable credit</u>	68024
<u>equal to the amount of the credit shown on the certificate.</u>	68025
<u>(D) If the taxpayer elected a refundable credit under section</u>	68026
<u>150.07 of the Revised Code, and if the amount of the refundable</u>	68027
<u>credit shown on the certificate exceeds the tax otherwise due,</u>	68028
<u>then for the calendar year the taxpayer shall claim a refundable</u>	68029
<u>credit equal to the sum of the following:</u>	68030
<u>(1) The amount, if any, of the tax otherwise due;</u>	68031
<u>(2) Seventy-five per cent of the difference between the</u>	68032
<u>amount of the refundable credit shown on the certificate and the</u>	68033
<u>tax otherwise due.</u>	68034
<u>(E) If the taxpayer elected a nonrefundable credit under</u>	68035

section 150.07 of the Revised Code and if the nonrefundable credit 68036
to which the taxpayer would otherwise be entitled under this 68037
section for any calendar year is greater than the tax otherwise 68038
due, the excess shall be allowed as a nonrefundable credit in each 68039
of the ensuing ten calendar years, but the amount of any excess 68040
nonrefundable credit allowed in the ensuing calendar year shall be 68041
deducted from the balance carried forward to the next calendar 68042
year. 68043

Sec. 5727.47. (A) Notice of each assessment certified 68044
pursuant to section 5727.23 or 5727.38 of the Revised Code shall 68045
be mailed to the public utility, and its mailing shall be 68046
prima-facie evidence of its receipt by the public utility to which 68047
it is addressed. With the notice, the tax commissioner shall 68048
provide instructions on how to petition for reassessment and 68049
request a hearing on the petition. If a public utility objects to 68050
any assessment certified to it pursuant to such sections, it may 68051
file with the commissioner, either personally or by certified 68052
mail, within sixty days after the mailing of the notice of 68053
assessment a written petition for reassessment signed by the 68054
utility's authorized agent having knowledge of the facts. If the 68055
petition is filed by certified mail, the date of the United States 68056
postmark placed on the sender's receipt by the postal employee to 68057
whom the petition is presented shall be treated as the date of 68058
filing. The petition shall indicate the utility's objections, but 68059
additional objections may be raised in writing if received by the 68060
commissioner prior to the date shown on the final determination. 68061

In the case of a petition seeking a reduction in taxable 68062
value filed with respect to an assessment issued under section 68063
5727.23 of the Revised Code, the petitioner shall state in the 68064
petition the total amount of reduction in taxable value sought by 68065
the petitioner. If the petitioner objects to the percentage of 68066

true value at which taxable property is assessed by the 68067
commissioner, the petitioner shall state in the petition the total 68068
amount of reduction in taxable value sought both with and without 68069
regard to the objection pertaining to the percentage of true value 68070
at which its taxable property is assessed. If a petitioner objects 68071
to the commissioner's apportionment of the taxable value of the 68072
petitioner's taxable property, the petitioner shall distinctly 68073
state in the petition that the petitioner objects to the 68074
commissioner's apportionment, and, within forty-five days after 68075
filing the petition for reassessment, shall submit the 68076
petitioner's proposed apportionment of the taxable value of its 68077
taxable property among taxing districts. If a petitioner that 68078
objects to the commissioner's apportionment fails to state its 68079
objections to that apportionment in its petition for reassessment 68080
or fails to submit its proposed apportionment within forty-five 68081
days after filing the petition for reassessment, the commissioner 68082
shall dismiss the petitioner's objection to the commissioner's 68083
apportionment, and the taxable value of the petitioner's taxable 68084
property, subject to any adjustment to taxable value pursuant to 68085
the petition or appeal, shall be apportioned in the manner used by 68086
the commissioner in the preliminary or amended preliminary 68087
assessment issued under section 5727.23 of the Revised Code. 68088

If an additional objection seeking a reduction in taxable 68089
value in excess of the reduction stated in the original petition 68090
is properly and timely raised with respect to an assessment issued 68091
under section 5727.23 of the Revised Code, the petitioner shall 68092
state the total amount of the reduction in taxable value sought in 68093
the additional objection both with and without regard to any 68094
reduction in taxable value pertaining to the percentage of true 68095
value at which taxable property is assessed. If a petitioner fails 68096
to state the reduction in taxable value sought in the original 68097
petition or in additional objections properly raised after the 68098

petition is filed, the commissioner shall notify the petitioner of 68099
the failure by certified mail. If the petitioner fails to notify 68100
the commissioner in writing of the reduction in taxable value 68101
sought in the petition or in an additional objection within thirty 68102
days after receiving the commissioner's notice, the commissioner 68103
shall dismiss the petition or the additional objection in which 68104
that reduction is sought. 68105

(B)(1) Subject to divisions (B)(2) and (3) of this section, a 68106
public utility filing a petition for reassessment regarding an 68107
assessment issued under section 5727.23 or 5727.38 of the Revised 68108
Code shall pay the tax with respect to the assessment objected to 68109
as required by law. The acceptance of any tax payment by the 68110
treasurer of state or any county treasurer shall not prejudice any 68111
claim for taxes on final determination by the commissioner or 68112
final decision by the board of tax appeals or any court. 68113

(2) If a public utility properly and timely files a petition 68114
for reassessment regarding an assessment issued under section 68115
5727.23 of the Revised Code, the petitioner shall pay the tax as 68116
prescribed by divisions (B)(2)(a), (b), and (c) of this section: 68117

(a) If the petitioner does not object to the commissioner's 68118
apportionment of the taxable value of the petitioner's taxable 68119
property, the petitioner is not required to pay the part of the 68120
tax otherwise due on the taxable value that the petitioner seeks 68121
to have reduced, subject to division (B)(2)(c) of this section. 68122

(b) If the petitioner objects to the commissioner's 68123
apportionment of the taxable value of the petitioner's taxable 68124
property, the petitioner is not required to pay the tax otherwise 68125
due on the part of the taxable value apportioned to any taxing 68126
district that the petitioner objects to, subject to division 68127
(B)(2)(c) of this section. If, pursuant to division (A) of this 68128
section, the petitioner has, in a proper and timely manner, 68129

apportioned taxable value to a taxing district to which the 68130
commissioner did not apportion the petitioner's taxable value, the 68131
petitioner shall pay the tax due on the taxable value that the 68132
petitioner has apportioned to the taxing district, subject to 68133
division (B)(2)(c) of this section. 68134

(c) If a petitioner objects to the percentage of true value 68135
at which taxable property is assessed by the commissioner, the 68136
petitioner shall pay the tax due on the basis of the percentage of 68137
true value at which the public utility's taxable property is 68138
assessed by the commissioner. In any case, the petitioner's 68139
payment of tax shall not be less than the amount of tax due based 68140
on the taxable value reflected on the last appeal notice issued by 68141
the commissioner under division (C) of this section. Until the 68142
county auditor receives notification under division (E) of this 68143
section and proceeds under section 5727.471 of the Revised Code to 68144
issue any refund that is found to be due, the county auditor shall 68145
not issue a refund for any increase in the reduction in taxable 68146
value that is sought by a petitioner later than forty-five days 68147
after the petitioner files the original petition as required under 68148
division (A) of this section. 68149

(3) Any part of the tax that, under division (B)(2)(a) or (b) 68150
of this section, is not paid shall be collected upon receipt of 68151
the notification as provided in section 5727.471 of the Revised 68152
Code with interest thereon computed in the same manner as interest 68153
is computed under division (E) of section 5715.19 of the Revised 68154
Code, subject to any correction of the assessment by the 68155
commissioner under division (E) of this section or the final 68156
judgment of the board of tax appeals or a court to which the 68157
board's final judgment is appealed. The penalty imposed under 68158
section 323.121 of the Revised Code shall apply only to the unpaid 68159
portion of the tax if the petitioner's tax payment is less than 68160
the amount of tax due based on the taxable value reflected on the 68161

last appeal notice issued by the commissioner under division (C) 68162
of this section. 68163

(4) For purposes of divisions (B)(1) and (B)(2)(a) and (b) of 68164
this section, the petitioner shall make a binding election along 68165
with the petition for reassessment either to pay the full amount 68166
of the taxes based on the taxable value shown on the preliminary 68167
assessment or amended preliminary assessment issued under section 68168
5727.23 of the Revised Code, or to pay an amount of taxes based on 68169
the reduced value or apportioned value shown on the appeal notice 68170
issued under division (C) of this section, subject to division 68171
(B)(2)(c) of this section. 68172

(C) Upon receipt of a properly filed petition for 68173
reassessment, the tax commissioner shall notify the treasurer of 68174
state or the auditor of each county to which the assessment 68175
objected to has been certified. In the case of a petition with 68176
respect to an assessment issued under section 5727.23 of the 68177
Revised Code, the commissioner shall issue an appeal notice within 68178
thirty days after receiving the amount of the taxable value 68179
reduction and apportionment changes sought by the petitioner in 68180
the original petition or in any additional objections properly and 68181
timely raised by the petitioner. The appeal notice shall indicate 68182
the amount of the reduction in taxable value sought in the 68183
petition or in the additional objections and the extent to which 68184
the reduction in taxable value and any change in apportionment 68185
requested by the petitioner would affect the commissioner's 68186
apportionment of the taxable value among taxing districts in the 68187
county as shown in the assessment. If a petitioner is seeking a 68188
reduction in taxable value on the basis of a lower percentage of 68189
true value than the percentage at which the commissioner assessed 68190
the petitioner's taxable property, the appeal notice shall 68191
indicate the reduction in taxable value sought by the petitioner 68192
without regard to the reduction sought on the basis of the lower 68193

percentage and shall indicate that the petitioner is required to
pay tax on the reduced taxable value determined without regard to
the reduction sought on the basis of a lower percentage of true
value, as provided under division (B)(2)(c) of this section. The
appeal notice shall include a statement that the reduced taxable
value and the apportionment indicated in the notice are not final
and are subject to adjustment by the commissioner or by the board
of tax appeals or a court on appeal. If the commissioner finds an
error in the appeal notice, the commissioner may amend the notice,
but the notice is only for informational and tax payment purposes;
the notice is not subject to appeal by any person. The
commissioner also shall mail a copy of the appeal notice to the
petitioner. Upon the request of a taxing authority, the county
auditor may disclose to the taxing authority the extent to which a
reduction in taxable value sought by a petitioner would affect the
apportionment of taxable value to the taxing district or districts
under the taxing authority's jurisdiction, but such a disclosure
does not constitute a notice required by law to be given for the
purpose of section 5717.02 of the Revised Code.

(D) If the petitioner requests a hearing on the petition, the
tax commissioner shall assign a time and place for the hearing on
the petition and notify the petitioner of such time and place, but
the commissioner may continue the hearing from time to time as
necessary.

(E) The tax commissioner may make corrections to the
assessment as the commissioner finds proper. The commissioner
shall serve a copy of the commissioner's final determination on
the petitioner in the manner provided in section 5703.37 of the
Revised Code. The commissioner's decision in the matter shall be
final, subject to appeal under section 5717.02 of the Revised
Code. The commissioner also shall transmit a copy of the final
determination to the treasurer of state or applicable county

auditor. In the absence of any further appeal, or when a decision
of the board of tax appeals or of any court to which the decision
has been appealed becomes final, the commissioner shall notify the
public utility and, as appropriate, the treasurer of state who
shall proceed under section 5727.42 of the Revised Code, or the
applicable county auditor who shall proceed under section 5727.471
of the Revised Code.

The notification made under this division is not subject to
further appeal.

(F) On appeal, no adjustment shall be made in the tax
commissioner's assessment issued under section 5727.23 of the
Revised Code that reduces the taxable value of a petitioner's
taxable property by an amount that exceeds the reduction sought by
the petitioner in its petition for reassessment or in any
additional objections properly and timely raised after the
petition is filed with the commissioner.

Sec. 5727.81. (A) For the purpose of raising revenue for
public education and state and local government operations, an
excise tax is hereby levied and imposed on an electric
distribution company for all electricity distributed by such
company ~~beginning with the measurement period that includes May 1,~~
~~2001,~~ at the following rates per kilowatt hour of electricity
distributed in a thirty-day period by the company through a meter
of an end user in this state:

KILOWATT HOURS DISTRIBUTED	RATE PER	
TO AN END USER	KILOWATT HOUR	
For the first 2,000	\$.00465 <u>00605</u>	
For the next 2,001 to 15,000	\$.00419 <u>00545</u>	
For 15,001 and above	\$.00363 <u>00472</u>	

If no meter is used to measure the kilowatt hours of
electricity distributed by the company, the rates shall apply to

the estimated kilowatt hours of electricity distributed to an 68257
unmetered location in this state. 68258

The electric distribution company shall base the monthly tax 68259
on the kilowatt hours of electricity distributed to an end user 68260
through the meter of the end user that is not measured for a 68261
thirty-day period by dividing the days in the measurement period 68262
into the total kilowatt hours measured during the measurement 68263
period to obtain a daily average usage. The tax shall be 68264
determined by obtaining the sum of divisions (A)(1), (2), and (3) 68265
of this section and multiplying that amount by the number of days 68266
in the measurement period: 68267

(1) Multiplying ~~\$0.00465~~ .00605 per kilowatt hour for the 68268
first sixty-seven kilowatt hours distributed using a daily 68269
average; 68270

(2) Multiplying ~~\$0.00419~~ .00545 for the next sixty-eight to 68271
five hundred kilowatt hours distributed using a daily average; 68272

(3) Multiplying ~~\$0.00363~~ .00472 for the remaining kilowatt 68273
hours distributed using a daily average. 68274

~~Until January 1, 2003, except as provided in division (C) of~~ 68275
~~this section, the electric distribution company shall pay the tax~~ 68276
~~to the treasurer of state in accordance with section 5727.82 of~~ 68277
~~the Revised Code. Beginning January 1, 2003, except~~ Except as 68278
provided in division (C) of this section, the electric 68279
distribution company shall pay the tax to the tax commissioner in 68280
accordance with section 5727.82 of the Revised Code, unless 68281
required to remit each tax payment by electronic funds transfer to 68282
the treasurer of state in accordance with section 5727.83 of the 68283
Revised Code. 68284

Only the distribution of electricity through a meter of an 68285
end user in this state shall be used by the electric distribution 68286
company to compute the amount or estimated amount of tax due. In 68287

the event a meter is not actually read for a measurement period, 68288
the estimated kilowatt hours distributed by an electric 68289
distribution company to bill for its distribution charges shall be 68290
used. 68291

(B) Except as provided in division (C) of this section, each 68292
electric distribution company shall pay the tax imposed by this 68293
section in all of the following circumstances: 68294

(1) The electricity is distributed by the company through a 68295
meter of an end user in this state; 68296

(2) The company is distributing electricity through a meter 68297
located in another state, but the electricity is consumed in this 68298
state in the manner prescribed by the tax commissioner; 68299

(3) The company is distributing electricity in this state 68300
without the use of a meter, but the electricity is consumed in 68301
this state as estimated and in the manner prescribed by the tax 68302
commissioner. 68303

(C)(1) As used in division (C) of this section: 68304

(a) "Total price of electricity" means the aggregate value in 68305
money of anything paid or transferred, or promised to be paid or 68306
transferred, to obtain electricity or electric service, including 68307
but not limited to the value paid or promised to be paid for the 68308
transmission or distribution of electricity and for transition 68309
costs as described in Chapter 4928. of the Revised Code. 68310

(b) "Package" means the provision or the acquisition, at a 68311
combined price, of electricity with other services or products, or 68312
any combination thereof, such as natural gas or other fuels; 68313
energy management products, software, and services; machinery and 68314
equipment acquisition; and financing agreements. 68315

(c) "Single location" means a facility located on contiguous 68316
property separated only by a roadway, railway, or waterway. 68317

(2) Division (C) of this section applies to any commercial or industrial purchaser's receipt of electricity through a meter of an end user in this state or through more than one meter at a single location in this state in a quantity that exceeds forty-five million kilowatt hours of electricity over the course of the preceding calendar year, or any commercial or industrial purchaser that will consume more than forty-five million kilowatt hours of electricity over the course of the succeeding twelve months as estimated by the tax commissioner. The tax commissioner shall make such an estimate upon the written request ~~by~~ of an applicant for registration as a self-assessing purchaser under this division. Such a purchaser may elect to self-assess the excise tax imposed by this section at the rate of \$.00075 per kilowatt hour on the first five hundred four million kilowatt hours distributed to that meter or location during the registration year, and ~~four~~ five per cent of the total price of all electricity distributed to that meter or location. A qualified end user that receives electricity through a meter of an end user in this state or through more than one meter at a single location in this state and that consumes, over the course of the previous calendar year, more than forty-five million kilowatt hours in other than its qualifying manufacturing process, may elect to self-assess the tax as allowed by this division with respect to the electricity used in other than its qualifying manufacturing process. ~~Until January 1, 2003, payment of the tax shall be made directly to the treasurer of state in accordance with divisions (A)(4) and (5) of section 5727.82 of the Revised Code. Beginning January 1, 2003, payment~~ The tax due from a self-assessing purchaser under this division shall be the tax as assessed under this division less any credit allowed under section 5727.812 of the Revised Code.

Payment of the tax shall be made directly to the tax

commissioner in accordance with divisions (A)(4) and (5) of 68350
section 5727.82 of the Revised Code, or the treasurer of state in 68351
accordance with section 5727.83 of the Revised Code. If the 68352
electric distribution company serving the self-assessing purchaser 68353
is a municipal electric utility and the purchaser is within the 68354
municipal corporation's corporate limits, payment of the portion 68355
of the tax described in division (A)(3)(a) of section 5727.82 of 68356
the Revised Code shall be made to such municipal corporation's 68357
general fund and reports shall be filed in accordance with 68358
divisions (A)(4) and (5) of section 5727.82 of the Revised Code, 68359
except that "municipal corporation" shall be substituted for 68360
"treasurer of state" and "tax commissioner." The remainder of the 68361
tax shall be paid directly to the tax commissioner in accordance 68362
with divisions (A)(4) and (5) of section 5727.82 of the Revised 68363
Code, or the treasurer of state in accordance with section 5727.83 68364
of the Revised Code. A self-assessing purchaser that pays the 68365
excise tax as provided in this division shall not be required to 68366
pay the tax to the electric distribution company from which its 68367
electricity is distributed. If a self-assessing purchaser's 68368
receipt of electricity is not subject to the tax as measured under 68369
this division, the tax on the receipt of such electricity shall be 68370
measured and paid as provided in division (A) of this section. 68371

(3) In the case of the acquisition of a package, unless the 68372
elements of the package are separately stated isolating the total 68373
price of electricity from the price of the remaining elements of 68374
the package, the tax imposed under this section applies to the 68375
entire price of the package. If the elements of the package are 68376
separately stated, the tax imposed under this section applies to 68377
the total price of the electricity. 68378

(4) Any electric supplier that sells electricity as part of a 68379
package shall separately state to the purchaser the total price of 68380
the electricity and, upon request by the tax commissioner, the 68381

total price of each of the other elements of the package. 68382

(5) The tax commissioner may adopt rules relating to the 68383
computation of the total price of electricity with respect to 68384
self-assessing purchasers, which may include rules to establish 68385
the total price of electricity purchased as part of a package. 68386

(6) An annual application for registration as a 68387
self-assessing purchaser shall be made for each qualifying meter 68388
or location on a form prescribed by the tax commissioner. The 68389
registration year begins on the first day of May and ends on the 68390
following thirtieth day of April. Persons may apply after the 68391
first day of May for the remainder of the registration year. In 68392
the case of an applicant applying on the basis of an estimated 68393
consumption of forty-five million kilowatt hours over the course 68394
of the succeeding twelve months, the applicant shall provide such 68395
information as the tax commissioner considers to be necessary to 68396
estimate such consumption. At the time of making the application 68397
and by the first day of May of each year, ~~excluding May 1, 2000,~~ a 68398
self-assessing purchaser shall pay a fee of five hundred dollars 68399
to the tax commissioner, or to the treasurer of state as provided 68400
in section 5727.83 of the Revised Code, for each qualifying meter 68401
or location. The tax commissioner shall immediately pay to the 68402
treasurer of state all amounts that the tax commissioner receives 68403
under this section. The treasurer of state shall deposit such 68404
amounts into the kilowatt hour excise tax administration fund, 68405
which is hereby created in the state treasury. Money in the fund 68406
shall be used to defray the tax commissioner's cost in 68407
administering the tax owed under section 5727.81 of the Revised 68408
Code by self-assessing purchasers. After the application is 68409
approved by the tax commissioner, the registration shall remain in 68410
effect for the current registration year, or until canceled by the 68411
registrant upon written notification to the commissioner of the 68412
election to pay the tax in accordance with division (A) of this 68413

section, or until canceled by the tax commissioner for not paying 68414
the tax or fee under division (C) of this section or for not 68415
meeting the qualifications in division (C)(2) of this section. The 68416
tax commissioner shall give written notice to the electric 68417
distribution company from which electricity is delivered to a 68418
self-assessing purchaser of the purchaser's self-assessing status, 68419
and the electric distribution company is relieved of the 68420
obligation to pay the tax imposed by division (A) of this section 68421
for electricity distributed to that self-assessing purchaser until 68422
it is notified by the tax commissioner that the self-assessing 68423
purchaser's registration is canceled. Within fifteen days of 68424
notification of the canceled registration, the electric 68425
distribution company shall be responsible for payment of the tax 68426
imposed by division (A) of this section on electricity distributed 68427
to a purchaser that is no longer registered as a self-assessing 68428
purchaser. A self-assessing purchaser with a canceled registration 68429
must file a report and remit the tax imposed by division (A) of 68430
this section on all electricity it receives for any measurement 68431
period prior to the tax being reported and paid by the electric 68432
distribution company. A self-assessing purchaser whose 68433
registration is canceled by the tax commissioner is not eligible 68434
to register as a self-assessing purchaser for two years after the 68435
registration is canceled. 68436

(7) If the tax commissioner cancels the self-assessing 68437
registration of a purchaser registered on the basis of its 68438
estimated consumption because the purchaser does not consume at 68439
least forty-five million kilowatt hours of electricity over the 68440
course of the twelve-month period for which the estimate was made, 68441
the tax commissioner shall assess and collect from the purchaser 68442
the difference between (a) the amount of tax that would have been 68443
payable under division (A) of this section on the electricity 68444
distributed to the purchaser during that period, and (b) the 68445
amount of tax paid by the purchaser on such electricity pursuant 68446

to division (C)(2)~~(a)~~ of this section. The assessment shall be 68447
paid within sixty days after the tax commissioner issues it, 68448
regardless of whether the purchaser files a petition for 68449
reassessment under section 5727.89 of the Revised Code covering 68450
that period. If the purchaser does not pay the assessment within 68451
the time prescribed, the amount assessed is subject to the 68452
additional charge and the interest prescribed by divisions (B) and 68453
(C) of section 5727.82 of the Revised Code, and is subject to 68454
assessment under section 5727.89 of the Revised Code. If the 68455
purchaser is a qualified end user, division (C)(7) of this section 68456
applies only to electricity it consumes in other than its 68457
qualifying manufacturing process. 68458

(D) The tax imposed by this section does not apply to the 68459
distribution of any kilowatt hours of electricity to the federal 68460
government, to an end user located at a federal facility that uses 68461
electricity for the enrichment of uranium, to a qualified 68462
regeneration meter, or to an end user for any day the end user is 68463
a qualified end user. The exemption under this division for a 68464
qualified end user only applies to the manufacturing location 68465
where the qualified end user uses more than three million kilowatt 68466
hours per day in a qualifying manufacturing process. 68467

Sec. 5727.812. (A) As used in this section: 68468

(1) "Price-based revenue increase" means one-fifth of the 68469
total amount of tax imposed on self-assessing purchasers under 68470
division (C)(2) of section 5727.81 of the Revised Code as computed 68471
on the basis of the total price of electricity distributed to a 68472
meter or location during a fiscal year, beginning with fiscal year 68473
2006. 68474

(2) "Consumer price index" means the consumer price index for 68475
all urban consumers (United States city average, all items) 68476
prepared by the United States department of labor, bureau of labor 68477

statistics. 68478

(3) "Allowable price-based revenue increase" means ten million dollars multiplied by (a) the consumer price index for June of the year in which the tax commissioner makes the determination under division (B) of this section divided by (b) the consumer price index for June 2005. 68479
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(B) On or before the first day of September each year beginning in 2006, the tax commissioner shall: 68484
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(1) Compute the allowable price-based revenue increase; 68486

(2) Determine the price-based revenue increase for the preceding fiscal year; 68487
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(3) Compute the amount, if any, by which the price-based revenue increase exceeds the allowable price-based revenue increase; and 68489
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(4) Compute the percentage that the excess amount, if any, computed under division (B)(3) of this section is of the allowable price-based revenue increase. The computation shall be carried out to the fourth decimal place. 68492
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(C) A credit shall be applied against the tax due from each self-assessing purchaser under division (C) of section 5727.81 of the Revised Code. The credit shall equal the percentage computed under division (B)(4) of this section multiplied by the portion of the amount of tax due and paid on the basis of the total price of electricity distributed to a meter or location from the self-assessing purchaser for the twelve-month period from July of the preceding year through June of the current year. The credit shall be applied by subtracting one-twelfth of that amount from the amount of tax due from the self-assessing purchaser for each month from the October following the computation through the following September. 68496
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(D) Upon making the determinations and computations under 68508
division (B) of this section, the tax commissioner shall notify 68509
each self-assessing purchaser entitled to the credit of the amount 68510
of the credit and the amount that may be applied against the tax 68511
each month, and shall certify the amounts and percentage computed 68512
or determined under division (B) of this section to the speaker 68513
and minority leader of the house of representatives, to the 68514
president and minority leader of the senate, and to the 68515
chairperson and ranking members of the committees of each chamber 68516
dealing principally with appropriations and principally with 68517
taxation. 68518

(E) If a person is entitled to a credit under division (C) of 68519
this section but the person's registration as a self-assessing 68520
purchaser is canceled during the registration year or terminates 68521
at the end of a registration year before the person recovers the 68522
entire amount of the person's credit, the person shall receive a 68523
refund of the balance of the credit amount the person does not 68524
receive because of the cancellation or termination. Within sixty 68525
days after such cancellation or termination, the tax commissioner 68526
shall determine the amount of the refund to which such a person is 68527
entitled. The tax commissioner shall transmit the amount of the 68528
credit to the treasurer of state, who, within thirty days of such 68529
transmission, shall issue a warrant on the state treasury to the 68530
person entitled to the credit. Refunds are payable from the 68531
general revenue fund. 68532

Sec. 5727.82. (A)(1) Except as provided in divisions (A)(3) 68533
and (D) of this section, by the twentieth day of each month, each 68534
electric distribution company required to pay the tax imposed by 68535
section 5727.81 of the Revised Code shall file with the tax 68536
commissioner a return as prescribed by the tax commissioner and 68537
shall make payment of the full amount of tax due for the preceding 68538

month. The first payment of this tax shall be made on or before 68539
June 20, 2001. The electric distribution company shall make 68540
payment to the tax commissioner unless required to remit each tax 68541
payment by electronic funds transfer to the treasurer of state as 68542
provided in section 5727.83 of the Revised Code. 68543

(2) By the twentieth day of May, August, November, and 68544
February, each natural gas distribution company required to pay 68545
the tax imposed by section 5727.811 of the Revised Code shall file 68546
with the tax commissioner a return as prescribed by the tax 68547
commissioner and shall make payment to the tax commissioner, or to 68548
the treasurer of state as provided in section 5727.83 of the 68549
Revised Code, of the full amount of tax due for the preceding 68550
quarter. The first payment of this tax shall be made on or before 68551
November 20, 2001, for the quarter ending September 30, 2001. 68552

(3)(a) If the electric distribution company required to pay 68553
the tax imposed by section 5727.81 of the Revised Code is a 68554
municipal electric utility, it may retain in its general fund that 68555
portion of the tax on the kilowatt hours distributed to end users 68556
located within the boundaries of the municipal corporation, but 68557
only that portion of the tax that was imposed by division (A) or 68558
(C)(2) of section 5727.81 of the Revised Code as those divisions 68559
existed prior to their amendment by H.B. 66 of the 126th general 68560
assembly. However, the 68561

(b) The municipal electric utility shall make payment in 68562
accordance with division (A)(1) of this section of the tax due on 68563
the kilowatt hours distributed to end users located outside the 68564
boundaries of the municipal corporation, and of the remainder of 68565
the tax due under division (A)(3)(a) of this section that was not 68566
retained in the general fund of the municipal electric utility. 68567

(4) By the twentieth day of each month, each self-assessing 68568
purchaser that under division (C) of section 5727.81 of the 68569

Revised Code pays directly to the tax commissioner or the
treasurer of state the tax imposed by section 5727.81 of the
Revised Code shall file with the tax commissioner a return as
prescribed by the tax commissioner and shall make payment of the
full amount of the tax due for the preceding month less any credit
allowed by section 5727.812 of the Revised Code.

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(5) As prescribed by the tax commissioner, a return shall be
signed by the company or self-assessing purchaser required to file
it, or an authorized employee, officer, or agent of the company or
purchaser. The return shall be deemed filed when received by the
tax commissioner.

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(B) Any natural gas distribution company, electric
distribution company, or self-assessing purchaser required by this
section to file a return who fails to file it and pay the tax
within the period prescribed shall pay an additional charge of
fifty dollars or ten per cent of the tax required to be paid for
the reporting period, whichever is greater. The tax commissioner
may collect the additional charge by assessment pursuant to
section 5727.89 of the Revised Code. The commissioner may abate
all or a portion of the additional charge and may adopt rules
governing such abatements.

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(C) If any tax due is not paid timely in accordance with this
section, the natural gas distribution company, electric
distribution company, or self-assessing purchaser liable for the
tax shall pay interest, calculated at the rate per annum
prescribed by section 5703.47 of the Revised Code, from the date
the tax payment was due to the date of payment or to the date an
assessment is issued, whichever occurs first. Interest shall be
paid in the same manner as the tax, and the commissioner may
collect the interest by assessment pursuant to section 5727.89 of
the Revised Code.

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(D) Not later than the tenth day of each month, a qualified end user not making the election to self-assess under division (C) of section 5727.81 of the Revised Code shall report in writing to the electric distribution company that distributes electricity to the end user the kilowatt hours that were consumed as a qualified end user in a qualifying manufacturing process for the prior month and the number of days, if any, on which the end user was not a qualified end user. For each calendar day during that month, a qualified end user shall report the kilowatt hours that were not used in a qualifying manufacturing process. For each calendar day the end user was not a qualified end user, the end user shall report in writing to the electric distribution company the total number of kilowatt hours used on that day, and the electric distribution company shall pay the tax imposed under section 5727.81 of the Revised Code on each kilowatt hour that was not distributed to a qualified end user in a qualifying manufacturing process. The electric distribution company may rely in good faith on a qualified end user's report filed under this division. If it is determined that the end user was not a qualified end user for any calendar day or the quantity of electricity used by the qualified end user in a qualifying manufacturing process was overstated, the tax commissioner shall assess and collect any tax imposed under section 5727.81 of the Revised Code directly from the qualified end user. As requested by the commissioner, each end user reporting to an electric distribution company that it is a qualified end user shall provide documentation to the commissioner that establishes the volume of electricity consumed daily by the qualified end user and the total number of kilowatt hours consumed in a qualifying manufacturing process.

(E) The tax commissioner shall immediately pay to the treasurer of state all amounts that the tax commissioner receives under this section. The treasurer of state shall credit such

amounts in accordance with this chapter.	68633
Sec. 5727.84. (A) As used in this section and sections	68634
5727.85, 5727.86, and 5727.87 of the Revised Code:	68635
(1) "School district" means a city, local, or exempted	68636
village school district.	68637
(2) "Joint vocational school district" means a joint	68638
vocational school district created under section 3311.16 of the	68639
Revised Code, and includes a cooperative education school district	68640
created under section 3311.52 or 3311.521 of the Revised Code and	68641
a county school financing district created under section 3311.50	68642
of the Revised Code.	68643
(3) "Local taxing unit" means a subdivision or taxing unit,	68644
as defined in section 5705.01 of the Revised Code, a park district	68645
created under Chapter 1545. of the Revised Code, or a township	68646
park district established under section 511.23 of the Revised	68647
Code, but excludes school districts and joint vocational school	68648
districts.	68649
(4) "State education aid" means the sum of state aid amounts	68650
computed for a school district or joint vocational school district	68651
under Chapter 3317. of the Revised Code.	68652
(5) "State education aid offset" means the amount determined	68653
for each school district or joint vocational school district under	68654
division (A)(1) of section 5727.85 of the Revised Code.	68655
(6) "Recognized valuation" has the same meaning as in section	68656
3317.02 of the Revised Code.	68657
(7) "Electric company tax value loss" means the amount	68658
determined under division (D) of this section.	68659
(8) "Natural gas company tax value loss" means the amount	68660
determined under division (E) of this section.	68661

- (9) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss. 68662
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- (10) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy. 68664
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- (11) "Fixed-rate levy loss" means the amount determined under division (G) of this section. 68666
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- (12) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code. 68668
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- (13) "Fixed-sum levy loss" means the amount determined under division (H) of this section. 68673
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- (14) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor. 68675
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- (B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All Beginning August 1, 2005, all money in the kilowatt-hour tax receipts fund shall be credited as follows: 68678
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- (1) ~~Fifty-nine~~ Sixty-nine and ~~nine two~~ hundred ~~seventy-six~~ thirteen one-thousandths per cent, shall be credited to the general revenue fund. 68683
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- (2) Two and ~~six hundred forty-six~~ thirty-five one-thousandths per cent shall be credited to the local government fund, for distribution in accordance with section 5747.50 of the Revised Code. 68686
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- (3) ~~Three~~ Two hundred ~~seventy-eight~~ ninety-one one-thousandths per cent shall be credited to the local government 68690
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revenue assistance fund, for distribution in accordance with 68692
section 5747.61 of the Revised Code. 68693

(4) ~~Twenty-five~~ Nineteen and ~~four-tenths~~ five hundred 68694
thirty-eight one-thousandths per cent shall be credited to the 68695
school district property tax replacement fund, which is hereby 68696
created in the state treasury for the purpose of making the 68697
payments described in section 5727.85 of the Revised Code. 68698

(5) ~~Eleven~~ Eight and ~~six-tenths~~ nine hundred twenty-three 68699
one-thousandths per cent shall be credited to the local government 68700
property tax replacement fund, which is hereby created in the 68701
state treasury for the purpose of making the payments described in 68702
section 5727.86 of the Revised Code. 68703

~~(6) In fiscal years 2002, 2003, 2004, 2005, and 2006, if the~~ 68704
~~revenue arising from the tax levied by section 5727.81 of the~~ 68705
~~Revised Code is less than five hundred fifty two million dollars,~~ 68706
~~the amount credited to the general revenue fund under division~~ 68707
~~(B)(1) of this section shall be reduced by the amount necessary to~~ 68708
~~credit to each of the funds in divisions (B)(2) and (3) of this~~ 68709
~~section the amount it would have received if the tax did raise~~ 68710
~~five hundred fifty two million dollars for that fiscal year. The~~ 68711
~~tax commissioner shall certify to the director of budget and~~ 68712
~~management the amounts that shall be credited under this division.~~ 68713

~~(7) Beginning in fiscal year 2007, if the revenue arising~~ 68714
~~from the tax levied by section 5727.81 of the Revised Code is less~~ 68715
~~than five hundred fifty two million dollars, the amount credited~~ 68716
~~to the general revenue fund under division (B)(1) of this section~~ 68717
~~shall be reduced by the amount necessary to credit to each of the~~ 68718
~~funds in divisions (B)(2), (3), (4), and (5) of this section the~~ 68719
~~amount that it would have received if the tax did raise five~~ 68720
~~hundred fifty two million dollars for that fiscal year. The tax~~ 68721
~~commissioner shall certify to the director of budget and~~ 68722
~~management the amounts to be credited under division (B)(7) of~~ 68723

~~this section.~~ 68724

(C) The natural gas tax receipts fund is hereby created in 68725
the state treasury and shall consist of money arising from the tax 68726
imposed by section 5727.811 of the Revised Code. All money in the 68727
fund shall be credited as follows: 68728

(1) Sixty-eight and seven-tenths per cent shall be credited 68729
to the school district property tax replacement fund for the 68730
purpose of making the payments described in section 5727.85 of the 68731
Revised Code. 68732

(2) Thirty-one and three-tenths per cent shall be credited to 68733
the local government property tax replacement fund for the purpose 68734
of making the payments described in section 5727.86 of the Revised 68735
Code. 68736

~~(3) Beginning in fiscal year 2007, if the revenue arising 68737
from the tax levied by section 5727.811 of the Revised Code is 68738
less than ninety million dollars, an amount equal to the 68739
difference between the amount collected and ninety million dollars 68740
shall be transferred from the general revenue fund to each of the 68741
funds in divisions (C)(1) and (2) of this section in the same 68742
percentages as if that amount had been collected as taxes under 68743
section 5727.811 of the Revised Code. The tax commissioner shall 68744
certify to the director of budget and management the amounts that 68745
shall be transferred under this division.~~ 68746

(D) Not later than January 1, 2002, the tax commissioner 68747
shall determine for each taxing district its electric company tax 68748
value loss, which is the sum of the applicable amounts described 68749
in divisions (D)(1) to (3) of this section: 68750

(1) The difference obtained by subtracting the amount 68751
described in division (D)(1)(b) from the amount described in 68752
division (D)(1)(a) of this section. 68753

(a) The value of electric company and rural electric company
tangible personal property as assessed by the tax commissioner for
tax year 1998 on a preliminary assessment, or an amended
preliminary assessment if issued prior to March 1, 1999, and as
apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company
tangible personal property as assessed by the tax commissioner for
tax year 1998 had the property been apportioned to the taxing
district for tax year 2001, and assessed at the rates in effect
for tax year 2001.

(2) The difference obtained by subtracting the amount
described in division (D)(2)(b) from the amount described in
division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998
of the assessed value from nuclear fuel materials and assemblies
assessed against a person under Chapter 5711. of the Revised Code
from the leasing of them to an electric company for those
respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel
materials and assemblies assessed under division (D)(2)(a) of this
section for tax years 1996, 1997, and 1998, as reflected in the
preliminary assessments, using an assessment rate of twenty-five
per cent.

(3) In the case of a taxing district having a nuclear power
plant within its territory, any amount, resulting in an electric
company tax value loss, obtained by subtracting the amount
described in division (D)(1) of this section from the difference
obtained by subtracting the amount described in division (D)(3)(b)
of this section from the amount described in division (D)(3)(a) of
this section.

(a) The value of electric company tangible personal property

as assessed by the tax commissioner for tax year 2000 on a 68785
preliminary assessment, or an amended preliminary assessment if 68786
issued prior to March 1, 2001, and as apportioned to the taxing 68787
district for tax year 2000; 68788

(b) The value of electric company tangible personal property 68789
as assessed by the tax commissioner for tax year 2001 on a 68790
preliminary assessment, or an amended preliminary assessment if 68791
issued prior to March 1, 2002, and as apportioned to the taxing 68792
district for tax year 2001. 68793

(E) Not later than January 1, 2002, the tax commissioner 68794
shall determine for each taxing district its natural gas company 68795
tax value loss, which is the sum of the amounts described in 68796
divisions (E)(1) and (2) of this section: 68797

(1) The difference obtained by subtracting the amount 68798
described in division (E)(1)(b) from the amount described in 68799
division (E)(1)(a) of this section. 68800

(a) The value of all natural gas company tangible personal 68801
property, other than property described in division (E)(2) of this 68802
section, as assessed by the tax commissioner for tax year 1999 on 68803
a preliminary assessment, or an amended preliminary assessment if 68804
issued prior to March 1, 2000, and apportioned to the taxing 68805
district for tax year 1999; 68806

(b) The value of all natural gas company tangible personal 68807
property, other than property described in division (E)(2) of this 68808
section, as assessed by the tax commissioner for tax year 1999 had 68809
the property been apportioned to the taxing district for tax year 68810
2001, and assessed at the rates in effect for tax year 2001. 68811

(2) The difference in the value of current gas obtained by 68812
subtracting the amount described in division (E)(2)(b) from the 68813
amount described in division (E)(2)(a) of this section. 68814

(a) The three-year average assessed value of current gas as 68815
assessed by the tax commissioner for tax years 1997, 1998, and 68816
1999 on a preliminary assessment, or an amended preliminary 68817
assessment if issued prior to March 1, 2001, and as apportioned in 68818
the taxing district for those respective years; 68819

(b) The three-year average assessed value from current gas 68820
under division (E)(2)(a) of this section for tax years 1997, 1998, 68821
and 1999, as reflected in the preliminary assessment, using an 68822
assessment rate of twenty-five per cent. 68823

(F) The tax commissioner may request that natural gas 68824
companies, electric companies, and rural electric companies file a 68825
report to help determine the tax value loss under divisions (D) 68826
and (E) of this section. The report shall be filed within thirty 68827
days of the commissioner's request. A company that fails to file 68828
the report or does not timely file the report is subject to the 68829
penalty in section 5727.60 of the Revised Code. 68830

(G) Not later than January 1, 2002, the tax commissioner 68831
shall determine for each school district, joint vocational school 68832
district, and local taxing unit its fixed-rate levy loss, which is 68833
the sum of its electric company tax value loss multiplied by the 68834
tax rate in effect in tax year 1998 for fixed-rate levies and its 68835
natural gas company tax value loss multiplied by the tax rate in 68836
effect in tax year 1999 for fixed-rate levies. 68837

(H) Not later than January 1, 2002, the tax commissioner 68838
shall determine for each school district, joint vocational school 68839
district, and local taxing unit its fixed-sum levy loss, which is 68840
the amount obtained by subtracting the amount described in 68841
division (H)(2) of this section from the amount described in 68842
division (H)(1) of this section: 68843

(1) The sum of the electric company tax value loss multiplied 68844
by the tax rate in effect in tax year 1998, and the natural gas 68845

company tax value loss multiplied by the tax rate in effect in tax 68846
year 1999, for fixed-sum levies for all taxing districts within 68847
each school district, joint vocational school district, and local 68848
taxing unit. For the years 2002 through 2006, this computation 68849
shall include school district emergency levies that existed in 68850
1998 in the case of the electric company tax value loss, and 1999 68851
in the case of the natural gas company tax value loss, and all 68852
other fixed-sum levies that existed in 1998 in the case of the 68853
electric company tax value loss and 1999 in the case of the 68854
natural gas company tax value loss and continue to be charged in 68855
the tax year preceding the distribution year. For the years 2007 68856
through 2016 in the case of school district emergency levies, and 68857
for all years after 2006 in the case of all other fixed-sum 68858
levies, this computation shall exclude all fixed-sum levies that 68859
existed in 1998 in the case of the electric company tax value loss 68860
and 1999 in the case of the natural gas company tax value loss, 68861
but are no longer in effect in the tax year preceding the 68862
distribution year. For the purposes of this section, an emergency 68863
levy that existed in 1998 in the case of the electric company tax 68864
value loss, and 1999 in the case of the natural gas company tax 68865
value loss, continues to exist in a year beginning on or after 68866
January 1, 2007, but before January 1, 2017, if, in that year, the 68867
board of education levies a school district emergency levy for an 68868
annual sum at least equal to the annual sum levied by the board in 68869
tax year 1998 or 1999, respectively, less the amount of the 68870
payment certified under this division for 2002. 68871

(2) The total taxable value in tax year 1999 less the tax 68872
value loss in each school district, joint vocational school 68873
district, and local taxing unit multiplied by one-fourth of one 68874
mill. 68875

If the amount computed under division (H) of this section for 68876
any school district, joint vocational school district, or local 68877

taxing unit is greater than zero, that amount shall equal the 68878
fixed-sum levy loss reimbursed pursuant to division (E) of section 68879
5727.85 of the Revised Code or division (A)(2) of section 5727.86 68880
of the Revised Code, and the one-fourth of one mill that is 68881
subtracted under division (H)(2) of this section shall be 68882
apportioned among all contributing fixed-sum levies in the 68883
proportion of each levy to the sum of all fixed-sum levies within 68884
each school district, joint vocational school district, or local 68885
taxing unit. 68886

(I) Notwithstanding divisions (D), (E), (G), and (H) of this 68887
section, in computing the tax value loss, fixed-rate levy loss, 68888
and fixed-sum levy loss, the tax commissioner shall use the 68889
greater of the 1998 tax rate or the 1999 tax rate in the case of 68890
levy losses associated with the electric company tax value loss, 68891
but the 1999 tax rate shall not include for this purpose any tax 68892
levy approved by the voters after June 30, 1999, and the tax 68893
commissioner shall use the greater of the 1999 or the 2000 tax 68894
rate in the case of levy losses associated with the natural gas 68895
company tax value loss. 68896

(J) Not later than January 1, 2002, the tax commissioner 68897
shall certify to the department of education the tax value loss 68898
determined under divisions (D) and (E) of this section for each 68899
taxing district, the fixed-rate levy loss calculated under 68900
division (G) of this section, and the fixed-sum levy loss 68901
calculated under division (H) of this section. The calculations 68902
under divisions (G) and (H) of this section shall separately 68903
display the levy loss for each levy eligible for reimbursement. 68904

(K) Not later than September 1, 2001, the tax commissioner 68905
shall certify the amount of the fixed-sum levy loss to the county 68906
auditor of each county in which a school district with a fixed-sum 68907
levy loss has territory. 68908

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in 2016, the department of education shall determine the following for each school district and each joint vocational school district eligible for payment under division (C) or (D) of this section:

(1) The state education aid offset, which is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district.

(2) The greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through 2016, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state

education aid computed for fiscal year 2002 from the district's 68939
state education aid computed for the current fiscal year; 68940

(2) The inflation-adjusted property tax loss. The 68941
inflation-adjusted property tax loss equals the fixed-rate levy 68942
loss, excluding the tax loss from levies within the ten-mill 68943
limitation to pay debt charges, determined under division (G) of 68944
section 5727.84 of the Revised Code for all taxing districts in 68945
each school district, plus the product obtained by multiplying 68946
that loss by the cumulative percentage increase in the consumer 68947
price index from January 1, 2002, to the thirtieth day of June of 68948
the current year. 68949

(3) The difference obtained by subtracting the amount 68950
computed under division (B)(1) from the amount of the 68951
inflation-adjusted property tax loss. If this difference is zero 68952
or a negative number, no further payments shall be made under 68953
division (C) of this section to the school district from the 68954
school district property tax replacement fund. 68955

(C) The department of education shall pay from the school 68956
district property tax replacement fund to each school district all 68957
of the following: 68958

(1) In February 2002, one-half of the fixed-rate levy loss 68959
certified under division (J) of section 5727.84 of the Revised 68960
Code between the twenty-first and twenty-eighth days of February. 68961

(2) From August 2002 through August 2006, one-half of the 68962
amount calculated for that fiscal year under division (A)(2) of 68963
this section between the twenty-first and twenty-eighth days of 68964
August and of February. 68965

(3) From February 2007 through August 2016, one-half of the 68966
amount calculated for that calendar year under division (B)(3) of 68967
this section between the twenty-first and twenty-eighth days of 68968
August and of February. 68969

(4) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 to August 2016, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

(E)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district

one-half of the fixed-sum levy loss so certified for each year 69002
between the twenty-first and twenty-eighth days of August and of 69003
February. 69004

(2) Beginning in 2003, by the thirty-first day of January of 69005
each year, the tax commissioner shall review the certification 69006
originally made under division (E)(1) of this section. If the 69007
commissioner determines that a debt levy that had been scheduled 69008
to be reimbursed in the current year has expired, a revised 69009
certification for that and all subsequent years shall be made to 69010
the department of education. 69011

(F) If the balance of the half-mill equalization fund created 69012
under section 3318.18 of the Revised Code is insufficient to make 69013
the full amount of payments required under division (D) of that 69014
section, the department of education, at the end of the third 69015
quarter of the fiscal year, shall certify to the director of 69016
budget and management the amount of the deficiency, and the 69017
director shall transfer an amount equal to the deficiency from the 69018
school district property tax replacement fund to the half-mill 69019
equalization fund. 69020

(G) Beginning in August 2002, and ending in ~~February~~ May 69021
2017, the director of budget and management shall transfer from 69022
the school district property tax replacement fund to the general 69023
revenue fund each of the following: 69024

(1) Between the twenty-eighth day of August and the fifth day 69025
of September, the lesser of one-half of the amount certified for 69026
that fiscal year under division (A)(2) of this section or the 69027
balance in the school district property tax replacement fund; 69028

(2) Between the first and fifth days of ~~March~~ May, the lesser 69029
of one-half of the amount certified for that fiscal year under 69030
division (A)(2) of this section or the balance in the school 69031
district property tax replacement fund. 69032

~~(G) By August 5, 2002, the tax commissioner shall estimate the amount of money in the school district property tax replacement fund in excess of the amount necessary to make payments under divisions (C), (D), (E), and (F) of this section. Notwithstanding division (C) of this section, the department of education, in consultation with the tax commissioner and from those excess funds, may pay any school district four and one half times the amount certified under division (A)(2) of this section. Payments shall be made in order from the smallest annual loss to the largest annual loss. A payment made under this division shall be in lieu of the payment to be made in August 2002 under division (C)(2) of this section. No payments shall be made in the manner established in this division to any school district with annual losses from permanent improvement fixed rate levies in excess of twenty thousand dollars, or annual losses from any other fixed rate levies in excess of twenty thousand dollars. A school district receiving a payment under this division is no longer entitled to any further payments under division (C) of this section.~~

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~~(H) On the thirty first day of July of 2003, 2004, 2005, and 2006, and on the thirty first day of January and July of 2007 and each year thereafter, if the amount credited to the school district property tax replacement fund exceeds the amount needed to make payments from the fund under divisions (C), (D), (E), and (F) of this section, the department of education shall distribute the excess among school districts and joint vocational school districts. The amount distributed to each district shall bear the same proportion to the excess remaining in the fund as the ADM of the district bears to the ADM of all of the districts. For the purpose of this division, "ADM" means the formula ADM in the case of a school district, and the average daily membership reported under section 3317.03 of the Revised Code in the case of a joint~~

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~~vocational school district.~~ 69065

~~If, in the opinion of the department of education, the excess remaining in the school district property tax replacement fund in any year is not sufficient to warrant distribution under this division, the excess shall remain to the credit of the fund.~~ 69066
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~~Amounts received by a school district or joint vocational school district under this division shall be used exclusively for capital improvements.~~ 69070
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(H) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), and (G) of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code. 69073
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(I) From fiscal year 2002 through fiscal year 2016, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), ~~and~~ (E), ~~and~~ (F) of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly. 69079
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(J) If all ~~or a part~~ of the territory of a school district or joint vocational school district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to another an existing or new district, the department of education, in 69091
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consultation with the tax commissioner, shall adjust the payments 69096
made under this section ~~to each of the districts in proportion to~~ 69097
~~the tax value loss apportioned to the merged or transferred~~ 69098
~~territory as follows:~~ 69099

(1) For the merger of all of the territory of two or more 69100
districts, the fixed-rate levy loss and the fixed-sum levy loss of 69101
the successor district shall be equal to the sum of the fixed-rate 69102
levy losses and the fixed-sum levy losses for each of the 69103
districts involved in the merger. 69104

(2) For the transfer of a part of one district's territory to 69105
an existing district, the amount of the fixed-rate levy loss that 69106
is transferred to the recipient district shall be an amount equal 69107
to the transferring district's total fixed-rate levy loss times a 69108
fraction, the numerator of which is the value of electric company 69109
tangible personal property located in the part of the territory 69110
that was transferred, and the denominator of which is the total 69111
value of electric company tangible personal property located in 69112
the entire district from which the territory was transferred. The 69113
value of electric company tangible personal property under this 69114
division shall be determined for the most recent year for which 69115
data is available. Fixed-sum levy losses for both districts shall 69116
be determined under division (J)(4) of this section. 69117

(3) For the transfer of a part of the territory of one or 69118
more districts to create a new district: 69119

(a) If the new district is created on or after January 1, 69120
2000, but before January 1, 2005, the new district shall be paid 69121
its current fixed-rate levy loss through August 2006. From 69122
February 2007 to August 2016, the new district shall be paid the 69123
lesser of: (i) the amount calculated under division (B) of this 69124
section or (ii) an amount determined under the schedule in 69125
division (A)(1) of section 5727.86 of the Revised Code, as if for 69126
this purpose the new district was a local taxing unit under that 69127

section. Fixed-sum levy losses for the districts shall be 69128
determined under division (J)(4) of this section. 69129

(b) If the new district is created on or after January 1, 69130
2005, the new district shall be deemed not to have any fixed-rate 69131
levy loss or, except as provided in division (J)(4) of this 69132
section, fixed-sum levy loss. The district or districts from which 69133
the territory was transferred shall have no reduction in their 69134
fixed-rate levy loss, or, except as provided in division (J)(4) of 69135
this section, their fixed-sum levy loss. 69136

(4) If a recipient district under division (J)(2) of this 69137
section or a new district under division (J)(3)(a) or (b) of this 69138
section takes on debt from one or more of the districts from which 69139
territory was transferred, and any of the districts transferring 69140
the territory had fixed-sum levy losses, the department of 69141
education, in consultation with the tax commissioner, shall make 69142
an equitable division of the fixed-sum levy losses. 69143

(K) There is hereby created the public utility property tax 69144
study committee, effective January 1, 2011. The committee shall 69145
consist of the following seven members: the tax commissioner, 69146
three members of the senate appointed by the president of the 69147
senate, and three members of the house of representatives 69148
appointed by the speaker of the house of representatives. The 69149
appointments shall be made not later than January 31, 2011. The 69150
tax commissioner shall be the chairperson of the committee. 69151

The committee shall study the extent to which each school 69152
district or joint vocational school district has been compensated, 69153
under sections 5727.84 and 5727.85 of the Revised Code as enacted 69154
by Substitute Senate Bill No. 3 of the 123rd general assembly and 69155
any subsequent acts, for the property tax loss caused by the 69156
reduction in the assessment rates for natural gas, electric, and 69157
rural electric company tangible personal property. Not later than 69158

June 30, 2011, the committee shall issue a report of its findings, 69159
including any recommendations for providing additional 69160
compensation for the property tax loss or regarding remedial 69161
legislation, to the president of the senate and the speaker of the 69162
house of representatives, at which time the committee shall cease 69163
to exist. 69164

The department of taxation and department of education shall 69165
provide such information and assistance as is required for the 69166
committee to carry out its duties. 69167

Sec. 5727.99. (A) Whoever violates section 5727.55 of the 69168
Revised Code ~~shall be fined not less than one hundred nor more~~ 69169
~~than one thousand dollars~~ is guilty of a misdemeanor of the third 69170
degree. 69171

(B) Whoever violates section 5727.71 of the Revised Code 69172
~~shall be fined not more than five hundred dollars and imprisoned~~ 69173
~~not more than thirty days~~ is guilty of a misdemeanor of the fourth 69174
degree. 69175

(C) Whoever violates section 5727.72 of the Revised Code 69176
~~shall be fined not more than five hundred dollars or imprisoned~~ 69177
~~not more than thirty days, or both~~ is guilty of a misdemeanor of 69178
the third degree. 69179

(D) Whoever violates sections 5727.80 to 5727.83, or sections 69180
5727.88 to 5727.95 of the Revised Code or any rule adopted by the 69181
tax commissioner under those sections, is guilty of a misdemeanor 69182
of the first degree ~~on the first offense; on each subsequent.~~ 69183
If the person previously has been convicted of any offense under 69184
Title LVII of the Revised Code, the person is guilty of a felony 69185
of the fourth degree. 69186

Sec. 5728.01. As used in sections 5728.02 to 5728.14 of the 69187
Revised Code: 69188

(A) "Motor vehicle" means everything on wheels that is 69189
self-propelled, other than by muscular power or power collected 69190
from electric trolley wires and other than vehicles or machinery 69191
not designed for or employed in general highway transportation, 69192
used to transport or propel persons or property over a public 69193
highway. 69194

(B) "Commercial car" means any motor vehicle used for 69195
transporting persons or property, wholly on its own structure on a 69196
public highway. 69197

(C) "Commercial tractor" means any motor vehicle designed and 69198
used to propel or draw a trailer or semi-trailer or both on a 69199
public highway without having any provision for carrying loads 69200
independently of such trailer or semi-trailer. 69201

(D) "Trailer" means everything on wheels that is not 69202
self-propelled, except vehicles or machinery not designed for or 69203
employed in general highway transportation, used for carrying 69204
property wholly on its own structure and for being drawn by a 69205
motor vehicle on a public highway, including any such vehicle when 69206
formed by or operated as a combination of a semi-trailer and a 69207
vehicle of the dolly type such as that commonly known as a trailer 69208
dolly. "Trailer" does not include manufactured homes as defined in 69209
division (C)(4) of section 3781.06 of the Revised Code or mobile 69210
homes as defined in division (O) of section 4501.01 of the Revised 69211
Code. 69212

(E) "Semi-trailer" means everything on wheels that is not 69213
self-propelled, except vehicles or machinery not designed for or 69214
employed in general highway transportation, designed and used for 69215
carrying property on a public highway when being propelled or 69216
drawn by a commercial tractor when part of its own weight or the 69217
weight of its load, or both, rest upon and is carried by a 69218
commercial tractor. 69219

(F) "Commercial tandem" means any commercial car and trailer 69220
or any commercial tractor, semi-trailer, and trailer when fastened 69221
together and used as one unit. 69222

(G) "Commercial tractor combination" means any commercial 69223
tractor and semi-trailer when fastened together and used as one 69224
unit. 69225

(H) "Axle" means two or more load carrying wheels mounted in 69226
a single transverse vertical plane. 69227

(I) "Public highway" means any highway, road, or street 69228
dedicated to public use, including a highway under the control and 69229
jurisdiction of the Ohio turnpike commission created by the 69230
provisions of section 5537.02 of the Revised Code and land and 69231
lots over which the public, either as user or owner, generally has 69232
a right to pass even though such land or lots are closed 69233
temporarily by public authorities for the purpose of construction, 69234
reconstruction, maintenance, or repair. 69235

(J) "Jurisdiction" means a state of the United States, the 69236
District of Columbia, or a province or territory of Canada. 69237

Sec. 5728.02. (A) Except as provided in section 5728.03 of 69238
the Revised Code, every person who is liable for the tax imposed 69239
by section 5728.06 of the Revised Code on the operation of a 69240
commercial car ~~with three or more axles when operated alone or as~~ 69241
~~part of a commercial tandem, a commercial car with two axles that~~ 69242
~~is to be operated as part of a commercial tandem with a gross~~ 69243
~~vehicle weight or a registered gross vehicle weight exceeding~~ 69244
~~twenty six thousand pounds,~~ or a commercial tractor that is, or is 69245
to be, operated or driven upon a public highway in two or more 69246
jurisdictions shall cause to be filed annually with the tax 69247
commissioner ~~a written~~ an application for a fuel use permit ~~on~~ 69248
~~blank forms~~ to be furnished by the commissioner for that purpose. 69249

Each application for a fuel use permit for a commercial car 69250
or a commercial tractor shall contain any information the tax 69251
commissioner prescribes. 69252

(B) Upon receipt of the application, the tax commissioner 69253
shall issue to the person making the application a fuel use permit 69254
and any identification device that the commissioner considers 69255
necessary for the proper administration of this chapter. The 69256
permit and the identification device shall be of a design and 69257
contain any information the commissioner considers necessary. The 69258
identification device shall be displayed on the commercial car or 69259
commercial tractor for which it was issued at all times in the 69260
manner the commissioner prescribes. The fuel use permits and the 69261
identification device shall not be transferable. In case of the 69262
loss of a fuel use permit or identification device, the 69263
commissioner shall issue a duplicate of the permit or device. 69264

The fuel use permit shall be valid until it expires or is 69265
suspended or surrendered. 69266

Sec. 5728.03. (A) In lieu of filing an application for an 69267
annual fuel use permit under section 5728.02 of the Revised Code 69268
and in lieu of filing returns under section 5728.08 of the Revised 69269
Code, a person who is the owner of a commercial car ~~with three or~~ 69270
~~more axles when operated alone or as part of a commercial tandem,~~ 69271
~~a commercial car with two axles that is to be operated as part of~~ 69272
~~a commercial tandem with a gross vehicle weight or a registered~~ 69273
~~gross vehicle weight exceeding twenty six thousand pounds,~~ or a 69274
commercial tractor that would otherwise be liable for the tax 69275
imposed by section 5728.06 of the Revised Code, that is, or is to 69276
be, operated or driven upon a public highway, may file an 69277
application with the tax commissioner for a single-trip fuel use 69278
permit. The application shall be based on rules adopted by the tax 69279
commissioner and shall include an amount estimated to be 69280

substantially equivalent to the fuel use tax liability that the 69281
applicant will incur by driving on the highways of this state 69282
during the period covered by the single-trip permit. The amount so 69283
estimated shall be considered to be the fuel use tax liability so 69284
incurred. 69285

The commissioner may authorize independent permit services or 69286
other persons to issue single-trip fuel use permits. 69287

(B) The tax commissioner shall adopt rules establishing all 69288
of the following: 69289

(1) Procedures for the issuance of single-trip permits; 69290

(2) The length of time the permits are effective; 69291

(3) Requirements that independent permit services or other 69292
persons must meet to be authorized to issue single-trip fuel use 69293
permits and procedures for obtaining that authorization; 69294

(4) Estimates of the amount substantially equivalent to the 69295
fuel use tax liability that an applicant will incur by driving on 69296
the highways of this state during the period covered by the 69297
permit. 69298

(C) No person whose fuel use permit issued under section 69299
5728.02 of the Revised Code is currently under suspension in 69300
accordance with section 5728.11 of the Revised Code shall be 69301
issued a single-trip fuel use permit under this section. 69302

(D) All moneys collected pursuant to this section shall be 69303
deposited in the state treasury in accordance with section 5728.08 69304
of the Revised Code. 69305

Sec. 5728.04. (A) It is unlawful for any person to operate a 69306
commercial car ~~with three or more axles when operated alone or as~~ 69307
~~part of a commercial tandem, a commercial car with two axles that~~ 69308
~~is to be operated as part of a commercial tandem with a gross~~ 69309
~~vehicle weight or a registered gross vehicle weight exceeding~~ 69310

~~twenty six thousand pounds, or a commercial tractor when operated~~ 69311
~~alone or as part of a commercial tractor combination or commercial~~ 69312
~~tandem that is subject to the tax imposed by section 5728.06 of~~ 69313
the Revised Code on a public highway in two or more jurisdictions 69314
under either of the following circumstances: 69315

(1) Without a fuel use permit or single trip fuel use permit 69316
for such commercial car or commercial tractor. 69317

(2) With a suspended or surrendered fuel use permit for such 69318
commercial car or commercial tractor. 69319

(B) The judge or magistrate of any court finding any person 69320
guilty of unlawfully operating a commercial car or commercial 69321
tractor as provided for in this section shall immediately notify 69322
the tax commissioner of such violation and shall transmit to the 69323
tax commissioner the name and the permanent address of the owner 69324
of the commercial car or commercial tractor operated in violation 69325
of this section, the registration number, the state of 69326
registration, and the certificate of title number of the 69327
commercial car or commercial tractor. The commercial car or 69328
commercial tractor involved in a violation of division (A)(1) or 69329
(2) of this section may be detained until a valid fuel use permit 69330
is obtained or reinstated. 69331

Sec. 5728.06. (A) For the following purposes, an excise tax 69332
is hereby imposed on the use of motor fuel to operate on the 69333
public highways of this state a commercial car with three or more 69334
axles, regardless of weight, operated alone or as part of a 69335
commercial tandem, a commercial car with two axles ~~operated as~~ 69336
~~part of a commercial tandem~~ having a gross vehicle weight or 69337
registered gross vehicle weight exceeding twenty-six thousand 69338
pounds operated alone or as part of a commercial tandem, or a 69339
commercial tractor operated alone or as part of a commercial 69340
tractor combination or commercial tandem: to provide revenue for 69341

maintaining the state highway system, to widen existing surfaces 69342
on such highways, to resurface such highways, to enable the 69343
counties of the state properly to plan for, maintain, and repair 69344
their roads, to enable the municipal corporations to plan, 69345
construct, reconstruct, repave, widen, maintain, repair, clear, 69346
and clean public highways, roads, and streets; to pay that portion 69347
of the construction cost of a highway project that a county, 69348
township, or municipal corporation normally would be required to 69349
pay, but that the director of transportation, pursuant to division 69350
(B) of section 5531.08 of the Revised Code, determines instead 69351
will be paid from moneys in the highway operating fund; to 69352
maintain and repair bridges and viaducts; to purchase, erect, and 69353
maintain street and traffic signs and markers; to purchase, erect, 69354
and maintain traffic lights and signals; to pay the costs 69355
apportioned to the public under section 4907.47 of the Revised 69356
Code; and to supplement revenue already available for such 69357
purposes, to distribute equitably among those persons using the 69358
privilege of driving motor vehicles upon such highways and streets 69359
the cost of maintaining and repairing the same, and to pay the 69360
interest, principal, and charges on bonds and other obligations 69361
issued pursuant to Section 2i of Article VIII, Ohio Constitution, 69362
and sections 5528.30 and 5528.31 of the Revised Code. The tax is 69363
imposed in the same amount as the motor fuel tax imposed under 69364
Chapter 5735. of the Revised Code plus an additional tax of three 69365
cents per gallon of motor fuel used before July 1, 2004, provided 69366
that the additional tax shall be reduced to two cents per gallon 69367
of motor fuel used from July 1, 2004 through June 30, 2005, as 69368
determined by the gallons consumed while operated on the public 69369
highways of this state. Subject to section 5735.292 of the Revised 69370
Code, on and after July 1, 2005, the tax shall be imposed in the 69371
same amount as the motor fuel tax imposed under Chapter 5735. of 69372
the Revised Code. Payment of the fuel use tax shall be made by the 69373
purchase ~~of motor fuel~~ within Ohio of such gallons of motor fuel, 69374

for which the tax imposed under Chapter 5735. of the Revised Code 69375
has been paid, as is equivalent to the gallons consumed while 69376
operating such a motor vehicle on the public highways of this 69377
state, or by direct remittance to the treasurer of state with the 69378
fuel use tax return filed pursuant to section 5728.08 of the 69379
Revised Code. 69380

Any person subject to the tax imposed under this section who 69381
purchases motor fuel in this state for use in another state in 69382
excess of the amount consumed while operating such motor vehicle 69383
on the public highways of this state shall be allowed a credit 69384
against the tax imposed by this section or a refund equal to the 69385
motor fuel tax paid to this state on such excess. No such credit 69386
or refund shall be allowed for taxes paid to any state that 69387
imposes a tax on motor fuel purchased or obtained in this state 69388
and used on the highways of such other state but does not allow a 69389
similar credit or refund for the tax paid to this state on motor 69390
fuel purchased or acquired in the other state and used on the 69391
public highways of this state. 69392

The tax commissioner is authorized to determine whether such 69393
credits or refunds are available and to prescribe such rules as 69394
are required for the purpose of administering this chapter. 69395

(B) Within sixty days after the last day of each month, the 69396
tax commissioner shall determine the amount of motor fuel tax 69397
allowed as a credit against the tax imposed by this section. The 69398
commissioner shall certify the amount to the director of budget 69399
and management and the treasurer of state, who shall credit the 69400
amount in accordance with section 5728.08 of the Revised Code from 69401
current revenue arising from the tax levied by section 5735.05 of 69402
the Revised Code. 69403

(C) The owner of each commercial car and commercial tractor 69404
subject to sections 5728.01 to 5728.14 of the Revised Code is 69405
liable for the payment of the full amount of the taxes imposed by 69406

this section.

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An owner who is a person regularly engaged, for compensation, in the business of leasing or renting motor vehicles without furnishing drivers may designate that the lessee of a motor vehicle leased for a period of thirty days or more shall report and pay the tax incurred during the duration of the lease. An owner who is an independent contractor that furnishes both the driver and motor vehicle, may designate that the person so furnished with the driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period. An independent contractor that is not an owner, but that furnishes both the driver and motor vehicle and that has been designated by the owner of the motor vehicle to report and pay the tax, may designate that the person so furnished with driver and motor vehicle for a period of thirty days or more shall report and pay the tax incurred during that period.

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Sec. 5728.08. Except as provided in section 5728.03 of the Revised Code and except as otherwise provided in ~~this division (A)~~ of section 5728.06 of the Revised Code, whoever is liable for the payment of the tax levied by section 5728.06 of the Revised Code, on or before the last day of each January, April, July, and October, shall file with the tax commissioner, on forms prescribed by the commissioner, a fuel use tax return and make payment of the full amount of the tax due for the operation of each commercial car and commercial tractor for the preceding three calendar months. ~~If the commercial cars or commercial tractors are farm trucks and the amount of motor fuel used to operate the trucks during the preceding twelve calendar months was less than fifteen thousand gallons, the fuel use tax return shall be filed and the full amount of tax due paid on or before the last day of each July for the preceding twelve calendar months. If the commercial cars~~

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~~or commercial tractors are farm trucks and the amount of motor 69438
fuel used to operate the trucks during the preceding twelve 69439
calendar months was fifteen thousand gallons or more, the fuel use 69440
tax return shall be filed and the full amount of the tax due paid 69441
either on or before the last day of each July for the preceding 69442
twelve calendar months, or on or before the last day of each 69443
January, April, July, and October for the preceding three calendar 69444
months, at the option of the person liable for payment of the tax. 69445
If the commercial cars or commercial tractors are not farm trucks, 69446
and if, in the estimation of the commissioner, the amount of the 69447
tax due does not warrant quarterly filing, the commissioner may 69448
authorize the filing of the fuel use tax return and payment of the 69449
full amount due on or before the last day of each July for the 69450
preceding twelve months. 69451~~

The commissioner shall immediately forward to the treasurer 69452
of state all money received from the tax levied by section 5728.06 69453
of the Revised Code. 69454

The treasurer of state shall place to the credit of the tax 69455
refund fund created by section 5703.052 of the Revised Code, out 69456
of receipts from the taxes levied by section 5728.06 of the 69457
Revised Code, amounts equal to the refund certified by the tax 69458
commissioner pursuant to section 5728.061 of the Revised Code. 69459
Receipts from the tax shall be used by the commissioner to defray 69460
expenses incurred by the department of taxation in administering 69461
sections 5728.01 to 5728.14 of the Revised Code. 69462

All moneys received in the state treasury from taxes levied 69463
by section 5728.06 of the Revised Code and fees assessed under 69464
section 5728.03 of the Revised Code that are not required to be 69465
placed to the credit of the tax refund fund as provided by this 69466
section shall, during each calendar year, be credited to the 69467
highway improvement bond retirement fund created by section 69468
5528.12 of the Revised Code until the commissioners of the sinking 69469

fund certify to the treasurer of state, as required by section 69470
5528.17 of the Revised Code, that there are sufficient moneys to 69471
the credit of the highway improvement bond retirement fund to meet 69472
in full all payments of interest, principal, and charges for the 69473
retirement of bonds and other obligations issued pursuant to 69474
Section 2g of Article VIII, Ohio Constitution, and sections 69475
5528.10 and 5528.11 of the Revised Code due and payable during the 69476
current calendar year and during the following calendar year. From 69477
the date of the receipt of the certification required by section 69478
5528.17 of the Revised Code by the treasurer of state until the 69479
thirty-first day of December of the calendar year in which the 69480
certification is made, all moneys received in the state treasury 69481
from taxes levied under section 5728.06 of the Revised Code and 69482
fees assessed under section 5728.03 of the Revised Code that are 69483
not required to be placed to the credit of the tax refund fund as 69484
provided by this section shall be credited to the highway 69485
obligations bond retirement fund created by section 5528.32 of the 69486
Revised Code until the commissioners of the sinking fund certify 69487
to the treasurer of state, as required by section 5528.38 of the 69488
Revised Code, that there are sufficient moneys to the credit of 69489
the highway obligations bond retirement fund to meet in full all 69490
payments of interest, principal, and charges for the retirement of 69491
bonds and other obligations issued pursuant to Section 2i of 69492
Article VIII, Ohio Constitution, and sections 5528.30 and 5528.31 69493
of the Revised Code due and payable during the current calendar 69494
year and during the following calendar year. From the date of the 69495
receipt of the certification required by section 5528.38 of the 69496
Revised Code by the treasurer of state until the thirty-first day 69497
of December of the calendar year in which the certification is 69498
made, all moneys received in the state treasury from taxes levied 69499
under section 5728.06 of the Revised Code and fees assessed under 69500
section 5728.03 of the Revised Code that are not required to be 69501
placed to the credit of the tax refund fund as provided by this 69502

section shall be credited to the highway operating fund created by 69503
section 5735.291 of the Revised Code, except as provided by the 69504
following paragraph of this section. 69505

From the date of the receipt by the treasurer of state of 69506
certifications from the commissioners of the sinking fund, as 69507
required by sections 5528.18 and 5528.39 of the Revised Code, 69508
certifying that the moneys to the credit of the highway 69509
improvement bond retirement fund are sufficient to meet in full 69510
all payments of interest, principal, and charges for the 69511
retirement of all bonds and other obligations that may be issued 69512
pursuant to Section 2g of Article VIII, Ohio Constitution, and 69513
sections 5528.10 and 5528.11 of the Revised Code, and to the 69514
credit of the highway obligations bond retirement fund are 69515
sufficient to meet in full all payments of interest, principal, 69516
and charges for the retirement of all obligations issued pursuant 69517
to Section 2i of Article VIII, Ohio Constitution, and sections 69518
5528.30 and 5528.31 of the Revised Code, all moneys received in 69519
the state treasury from the taxes levied under section 5728.06 and 69520
fees assessed under section 5728.03 of the Revised Code that are 69521
not required to be placed to the credit of the tax refund fund as 69522
provided by this section, shall be deposited to the credit of the 69523
highway operating fund. 69524

~~As used in this section, "farm truck" means any commercial 69525
ear or commercial tractor that is registered as a farm truck under 69526
Chapter 4503. of the Revised Code. 69527~~

Sec. 5728.99. (A)(1) Except as provided in division (A)(2) of 69528
this section, whoever violates any provision of sections 5728.01 69529
to 5728.14 of the Revised Code, or any rule promulgated by the tax 69530
commissioner under the authority of any provision of those 69531
sections, for the violation of which no penalty is provided 69532
elsewhere, ~~shall be fined not less than twenty five nor more than 69533~~

one hundred dollars is guilty of a misdemeanor of the fourth degree. 69534
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(2) Division (A)(1) of this section does not apply to the 69536
filing of any false or fraudulent return, application, or permit 69537
under section 5728.02, 5728.03, or 5728.08 of the Revised Code. 69538
The filing of any false or fraudulent return, application, or 69539
permit under any of those sections is a violation of section 69540
2921.13 of the Revised Code. 69541

(B)(1) Whoever violates division (A)(1) of section 5728.04 of 69542
the Revised Code is guilty of a misdemeanor of the ~~fourth~~ third 69543
degree. 69544

(2) Whoever violates division (A)(2) of section 5728.04 of 69545
the Revised Code is guilty of a misdemeanor of the first degree. 69546

Sec. 5729.032. A refundable credit granted by the tax credit 69547
authority under section 122.17 of the Revised Code may be claimed 69548
against the tax imposed by section 5729.03 of the Revised Code. 69549

Sec. 5729.08. (A) As used in this section, "tax otherwise 69550
due" means the tax imposed on a foreign insurance company under 69551
section 5729.03 of the Revised Code reduced by the total amount of 69552
all other nonrefundable credits, if any, that the foreign 69553
insurance company is entitled to claim. 69554

(B) Upon the issuance of a tax credit certificate by the Ohio 69555
venture capital authority under section 150.07 of the Revised 69556
Code, a credit may be claimed against the tax imposed on a foreign 69557
insurance company under section 5729.03 of the Revised Code. The 69558
credit shall be claimed in the calendar year specified in the 69559
certificate issued by the authority. 69560

(C) If the company elected a refundable credit under section 69561
150.07 of the Revised Code and if the amount of the credit shown 69562
on the certificate does not exceed the tax otherwise due, then for 69563

the calendar year the company shall claim a refundable credit 69564
equal to the amount of the credit shown on the certificate. 69565

(D) If the company elected a refundable credit under section 69566
150.07 of the Revised Code, and the amount of the credit shown on 69567
the certificate exceeds the tax otherwise due ~~under section~~ 69568
~~5729.03 of the Revised Code,~~ than for the calendar year the 69569
company may receive a refund equal to seventy five per cent of 69570
such excess. If shall claim a refundable credit equal to the sum 69571
of the following: 69572

(1) The amount, if any, of the tax otherwise due; 69573

(2) Seventy-five per cent of the difference between the 69574
amount of the refundable credit shown on the certificate and the 69575
tax otherwise due. 69576

(E) If the company elected a nonrefundable credit, the amount 69577
of the credit shown on the certificate shall not exceed the amount 69578
of tax otherwise due. If the company elected a nonrefundable 69579
credit and the credit to which the company would otherwise be 69580
entitled under this section for any calendar year is greater than 69581
the tax otherwise due ~~under section 5729.03 of the Revised Code,~~ 69582
the excess shall be allowed as a nonrefundable credit in each of 69583
the ensuing ten calendar years, but the amount of any excess 69584
credit allowed in the ensuing calendar year shall be deducted from 69585
the balance carried forward to the next calendar year. 69586

Sec. 5731.01. As used in this chapter: 69587

(A) The "value of the gross estate" of the decedent shall 69588
include, to the extent provided in sections 5731.03 to 5731.131 of 69589
the Revised Code, the value, on the ~~dae~~ date of the decedent's 69590
death or on an alternate valuation date prescribed by division (D) 69591
of this section, of all property, real or personal, tangible or 69592
intangible, wherever situated, except real property situated and 69593

tangible personal property having an actual situs outside of this state. 69594
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(B) Subject to the provisions of section 5731.011 of the Revised Code that permit a valuation of qualified farm property at its value for its actual qualified use, the value of any property included in the gross estate shall be the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. All relevant facts and elements of value as of the valuation date shall be considered in determining such value. 69596
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The rulings and regulations of the internal revenue service and decisions of the federal courts defining the principles applicable in determining fair market value for purposes of the federal estate tax imposed by Subchapter A, Chapter 11 of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2001, as amended,~~ shall be applied in determining fair market value for purposes of the estate taxes imposed by this chapter, to the extent that these rulings, regulations, and decisions are not inconsistent with the express provisions of this chapter, but the actual determination of the fair market value by the internal revenue service of any asset included in the gross estate is not controlling for purposes of the estate taxes imposed by this chapter, unless the person filing the estate tax return and the tax commissioner have agreed in writing to be bound by the federal determination, as provided in section 5731.26 of the Revised Code. 69605
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(C) In the case of stock and securities of a corporation the value of which, by reason of their not being listed on an exchange and by reason of the absence of sales of them, cannot be determined with reference to bid and asked prices, or with reference to sales prices, the value of them shall be determined by taking into consideration, in addition to all other factors, 69620
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the value of stock or securities of corporations engaged in the 69626
same or a similar line of business which are listed on an exchange 69627
or which are traded actively in the over-the-counter market. 69628

If a valuation of securities is undertaken by reference to 69629
market transactions and if the block of securities to be valued is 69630
so large in relation to actual sales on existing markets that it 69631
could not be liquidated in a reasonable time without depressing 69632
the market, the price at which the block could be sold, as such, 69633
outside the usual market, as through an underwriter, shall be 69634
considered in determining the value of such block of securities. 69635

(D) "Alternate valuation date" means the date for valuation 69636
of a gross estate permitted by filing an election under this 69637
division. Whether or not an alternate valuation date election is 69638
available to an estate for federal estate tax purposes or, if 69639
available, is made for the estate, the value of the gross estate 69640
may be determined, if the person required to file the estate tax 69641
return so elects, by valuing all the property included in the 69642
gross estate on the alternate date, if any, provided in section 69643
2032 (a) of the Internal Revenue Code ~~of 1954, 26 U.S.C. 2032(a),~~ 69644
~~as amended~~ as such section generally applies, for federal estate 69645
tax purposes, to the estates of persons dying on the decedent's 69646
date of death. 69647

No deduction under this chapter of any item shall be allowed 69648
if allowance is, in effect, given by use of the alternate 69649
valuation date. In the determination of any tax liability of any 69650
estate in which an election is filed under this division, all 69651
provisions in this chapter ~~which~~ that refer to value at the time 69652
of the decedent's death shall be construed for all purposes to 69653
mean the value of such property used in determining the value of 69654
the gross estate. For the purposes of the charitable deduction 69655
under section 5731.17 of the Revised Code, any bequest, legacy, 69656
devise, or transfer enumerated in it shall be valued as of the 69657

date of the decedent's death with adjustment for any difference in 69658
value, not due to mere lapse of time or the occurrence or 69659
nonoccurrence of a contingency, of the property as of the date six 69660
months after the decedent's death, or in case of its earlier 69661
disposition, on such date of disposition. 69662

An election under this division shall be exercised on the 69663
estate tax return by the person required to file the return. When 69664
made, an election under this division is irrevocable. An election 69665
cannot be exercised under this division if a return is filed more 69666
than one year after the time prescribed, including any extensions 69667
of time granted, pursuant to law for filing the return. 69668

(E) Unless otherwise indicated by the context, "county" means 69669
one of the following: 69670

(1) The county in which the decedent's estate is 69671
administered; 69672

(2) If no administration of the decedent's estate is being 69673
had, the county of residence of the decedent at the time of ~~his~~ 69674
death; 69675

(3) If the decedent dies a resident of another state, any 69676
county in which any property subject to tax is located. 69677

(F) "Internal Revenue Code" means the "Internal Revenue Code 69678
of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended. 69679

Sec. 5731.05. (A) Except as provided in divisions (B) and (C) 69680
of this section, the value of the gross estate shall include the 69681
value of all property, to the extent of any interest in property, 69682
of which the decedent has at any time made a transfer, by trust or 69683
otherwise, in contemplation of ~~his~~ death. 69684

(B) Any transfer, except as provided in division (C) of this 69685
section, by trust or otherwise, made within a period of three 69686
years ending with the date of the decedent's death shall be deemed 69687

to have been made in contemplation of death, unless the contrary
is shown. No transfer made before that three-year period shall be
treated as having been made in contemplation of death.

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(C) This section does not apply to any of the following: 69691

(1) A bona fide sale for an adequate and full consideration
in money or money's worth; 69692
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(2) A transfer of property that would not be included in the
decedent's gross estate if retained by ~~him~~ the decedent until
death; 69694
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(3) The first ten thousand dollars of the transfers that were
made by the decedent to each transferee, other than the spouse of
the decedent, in each calendar year, but only to the extent that
those transfers qualify as present interests under section 2503(b)
and (c) of the "Internal Revenue Code of 1986," 26 U.S.C. 2503, as
~~amended~~. The exclusion provided by division (C)(3) of this section
does not apply to any portion of a transfer that is treated as
being made by the spouse of the decedent under section 2513 of the
"Internal Revenue Code of 1986," 26 U.S.C. 2513, as amended.

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(4) A transfer of property made to the spouse of the
transferor, except as provided in section 5731.131 of the Revised
Code; 69706
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(5) Federal or state gift taxes paid with respect to any
includible transfer. 69709
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~~(D) The amendments made to this section by Amended Substitute
House Bill No. 111 and Substitute Senate Bill No. 336 of the 118th
general assembly that are effective on July 1, 1993, shall apply
only to the estates of decedents who die on or after that date.~~

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Sec. 5731.131. ~~(A)~~ The value of the gross estate shall
include the value of any property in which the decedent had an
income interest for life as follows: 69715
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~~(1)(A)~~ If a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2523(f) of the "Internal Revenue Code of 1986," 26 U.S.C. 2523(f), as amended, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(2)(B)~~ If the decedent's predeceasing spouse was not a resident of this state at the time of his death and if a marital deduction was allowed with respect to the transfer of such property to the decedent under section 2056(b)(7) of the "Internal Revenue Code of 1986," 26 U.S.C. 2056(b)(7), as amended, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(3)(C)~~ If the decedent's predeceasing spouse died prior to July 1, 1993, and if a marital deduction was allowed with respect to the transfer of such property to the decedent under division (A)(1) of section 5731.15 of the Revised Code as it existed prior to July 1, 1993, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse;

~~(4)(D)~~ If a qualified terminable interest property deduction was allowed with respect to the transfer of such property to the decedent under division (B) of section 5731.15 of the Revised Code, in connection with the determination of the value of the taxable estate of the decedent's predeceasing spouse.

~~(B) The amendments made to this section by Amended Substitute House Bill No. 111 and substitute Senate Bill No. 336 of the 118th general assembly that are effective on July 1, 1993, shall apply only to the estates of decedents who die on or after that date.~~

Sec. 5731.14. For purposes of the tax levied by section 5731.02 of the Revised Code, the value of the taxable estate shall be determined by deducting from the value of the gross estate

deductions provided for in sections 5731.15 to 5731.17 ~~and 5731.20~~ 69748
of the Revised Code. 69749

Sec. 5731.18. (A) In addition to the tax levied by section 69750
5731.02 of the Revised Code, a tax is hereby levied upon the 69751
transfer of the estate of every person dying on or after July 1, 69752
1968, who, at the time of ~~his~~ death was a resident of this state, 69753
in an amount equal to the maximum credit allowable by subtitle B, 69754
~~chapter~~ Chapter 11 of the Internal Revenue Code of ~~1954, 26 U.S.C.~~ 69755
~~2011, as amended~~, for any taxes paid to any state. 69756

(B) The tax levied on any estate under this section shall be 69757
credited with the amount of the tax levied under section 5731.02 69758
of the Revised Code and with the amount of any estate, 69759
inheritance, legacy, or succession taxes actually paid to any 69760
state or territory of the United States or to the District of 69761
Columbia on any property included in the decedent's gross estate 69762
for federal estate tax purposes. 69763

(C) The additional tax levied under this section shall be 69764
administered, collected, and paid as provided in section 5731.24 69765
of the Revised Code. 69766

Sec. 5731.181. (A) For purposes of this section, 69767
"generation-skipping transfer," "taxable distribution," and 69768
"taxable termination" have the same meaning as in Chapter 13 of 69769
subtitle B of the Internal Revenue Code of ~~1986, 100 Stat. 2718,~~ 69770
~~26 U.S.C. 2601-2624, as amended.~~ 69771

(B) A tax is hereby levied upon every generation-skipping 69772
transfer of property having a situs in this state, that occurs at 69773
the same time as, and as a result of, the death of an individual, 69774
in an amount equal to the credit allowed by Chapter 13 of subtitle 69775
B of the Internal Revenue Code of ~~1986, 100 Stat. 2718, 26 U.S.C.~~ 69776
~~2601-2624, as amended~~, for any taxes paid to any state in respect 69777

of any property included in the generation-skipping transfer. 69778

For purposes of this division, "property having a situs in 69779
this state" includes all the following: 69780

(1) Real property situated in this state; 69781

(2) Tangible personal property having an actual situs in this 69782
state; 69783

(3) Intangible personal property employed in carrying on a 69784
business in this state; 69785

(4) Intangible personal property owned by a trust, the 69786
trustee of which resides in or has its principal place of business 69787
in this state, or, if there is more than one trustee of the trust, 69788
the principal place of administration of which is in this state. 69789

(C) The return with respect to the generation-skipping tax 69790
levied by division (B) of this section shall be filed in the form 69791
that the tax commissioner shall prescribe, on or before the day 69792
prescribed by law, including extensions, for filing the 69793
generation-skipping transfer tax return under Chapter 13 of 69794
subtitle B of the Internal Revenue Code ~~of 1986, 100 Stat. 2718,~~ 69795
~~26 U.S.C. 2601-2624, as amended,~~ for the same generation-skipping 69796
transfer. The return shall be filed by the distributee in the case 69797
of a taxable distribution and by the trustee in the case of a 69798
taxable termination. 69799

(D) The generation-skipping tax levied by division (B) of 69800
this section shall be paid, without notice or demand by the tax 69801
commissioner, with the return, and shall be charged, collected, 69802
and administered in the same manner as estate taxes levied by this 69803
chapter. This chapter is generally applicable to, except to the 69804
extent it is inconsistent with the nature of, the 69805
generation-skipping tax. 69806

(E) If another state levies a generation-skipping tax on a 69807

transfer described in division (B) of this section, the tax 69808
commissioner may enter into a compromise of the 69809
generation-skipping tax levied by division (B) of this section in 69810
the manner provided in section 5731.35 of the Revised Code, except 69811
that no approval of any probate court is required. If such a 69812
compromise agreement is made, no interest and penalties shall 69813
accrue for the period prior to the execution of the agreement and 69814
for sixty days after its execution. 69815

Sec. 5731.39. (A) No corporation organized or existing under 69816
the laws of this state shall transfer on its books or issue a new 69817
certificate for any share of its capital stock registered in the 69818
name of a decedent, or in trust for a decedent, or in the name of 69819
a decedent and another person or persons, without the written 69820
consent of the tax commissioner. 69821

(B) No safe deposit company, trust company, financial 69822
institution as defined in division (A) of section 5725.01 of the 69823
Revised Code or other corporation or person, having in possession, 69824
control, or custody a deposit standing in the name of a decedent, 69825
or in trust for a decedent, or in the name of a decedent and 69826
another person or persons, shall deliver or transfer an amount in 69827
excess of three-fourths of the total value of such deposit, 69828
including accrued interest and dividends, as of the date of 69829
decedent's death, without the written consent of the tax 69830
commissioner. The written consent of the tax commissioner need not 69831
be obtained prior to the delivery or transfer of amounts having a 69832
value of three-fourths or less of said total value. 69833

(C) No life insurance company shall pay the proceeds of an 69834
annuity or matured endowment contract, or of a life insurance 69835
contract payable to the estate of a decedent, or of any other 69836
insurance contract taxable under Chapter 5731. of the Revised 69837
Code, without the written consent of the tax commissioner. Any 69838

life insurance company may pay the proceeds of any insurance 69839
contract not specified in this division (C) without the written 69840
consent of the tax commissioner. 69841

(D) No trust company or other corporation or person shall pay 69842
the proceeds of any death benefit, retirement, pension or profit 69843
sharing plan in excess of two thousand dollars, without the 69844
written consent of the tax commissioner. Such trust company or 69845
other corporation or person, however, may pay the proceeds of any 69846
death benefit, retirement, pension, or profit-sharing plan which 69847
consists of insurance on the life of the decedent payable to a 69848
beneficiary other than the estate of the insured without the 69849
written consent of the tax commissioner. 69850

(E) No safe deposit company, trust company, financial 69851
institution as defined in division (A) of section 5725.01 of the 69852
Revised Code, or other corporation or person, having in 69853
possession, control, or custody securities, assets, or other 69854
property (including the shares of the capital stock of, or other 69855
interest in, such safe deposit company, trust company, financial 69856
institution as defined in division (A) of section 5725.01 of the 69857
Revised Code, or other corporation), standing in the name of a 69858
decedent, or in trust for a decedent, or in the name of a decedent 69859
and another person or persons, and the transfer of which is 69860
taxable under Chapter 5731. of the Revised Code, shall deliver or 69861
transfer any such securities, assets, or other property which have 69862
a value as of the date of decedent's death in excess of 69863
three-fourths of the total value thereof, without the written 69864
consent of the tax commissioner. The written consent of the tax 69865
commissioner need not be obtained prior to the delivery or 69866
transfer of any such securities, assets, or other property having 69867
a value of three-fourths or less of said total value. 69868

(F) No safe deposit company, financial institution as defined 69869
in division (A) of section 5725.01 of the Revised Code, or other 69870

corporation or person having possession or control of a safe 69871
deposit box or similar receptacle standing in the name of a 69872
decedent or in the name of the decedent and another person or 69873
persons, or to which the decedent had a right of access, except 69874
when such safe deposit box or other receptacle stands in the name 69875
of a corporation or partnership, or in the name of the decedent as 69876
guardian or executor, shall deliver any of the contents thereof 69877
unless the safe deposit box or similar receptacle has been opened 69878
and inventoried in the presence of the tax commissioner or the 69879
commissioner's agent, and a written consent to transfer issued; 69880
provided, however, that a safe deposit company, financial 69881
institution, or other corporation or person having possession or 69882
control of a safe deposit box may deliver wills, deeds to burial 69883
lots, and insurance policies to a representative of the decedent, 69884
but that a representative of the safe deposit company, financial 69885
institution, or other corporation or person must supervise the 69886
opening of the box and make a written record of the wills, deeds, 69887
and policies removed. Such written record shall be included in the 69888
tax commissioner's inventory records. 69889

(G) Notwithstanding any provision of this section: 69890

(1) The tax commissioner may authorize any delivery or 69891
transfer or waive any of the foregoing requirements under such 69892
terms and conditions as the commissioner may prescribe; 69893

(2) An adult care facility, as defined in section 3722.01 of 69894
the Revised Code, or a home, as defined in section 3721.10 of the 69895
Revised Code, may transfer or use the money in a personal needs 69896
allowance account in accordance with section ~~5111.112~~ 5111.113 of 69897
the Revised Code without the written consent of the tax 69898
commissioner, and without the account having been opened and 69899
inventoried in the presence of the commissioner or the 69900
commissioner's agent. 69901

Failure to comply with this section shall render such safe 69902
deposit company, trust company, life insurance company, financial 69903
institution as defined in division (A) of section 5725.01 of the 69904
Revised Code, or other corporation or person liable for the amount 69905
of the taxes and interest due under the provisions of Chapter 69906
5731. of the Revised Code on the transfer of such stock, deposit, 69907
proceeds of an annuity or matured endowment contract or of a life 69908
insurance contract payable to the estate of a decedent, or other 69909
insurance contract taxable under Chapter 5731. of the Revised 69910
Code, proceeds of any death benefit, retirement, pension, or 69911
profit sharing plan in excess of two thousand dollars, or 69912
securities, assets, or other property of any resident decedent, 69913
and in addition thereto, to a penalty of not less than five 69914
hundred or more than five thousand dollars. 69915

Sec. 5731.41. To enforce section 5731.39 of the Revised Code, 69916
and to administer Chapters 5713. and 4503. of the Revised Code the 69917
tax commissioner may appoint agents in the unclassified civil 69918
service who shall perform such duties as are prescribed by the 69919
commissioner. Such agents shall, as compensation, receive annually 69920
eight cents per capita for each full one thousand of the first 69921
twenty thousand of the population of the county and two cents per 69922
capita for each full one thousand over twenty thousand of the 69923
population of the county, as shown by the last federal census, 69924
which shall be paid in equal monthly installments from the 69925
undivided inheritance or estate tax in the county treasury on the 69926
warrant of the county auditor or from the county real estate 69927
assessment fund pursuant to division (B)(6) of section 325.31 of 69928
the Revised Code, any other provision of law to the contrary 69929
notwithstanding. The amount paid to any agent in the unclassified 69930
service for all of the duties performed ~~in estate tax matters~~ 69931
under this section, as directed by the commissioner, shall not 69932
exceed three thousand nor be less than twelve hundred dollars in 69933

any calendar year. 69934

Sec. 5731.99. Whoever violates this chapter, or any lawful 69935
rule promulgated by the tax commissioner under authority of this 69936
chapter, for the violation of which no other penalty is provided 69937
in this chapter, shall be fined not less than ~~one~~ five hundred or 69938
more than ~~five~~ ten thousand dollars. 69939

Sec. 5733.01. (A) The tax provided by this chapter for 69940
domestic corporations shall be the amount charged against each 69941
corporation organized for profit under the laws of this state and 69942
each nonprofit corporation organized pursuant to Chapter 1729. of 69943
the Revised Code, except as provided in sections 5733.09 and 69944
5733.10 of the Revised Code, for the privilege of exercising its 69945
franchise during the calendar year in which that amount is 69946
payable, and the tax provided by this chapter for foreign 69947
corporations shall be the amount charged against each corporation 69948
organized for profit and each nonprofit corporation organized or 69949
operating in the same or similar manner as nonprofit corporations 69950
organized under Chapter 1729. of the Revised Code, under the laws 69951
of any state or country other than this state, except as provided 69952
in sections 5733.09 and 5733.10 of the Revised Code, for the 69953
privilege of doing business in this state, owning or using a part 69954
or all of its capital or property in this state, holding a 69955
certificate of compliance with the laws of this state authorizing 69956
it to do business in this state, or otherwise having nexus in or 69957
with this state under the Constitution of the United States, 69958
during the calendar year in which that amount is payable. 69959

(B) A corporation is subject to the tax imposed by section 69960
5733.06 of the Revised Code for each calendar year that it is so 69961
organized, doing business, owning or using a part or all of its 69962
capital or property, holding a certificate of compliance, or 69963
otherwise having nexus in or with this state under the 69964

Constitution of the United States, on the first day of January of
that calendar year. 69965
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(C) Any corporation subject to this chapter that is not
subject to the federal income tax shall file its returns and
compute its tax liability as required by this chapter in the same
manner as if that corporation were subject to the federal income
tax. 69967
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(D) For purposes of this chapter, a federally chartered
financial institution shall be deemed to be organized under the
laws of the state within which its principal office is located. 69972
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(E) ~~Any~~ For purposes of this chapter, any person, as defined
in section 5701.01 of the Revised Code, shall be treated as a
corporation ~~for purposes of this chapter~~ if the person is
classified for federal income tax purposes as an association
taxable as a corporation, and an equity interest in the person
shall be treated as capital stock of the person. 69975
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(F) For the purposes of this chapter, "disregarded entity"
has the same meaning as in division (D) of section 5745.01 of the
Revised Code. 69981
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(1) A person's interest in a disregarded entity, whether held
directly or indirectly, shall be treated as the person's ownership
of the assets and liabilities of the disregarded entity, and the
income, including gain or loss, shall be included in the person's
net income under this chapter. 69984
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(2) Any sale, exchange, or other disposition of the person's
interest in the disregarded entity, whether held directly or
indirectly, shall be treated as a sale, exchange, or other
disposition of the person's share of the disregarded entity's
underlying assets or liabilities, and the gain or loss from such
sale, exchange, or disposition shall be included in the person's
net income under this chapter. 69989
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(3) The disregarded entity's payroll, property, and sales factors shall be included in the person's factors. 69996
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(G) The tax a corporation is required to pay under this chapter shall be as follows: 69998
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(1)(a) For financial institutions, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the financial institution under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax. 70000
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(b) A corporation satisfying the description in division (E)(5), (6), (7), or (8) of section 5751.01 of the Revised Code that is not a financial institution, insurance company, or dealer in intangibles is subject to the taxes imposed under this chapter as a corporation and not subject to tax as a financial institution, and shall pay the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all the taxes charged under this chapter, without regard to division (G)(2) of this section, less any credits allowable against such tax. 70006
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(2) For all corporations other than those persons described in division (G)(1)(a) or (b) of this section, the amount under division (G)(2)(a) of this section applicable to the tax year specified less the amount under division (G)(2)(b) of this section: 70016
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(a)(i) For tax year 2005, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code or the difference between all taxes charged the corporation under this chapter and any credits allowable against such tax; 70021
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(ii) For tax year 2006, the greater of the minimum payment required under division (E) of section 5733.06 of the Revised Code 70025
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or four-fifths of the difference between all taxes charged the 70027
corporation under this chapter and any credits allowable against 70028
such tax except the qualifying pass-through entity tax credit 70029
described in division (A)(1) and the refundable credits described 70030
in divisions (A)(29), (30), and (31) of section 5733.98 of the 70031
Revised Code; 70032

(iii) For tax year 2007, the greater of the minimum payment 70033
required under division (E) of section 5733.06 of the Revised Code 70034
or three-fifths of the difference between all taxes charged the 70035
corporation under this chapter and any credits allowable against 70036
such tax except the qualifying pass-through entity tax credit 70037
described in division (A)(1) and the refundable credits described 70038
in divisions (A)(29), (30), and (31) of section 5733.98 of the 70039
Revised Code; 70040

(iv) For tax year 2008, the greater of the minimum payment 70041
required under division (E) of section 5733.06 of the Revised Code 70042
or two-fifths of the difference between all taxes charged the 70043
corporation under this chapter any any credits allowable against 70044
such tax except the qualifying pass-through entity tax credit 70045
described in division (A)(1) and the refundable credits described 70046
in divisions (A)(29), (30), and (31) of section 5733.98 of the 70047
Revised Code; 70048

(v) For tax year 2009, the greater of the minimum payment 70049
required under division (E) of section 5733.06 of the Revised Code 70050
or one-fifth of the difference between all taxes charged the 70051
corporation under this chapter and any credits allowable against 70052
such tax except the qualifying pass-through entity tax credit 70053
described in division (A)(1) and the refundable credits described 70054
in divisions (A)(29), (30), and (31) of section 5733.98 of the 70055
Revised Code; 70056

(vi) For tax year 2010 and each tax year thereafter, no tax. 70057

(b) A corporation shall subtract from the amount calculated under division (G)(2)(a)(ii), (iii), (iv), or (v) of this section any qualifying pass-through entity tax credit described in division (A)(1) and any refundable credit described in division (A)(29), (30), or (31) of section 5733.98 of the Revised Code to which the corporation is entitled. Any unused qualifying pass-through entity tax credit is not refundable.

(c) For the purposes of computing the amount of a credit that may be carried forward to a subsequent tax year under division (G)(2) of this section, a credit is utilized against the tax for a tax year to the extent the credit applies against the tax for that tax year, even if the difference is then multiplied by the applicable fraction under division (G)(2)(a) of this section.

(3) Nothing in division (G) of this section eliminates or reduces the tax imposed by section 5733.41 of the Revised Code on a qualifying pass-through entity.

Sec. 5733.065. (A) As used in this section, "litter stream products" means:

(1) Intoxicating liquor, beer, wine, mixed beverages, or spirituous liquor as defined in section 4301.01 of the Revised Code;

(2) Soft drinks as defined in section 913.22 of the Revised Code;

(3) Glass, metal, plastic, or fiber containers with a capacity of less than two gallons sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(4) Container crowns and closures sold for the purpose of being incorporated into or becoming a part of a product enumerated in divisions (A)(1) and (2) of this section;

(5) Packaging materials transferred or intended for transfer 70088
of use or possession in conjunction with retail sales of products 70089
enumerated in divisions (A)(1) and (2) of this section; 70090

(6) Packaging materials in the finished form in which they 70091
are to be used, including sacks, bags, cups, lids, straws, plates, 70092
wrappings, boxes, or containers of any type used in the packaging 70093
or serving of food or beverages, when the food or beverages are 70094
prepared for human consumption by a restaurant or take-out food 70095
outlet at the premises where sold at retail and are delivered to a 70096
purchaser for consumption off the premises where the food or 70097
beverages are sold; 70098

(7) Cigarettes, cigars, tobacco, matches, candy, and gum. 70099

(B) For the purpose of providing additional funding for ~~the~~ 70100
~~division of recycling and litter prevention under Chapter 1502. of~~ 70101
~~the Revised Code~~, there is hereby levied an additional tax on 70102
corporations for the privilege of manufacturing or selling litter 70103
stream products in this state. The tax imposed by this section is 70104
in addition to the tax charged under section 5733.06 of the 70105
Revised Code, computed at the rate prescribed by section 5733.066 70106
of the Revised Code. ~~This section does not apply for tax year 1981~~ 70107
~~to a corporation whose taxable year for tax year 1981 ended on or~~ 70108
~~before June 30, 1980.~~ 70109

(C) The tax shall be imposed upon each corporation subject to 70110
the tax imposed by section 5733.06 of the Revised Code that 70111
manufactures or sells litter stream products in this state. The 70112
tax for each year shall be in an amount equal to the greater of 70113
either: 70114

(1) Twenty-two hundredths of one per cent upon the value of 70115
that portion of the taxpayer's issued and outstanding shares of 70116
stock as determined under division (B) of section 5733.05 of the 70117
Revised Code that is subject to the rate contained in division (B) 70118

of section 5733.06 of the Revised Code; 70119

(2) Fourteen one-hundredths of a mill times the value of the 70120
taxpayer's issued and outstanding shares of stock as determined 70121
under division (C) of section 5733.05 of the Revised Code. 70122

The additional tax charged any taxpayer or group of combined 70123
taxpayers pursuant to this section for any tax year shall not 70124
exceed five thousand dollars. 70125

(D)(1) In the case of a corporation engaged in the business 70126
of manufacturing litter stream products, no tax shall be due under 70127
this section unless the sale of litter stream products in this 70128
state during the taxable year exceeds five per cent of the total 70129
sales in this state of the corporation during that period or 70130
unless the total sales in this state of litter stream products by 70131
the corporation during the taxable year exceed ten million 70132
dollars. 70133

(2) In the case of a corporation engaged in the business of 70134
selling litter stream products in the form in which the item is or 70135
is to be received, no tax shall be due under this section unless 70136
the corporation's sales of litter stream products in this state 70137
during the taxable year constitute more than five per cent of its 70138
total sales in this state during that period. 70139

(3) In the case of a corporation transferring possession of 70140
litter stream products included in division (A)(6) of this 70141
section, in which food or beverages prepared for human consumption 70142
are placed, when the food or beverages are prepared for retail 70143
sale at the premises where sold and are delivered to a purchaser 70144
for consumption off the premises where the food or beverages are 70145
sold, no tax shall be due under this section unless such sales for 70146
off-premises consumption during the taxable year exceed five per 70147
cent of the corporation's total annual sales during the taxable 70148
year. 70149

(E)(1) The tax imposed by this section is due in the 70150
proportions and on the dates on which the tax imposed by section 70151
5733.06 of the Revised Code may be paid without penalty. 70152

(2) Payment of the tax and any reports or returns required to 70153
enable the tax commissioner to determine the correct amount of the 70154
tax shall be submitted with and are due at the same time as 70155
payments and reports required to be submitted under this chapter. 70156

(3) If the tax is not paid in full on or before the date 70157
required by division (E)(1) of this section, the unpaid portion of 70158
the tax due and unpaid shall be subject to all provisions of this 70159
chapter for the collection of unpaid, delinquent taxes imposed by 70160
section 5733.06 of the Revised Code, except that all such taxes, 70161
interest, and penalties, when collected, shall be treated as 70162
proceeds arising from the tax imposed by this section and shall be 70163
deposited in the general revenue fund. 70164

The tax levied on corporations under this section does not 70165
prohibit or otherwise limit the authority of municipal 70166
corporations to impose an income tax on the income of such 70167
corporations. 70168

Sec. 5733.066. There shall be added to the rates contained in 70169
section 5733.06 of the Revised Code the following: 70170

(A) To the rate in division (A) of that section upon that 70171
portion of the value of the taxpayer's issued and outstanding 70172
shares of stock as determined under division (B) of section 70173
5733.05 of the Revised Code that is subject to such rate, an 70174
additional eleven-hundredths per cent upon that value to provide 70175
funding for ~~the division of recycling and litter prevention under~~ 70176
~~Chapter 1502. of the Revised Code;~~ 70177

(B) To the rate in division (B) of that section upon that 70178
portion of the value so determined that is subject to that rate, 70179

an additional twenty-two-hundredths per cent upon that value to
provide funding for ~~the division~~ recycling and litter prevention
~~under Chapter 1502. of the Revised Code;~~

(C) To the rate in division (C) of that section times that
portion of the value of the taxpayer's issued and outstanding
shares of stock as determined under division (C) of section
5733.05 of the Revised Code, an additional fourteen one-hundredths
mills times that value to provide funding for ~~the division of~~
recycling and litter prevention ~~under Chapter 1502. of the Revised~~
~~Code.~~

The additional tax charged any taxpayer or group of combined
taxpayers pursuant to this section for any tax year shall not
exceed five thousand dollars.

This section does not apply to any family farm corporation as
defined in section 4123.01 of the Revised Code.

The tax levied on corporations under this section does not
prohibit or otherwise limit the authority of municipal
corporations to impose an income tax on the income of such
corporations.

Sec. 5733.33. (A) As used in this section:

(1) "Manufacturing machinery and equipment" means engines and
machinery, and tools and implements, of every kind used, or
designed to be used, in refining and manufacturing. "Manufacturing
machinery and equipment" does not include property acquired after
December 31, 1999, that is used:

(a) For the transmission and distribution of electricity;

(b) For the generation of electricity, if fifty per cent or
more of the electricity that the property generates is consumed,
during the one-hundred-twenty-month period commencing with the
date the property is placed in service, by persons that are not

related members to the person who generates the electricity. 70210

(2) "New manufacturing machinery and equipment" means 70211
manufacturing machinery and equipment, the original use in this 70212
state of which commences with the taxpayer or with a partnership 70213
of which the taxpayer is a partner. "New manufacturing machinery 70214
and equipment" does not include property acquired after December 70215
31, 1999, that is used: 70216

(a) For the transmission and distribution of electricity; 70217

(b) For the generation of electricity, if fifty per cent or 70218
more of the electricity that the property generates is consumed, 70219
during the one-hundred-twenty-month period commencing with the 70220
date the property is placed in service, by persons that are not 70221
related members to the person who generates the electricity. 70222

(3)(a) "Purchase" has the same meaning as in section 70223
179(d)(2) of the Internal Revenue Code. 70224

(b) For purposes of this section, any property that is not 70225
manufactured or assembled primarily by the taxpayer is considered 70226
purchased at the time the agreement to acquire the property 70227
becomes binding. Any property that is manufactured or assembled 70228
primarily by the taxpayer is considered purchased at the time the 70229
taxpayer places the property in service in the county for which 70230
the taxpayer will calculate the county excess amount. 70231

(c) Notwithstanding section 179(d) of the Internal Revenue 70232
Code, a taxpayer's direct or indirect acquisition of new 70233
manufacturing machinery and equipment is not purchased on or after 70234
July 1, 1995, if the taxpayer, or a person whose relationship to 70235
the taxpayer is described in subparagraphs (A), (B), or (C) of 70236
section 179(d)(2) of the Internal Revenue Code, had directly or 70237
indirectly entered into a binding agreement to acquire the 70238
property at any time prior to July 1, 1995. 70239

- (4) "Qualifying period" means the period that begins July 1, 1995, and ends ~~December 31, 2015~~ June 30, 2005. 70240
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- (5) "County average new manufacturing machinery and equipment investment" means either of the following: 70242
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- (a) The average annual cost of new manufacturing machinery and equipment purchased for use in the county during baseline years, in the case of a taxpayer that was in existence for more than one year during baseline years. 70244
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- (b) Zero, in the case of a taxpayer that was not in existence for more than one year during baseline years. 70248
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- (6) "Partnership" includes a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation. 70250
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- (7) "Partner" includes a member of a limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state, provided that the company is not classified for federal income tax purposes as an association taxable as a corporation. 70255
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- (8) "Distressed area" means either a municipal corporation that has a population of at least fifty thousand or a county that meets two of the following criteria of economic distress, or a municipal corporation the majority of the population of which is situated in such a county: 70260
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- (a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least one hundred twenty-five per cent of the average rate of unemployment for the United States for the same period; 70265
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- (b) It has a per capita income equal to or below eighty per 70269

cent of the median county per capita income of the United States 70270
as determined by the most recently available figures from the 70271
United States census bureau; 70272

(c)(i) In the case of a municipal corporation, at least 70273
twenty per cent of the residents have a total income for the most 70274
recent census year that is below the official poverty line; 70275

(ii) In the case of a county, in intercensal years, the 70276
county has a ratio of transfer payment income to total county 70277
income equal to or greater than twenty-five per cent. 70278

(9) "Eligible area" means a distressed area, a labor surplus 70279
area, an inner city area, or a situational distress area. 70280

(10) "Inner city area" means, in a municipal corporation that 70281
has a population of at least one hundred thousand and does not 70282
meet the criteria of a labor surplus area or a distressed area, 70283
targeted investment areas established by the municipal corporation 70284
within its boundaries that are comprised of the most recent census 70285
block tracts that individually have at least twenty per cent of 70286
their population at or below the state poverty level or other 70287
census block tracts contiguous to such census block tracts. 70288

(11) "Labor surplus area" means an area designated as a labor 70289
surplus area by the United States department of labor. 70290

(12) "Official poverty line" has the same meaning as in 70291
division (A) of section 3923.51 of the Revised Code. 70292

(13) "Situational distress area" means a county or a 70293
municipal corporation that has experienced or is experiencing a 70294
closing or downsizing of a major employer, that will adversely 70295
affect the county's or municipal corporation's economy. In order 70296
to be designated as a situational distress area for a period not 70297
to exceed thirty-six months, the county or municipal corporation 70298
may petition the director of development. The petition shall 70299

include written documentation that demonstrates all of the 70300
following adverse effects on the local economy: 70301

(a) The number of jobs lost by the closing or downsizing; 70302

(b) The impact that the job loss has on the county's or 70303
municipal corporation's unemployment rate as measured by the state 70304
director of job and family services; 70305

(c) The annual payroll associated with the job loss; 70306

(d) The amount of state and local taxes associated with the 70307
job loss; 70308

(e) The impact that the closing or downsizing has on the 70309
suppliers located in the county or municipal corporation. 70310

(14) "Cost" has the same meaning and limitation as in section 70311
179(d)(3) of the Internal Revenue Code. 70312

(15) "Baseline years" means: 70313

(a) Calendar years 1992, 1993, and 1994, with regard to a 70314
credit claimed for the purchase during calendar year 1995, 1996, 70315
1997, or 1998 of new manufacturing machinery and equipment; 70316

(b) Calendar years 1993, 1994, and 1995, with regard to a 70317
credit claimed for the purchase during calendar year 1999 of new 70318
manufacturing machinery and equipment; 70319

(c) Calendar years 1994, 1995, and 1996, with regard to a 70320
credit claimed for the purchase during calendar year 2000 of new 70321
manufacturing machinery and equipment; 70322

(d) Calendar years 1995, 1996, and 1997, with regard to a 70323
credit claimed for the purchase during calendar year 2001 of new 70324
manufacturing machinery and equipment; 70325

(e) Calendar years 1996, 1997, and 1998, with regard to a 70326
credit claimed for the purchase during calendar year 2002 of new 70327
manufacturing machinery and equipment; 70328

(f) Calendar years 1997, 1998, and 1999, with regard to a credit claimed for the purchase during calendar year 2003 of new manufacturing machinery and equipment;	70329 70330 70331
(g) Calendar years 1998, 1999, and 2000, with regard to a credit claimed for the purchase during calendar year 2004 of new manufacturing machinery and equipment;	70332 70333 70334
(h) Calendar years 1999, 2000, and 2001, with regard to a credit claimed for the purchase during calendar year 2005 <u>on or after January 1, 2005, and on or before June 30, 2005,</u> of new manufacturing machinery and equipment;	70335 70336 70337 70338
(i) Calendar years 2000, 2001, and 2002, with regard to a credit claimed for the purchase during calendar year 2006 of new manufacturing machinery and equipment;	70339 70340 70341
(j) Calendar years 2001, 2002, and 2003, with regard to a credit claimed for the purchase during calendar year 2007 of new manufacturing machinery and equipment;	70342 70343 70344
(k) Calendar years 2002, 2003, and 2004, with regard to a credit claimed for the purchase during calendar year 2008 of new manufacturing machinery and equipment;	70345 70346 70347
(l) Calendar years 2003, 2004, and 2005, with regard to a credit claimed for the purchase during calendar year 2009 of new manufacturing machinery and equipment;	70348 70349 70350
(m) Calendar years 2004, 2005, and 2006, with regard to a credit claimed for the purchase during calendar year 2010 of new manufacturing machinery and equipment;	70351 70352 70353
(n) Calendar years 2005, 2006, and 2007, with regard to a credit claimed for the purchase during calendar year 2011 of new manufacturing machinery and equipment;	70354 70355 70356
(o) Calendar years 2006, 2007, and 2008, with regard to a credit claimed for the purchase during calendar year 2012 of new	70357 70358

~~manufacturing machinery and equipment;~~ 70359

~~(p) Calendar years 2007, 2008, and 2009, with regard to a~~ 70360
~~credit claimed for the purchase during calendar year 2013 of new~~ 70361
~~manufacturing machinery and equipment;~~ 70362

~~(q) Calendar years 2008, 2009, and 2010, with regard to a~~ 70363
~~credit claimed for the purchase during calendar year 2014 of new~~ 70364
~~manufacturing machinery and equipment;~~ 70365

~~(r) Calendar years 2009, 2010, and 2011, with regard to a~~ 70366
~~credit claimed for the purchase during calendar year 2015 of new~~ 70367
~~manufacturing machinery and equipment.~~ 70368

(16) "Related member" has the same meaning as in section 70369
5733.042 of the Revised Code. 70370

(B)(1) Subject to division (I) of this section, a 70371
nonrefundable credit is allowed against the tax imposed by section 70372
5733.06 of the Revised Code for a taxpayer that purchases new 70373
manufacturing machinery and equipment during the qualifying 70374
period, provided that the new manufacturing machinery and 70375
equipment are installed in this state no later than ~~December 31,~~ 70376
2016 June 30, 2006. No credit shall be allowed under this section 70377
or section 5747.31 of the Revised Code for taxable years ending on 70378
or after July 1, 2005. The elimination of the credit for those 70379
taxable years includes the elimination of any remaining 70380
one-sevenths of credit amounts for which a portion was allowed for 70381
prior taxable years and the elimination of any credit 70382
carry-forward, but the purchases on which the credits were based 70383
remain subject to grants under section 122.173 of the Revised Code 70384
for those remaining one-seventh amounts or carry-forward amounts. 70385

(2)(a) Except as otherwise provided in division (B)(2)(b) of 70386
this section, a credit may be claimed under this section in excess 70387
of one million dollars only if the cost of all manufacturing 70388
machinery and equipment owned in this state by the taxpayer 70389

claiming the credit on the last day of the calendar year exceeds 70390
the cost of all manufacturing machinery and equipment owned in 70391
this state by the taxpayer on the first day of that calendar year. 70392

As used in division (B)(2)(a) of this section, "calendar 70393
year" means the calendar year in which the machinery and equipment 70394
for which the credit is claimed was purchased. 70395

(b) Division (B)(2)(a) of this section does not apply if the 70396
taxpayer claiming the credit applies for and is issued a waiver of 70397
the requirement of that division. A taxpayer may apply to the 70398
director of development for such a waiver in the manner prescribed 70399
by the director, and the director may issue such a waiver if the 70400
director determines that granting the credit is necessary to 70401
increase or retain employees in this state, and that the credit 70402
has not caused relocation of manufacturing machinery and equipment 70403
among counties within this state for the primary purpose of 70404
qualifying for the credit. 70405

(C)(1) Except as otherwise provided in division (C)(2) and 70406
division (I) of this section, the credit amount is equal to seven 70407
and one-half per cent of the excess of the cost of the new 70408
manufacturing machinery and equipment purchased during the 70409
calendar year for use in a county over the county average new 70410
manufacturing machinery and equipment investment for that county. 70411

(2) Subject to division (I) of this section, as used in 70412
division (C)(2) of this section "county excess" means the 70413
taxpayer's excess cost for a county as computed under division 70414
(C)(1) of this section. 70415

Subject to division (I) of this section, a taxpayer with a 70416
county excess, whose purchases included purchases for use in any 70417
eligible area in the county, the credit amount is equal to 70418
thirteen and one-half per cent of the cost of the new 70419
manufacturing machinery and equipment purchased during the 70420

calendar year for use in the eligible areas in the county, 70421
provided that the cost subject to the thirteen and one-half per 70422
cent rate shall not exceed the county excess. If the county excess 70423
is greater than the cost of the new manufacturing machinery and 70424
equipment purchased during the calendar year for use in eligible 70425
areas in the county, the credit amount also shall include an 70426
amount equal to seven and one-half per cent of the amount of the 70427
difference. 70428

(3) If a taxpayer is allowed a credit for purchases of new 70429
manufacturing machinery and equipment in more than one county or 70430
eligible area, it shall aggregate the amount of those credits each 70431
year. 70432

(4) The taxpayer shall claim one-seventh of the credit amount 70433
for the tax year immediately following the calendar year in which 70434
the new manufacturing machinery and equipment is purchased for use 70435
in the county by the taxpayer or partnership. One-seventh of the 70436
taxpayer credit amount is allowed for each of the six ensuing tax 70437
years. Except for carried-forward amounts, the taxpayer is not 70438
allowed any credit amount remaining if the new manufacturing 70439
machinery and equipment is sold by the taxpayer or partnership or 70440
is transferred by the taxpayer or partnership out of the county 70441
before the end of the seven-year period unless, at the time of the 70442
sale or transfer, the new manufacturing machinery and equipment 70443
has been fully depreciated for federal income tax purposes. 70444

(5)(a) A taxpayer that acquires manufacturing machinery and 70445
equipment as a result of a merger with the taxpayer with whom 70446
commenced the original use in this state of the manufacturing 70447
machinery and equipment, or with a taxpayer that was a partner in 70448
a partnership with whom commenced the original use in this state 70449
of the manufacturing machinery and equipment, is entitled to any 70450
remaining or carried-forward credit amounts to which the taxpayer 70451
was entitled. 70452

(b) A taxpayer that enters into an agreement under division 70453
(C)(3) of section 5709.62 of the Revised Code and that acquires 70454
manufacturing machinery or equipment as a result of purchasing a 70455
large manufacturing facility, as defined in section 5709.61 of the 70456
Revised Code, from another taxpayer with whom commenced the 70457
original use in this state of the manufacturing machinery or 70458
equipment, and that operates the large manufacturing facility so 70459
purchased, is entitled to any remaining or carried-forward credit 70460
amounts to which the other taxpayer who sold the facility would 70461
have been entitled under this section had the other taxpayer not 70462
sold the manufacturing facility or equipment. 70463

(c) New manufacturing machinery and equipment is not 70464
considered sold if a pass-through entity transfers to another 70465
pass-through entity substantially all of its assets as part of a 70466
plan of reorganization under which substantially all gain and loss 70467
is not recognized by the pass-through entity that is transferring 70468
the new manufacturing machinery and equipment to the transferee 70469
and under which the transferee's basis in the new manufacturing 70470
machinery and equipment is determined, in whole or in part, by 70471
reference to the basis of the pass-through entity which 70472
transferred the new manufacturing machinery and equipment to the 70473
transferee. 70474

(d) Division (C)(5) of this section shall apply only if the 70475
acquiring taxpayer or transferee does not sell the new 70476
manufacturing machinery and equipment or transfer the new 70477
manufacturing machinery and equipment out of the county before the 70478
end of the seven-year period to which division (C)(4) of this 70479
section refers. 70480

(e) Division (C)(5)(b) of this section applies only to the 70481
extent that the taxpayer that sold the manufacturing machinery or 70482
equipment, upon request, timely provides to the tax commissioner 70483
any information that the tax commissioner considers to be 70484

necessary to ascertain any remaining or carried-forward amounts to 70485
which the taxpayer that sold the facility would have been entitled 70486
under this section had the taxpayer not sold the manufacturing 70487
machinery or equipment. Nothing in division (C)(5)(b) or (e) of 70488
this section shall be construed to allow a taxpayer to claim any 70489
credit amount with respect to the acquired manufacturing machinery 70490
or equipment that is greater than the amount that would have been 70491
available to the other taxpayer that sold the manufacturing 70492
machinery or equipment had the other taxpayer not sold the 70493
manufacturing machinery or equipment. 70494

(D) The taxpayer shall claim the credit in the order required 70495
under section 5733.98 of the Revised Code. Each year, any credit 70496
amount in excess of the tax due under section 5733.06 of the 70497
Revised Code after allowing for any other credits that precede the 70498
credit under this section in that order may be carried forward for 70499
three tax years. 70500

(E) A taxpayer purchasing new manufacturing machinery and 70501
equipment and intending to claim the credit shall file, with the 70502
department of development, a notice of intent to claim the credit 70503
on a form prescribed by the department of development. The 70504
department of development shall inform the tax commissioner of the 70505
notice of intent to claim the credit. No credit may be claimed 70506
under this section for any manufacturing machinery and equipment 70507
with respect to which a notice was not filed by the date of a 70508
timely filed return, including extensions, for the taxable year 70509
that includes September 30, 2005. 70510

(F) The director of development shall annually certify, by 70511
the first day of January of each year during the qualifying 70512
period, the eligible areas for the tax credit for the calendar 70513
year that includes that first day of January. The director shall 70514
send a copy of the certification to the tax commissioner. 70515

(G) New manufacturing machinery and equipment for which a taxpayer claims the credit under section 5733.31, 5733.311, 5747.26, or 5747.261 of the Revised Code shall not be considered new manufacturing machinery and equipment for purposes of the credit under this section.

(H)(1) Notwithstanding sections 5733.11 and 5747.13 of the Revised Code, but subject to division (H)(2) of this section, the tax commissioner may issue an assessment against a person with respect to a credit claimed under this section for new manufacturing machinery and equipment described in division (A)(1)(b) or (2)(b) of this section, if the machinery or equipment subsequently does not qualify for the credit.

(2) Division (H)(1) of this section shall not apply after the twenty-fourth month following the last day of the period described in divisions (A)(1)(b) and (2)(b) of this section.

(I) Notwithstanding any other provision of this section to the contrary, in the case of a qualifying controlled group, the credit available under this section to a taxpayer or taxpayers in the qualifying controlled group shall be computed as if all corporations in the group were a single corporation. The credit shall be allocated to such a taxpayer or taxpayers in the group in any amount elected for the taxable year by the group. Such election shall be revocable and amendable during the period described in division (B) of section 5733.12 of the Revised Code.

This division applies to all purchases of new manufacturing machinery and equipment made on or after January 1, 2001, and to all baseline years used to compute any credit attributable to such purchases; provided, that this division may be applied solely at the election of the qualifying controlled group with respect to all purchases of new manufacturing machinery and equipment made before that date, and to all baseline years used to compute any

credit attributable to such purchases. The qualifying controlled
group at any time may elect to apply this division to purchases
made prior to January 1, 2001, subject to the following:

(1) The election is irrevocable;

(2) The election need not accompany a timely filed report,
but the election may accompany a subsequently filed but timely
application for refund, a subsequently filed but timely amended
report, or a subsequently filed but timely petition for
reassessment.

Sec. 5733.351. (A) As used in this section, "qualified
research expenses" has the same meaning as in section 41 of the
Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax
imposed by section 5733.06 of the Revised Code for tax year 2002
for a taxpayer whose taxable year for tax year 2002 ended before
July 1, 2001. The credit shall equal seven per cent of the excess
of qualified research expenses incurred in this state by the
taxpayer between January 1, 2001, and the end of the taxable year,
over the taxpayer's average annual qualified research expenses
incurred in this state for the three preceding taxable years.

(2) A nonrefundable credit also is allowed against the tax
imposed by section 5733.06 of the Revised Code for each tax year,
commencing with tax year 2004, and in the case of a corporation
subject to division (G)(2) of section 5733.01 of the Revised Code
ending with tax year 2008. The credit shall equal seven per cent
of the excess of qualified research expenses incurred in this
state by the taxpayer for the taxable year over the taxpayer's
average annual qualified research expenses incurred in this state
for the three preceding taxable years.

(3) The taxpayer shall claim the credit allowed under

division (B)(1) or (2) of this section in the order required by 70577
section 5733.98 of the Revised Code. Any credit amount in excess 70578
of the tax due under section 5733.06 of the Revised Code, after 70579
allowing for any other credits that precede the credit under this 70580
section in the order required under section 5733.98 of the Revised 70581
Code, may be carried forward for seven taxable years, but the 70582
amount of the excess credit allowed in any such year shall be 70583
deducted from the balance carried forward to the next year. A 70584
corporation subject to division (G)(2) of section 5733.01 of the 70585
Revised Code may carry forward any credit not fully utilized by 70586
tax year 2008 and apply it against the tax levied by Chapter 5751. 70587
of the Revised Code to the extent allowed under section 5751.51 of 70588
the Revised Code, provided that the total number of taxable years 70589
under this section and calendar years under Chapter 5751. of the 70590
Revised Code for which the credit is carried forward shall not 70591
exceed seven. 70592

(C) In the case of a qualifying controlled group, the credit 70593
allowed under division (B)(1) or (2) of this section to taxpayers 70594
in the qualifying controlled group shall be computed as if all 70595
corporations in the qualifying controlled group were a 70596
consolidated, single taxpayer. The credit shall be allocated to 70597
such taxpayers in any amount elected for the taxable year by the 70598
qualifying controlled group. The election shall be revocable and 70599
amendable during the period prescribed by division (B) of section 70600
5733.12 of the Revised Code. 70601

Sec. 5733.352. (A) As used in this section: 70602

(1) "Borrower" means any person that receives a loan from the 70603
director of development under section 166.21 of the Revised Code, 70604
regardless of whether the borrower is subject to the taxes imposed 70605
by sections 5733.06, 5733.065, and 5733.066 of the Revised Code. 70606

(2) "Related member" has the same meaning as in section 70607

5733.042 of the Revised Code.

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(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.

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(B) Beginning ~~in~~ with tax year 2004, and in the case of a corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008, a nonrefundable credit is allowed against the taxes imposed by sections 5733.06, 5733.065, and 5733.066 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year immediately preceding the tax year for which the credit is claimed. The amount of the credit for a tax year shall not exceed one hundred fifty thousand dollars. No taxpayer is entitled to claim a credit under this section unless it has obtained a certificate issued by the director of development under division (D) of section 166.21 of the Revised Code. The credit shall be claimed in the order required under section 5733.98 of the Revised Code. The credit, to the extent it exceeds the taxpayer's tax liability for the tax year after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding tax year or years until fully used. A corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.52 of the Revised Code.

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(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

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(1) A related member of that borrower;

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(2) The owner or lessee of the eligible research and development project;

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(3) A related member of the owner or lessee of the eligible research and development project. 70639
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A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the tax commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it. 70641
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(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company. 70648
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(E) The aggregate credit against the taxes imposed by sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised Code that may be claimed under this section and section 5747.331 of the Revised Code by a borrower as a result of qualified research and development loan payments attributable during a calendar year to any one loan shall not exceed one hundred fifty thousand dollars. 70653
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Sec. 5733.40. As used in sections 5733.40 and 5733.41 and Chapter 5747. of the Revised Code: 70660
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(A)(1) "Adjusted qualifying amount" means either of the following: 70662
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(a) The sum of a each qualifying investor's distributive share of the income, gain, expense, or loss of a qualifying pass-through entity for the qualifying taxable year of the qualifying pass-through entity multiplied by the apportionment fraction defined in division (B) of this section, subject to 70664
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section 5733.401 of the Revised Code and divisions (A)(2) to (7) 70669
of this section; 70670

(b) The sum of a each qualifying beneficiary's share of the 70671
qualifying net income and qualifying net gain distributed by a 70672
qualifying trust for the qualifying taxable year of the qualifying 70673
trust multiplied by the apportionment fraction defined in division 70674
(B) of this section, subject to section 5733.401 of the Revised 70675
Code and divisions (A)(2) to ~~(6)~~(7) of this section. 70676

(2) The sum shall exclude any amount which, pursuant to the 70677
Constitution of the United States, the Constitution of Ohio, or 70678
any federal law is not subject to a tax on or measured by net 70679
income. 70680

(3) ~~The sum shall be increased by~~ For the purposes of 70681
Chapters 5733. and 5747. of the Revised Code, the profit or net 70682
income of the qualifying entity shall be increased by disallowing 70683
all amounts representing expenses, other than amounts described in 70684
division (A)(7) of this section, that the qualifying entity paid 70685
to or incurred with respect to direct or indirect transactions 70686
with one or more related members, excluding the cost of goods sold 70687
calculated in accordance with section 263A of the Internal Revenue 70688
Code and United States department of the treasury regulations 70689
issued thereunder. Nothing in division (A)(3) of this section 70690
shall be construed to limit solely to this chapter the application 70691
of section 263A of the Internal Revenue Code and United States 70692
department of the treasury regulations issued thereunder. 70693

(4) ~~The sum shall be increased by~~ For the purposes of 70694
Chapters 5733. and 5747. of the Revised Code, the profit or net 70695
income of the qualifying entity shall be increased by disallowing 70696
all recognized losses, other than losses from sales of inventory 70697
the cost of which is calculated in accordance with section 263A of 70698
the Internal Revenue Code and United States department of the 70699
treasury regulations issued thereunder, with respect to all direct 70700

or indirect transactions with one or more related members. ~~Losses~~ 70701
For the purposes of Chapters 5733. and 5747. of the Revised Code, 70702
losses from the sales of such inventory shall be allowed only to 70703
the extent calculated in accordance with section 482 of the 70704
Internal Revenue Code and United States department of the treasury 70705
regulations issued thereunder. Nothing in division (A)(4) of this 70706
section shall be construed to limit solely to this section the 70707
application of section 263A and section 482 of the Internal 70708
Revenue Code and United States department of the treasury 70709
regulations issued thereunder. 70710

(5) The sum shall be increased or decreased by an amount 70711
equal to the qualifying investor's or qualifying beneficiary's 70712
distributive or proportionate share of the amount that the 70713
qualifying entity would be required to add or deduct under 70714
divisions (A)(20) and (21) of section 5747.01 of the Revised Code 70715
if the qualifying entity were a taxpayer for the purposes of 70716
Chapter 5747. of the Revised Code. 70717

(6) The sum shall be computed without regard to section 70718
5733.051 or division (D) of section 5733.052 of the Revised Code. 70719

(7) For the purposes of Chapters 5733. and 5747. of the 70720
Revised Code, guaranteed payments or compensation paid to 70721
investors by a qualifying entity that is not subject to the tax 70722
imposed by section 5733.06 of the Revised Code shall be considered 70723
a distributive share of income of the qualifying entity. Division 70724
(A)(7) of this section applies only to such payments or such 70725
compensation paid to an investor who at any time during the 70726
qualifying entity's taxable year holds at least a twenty per cent 70727
direct or indirect interest in the profits or capital of the 70728
qualifying entity. 70729

(B) "Apportionment fraction" means: 70730

(1) With respect to a qualifying pass-through entity other 70731

than a financial institution, the fraction calculated pursuant to 70732
division (B)(2) of section 5733.05 of the Revised Code as if the 70733
qualifying pass-through entity were a corporation subject to the 70734
tax imposed by section 5733.06 of the Revised Code; 70735

(2) With respect to a qualifying pass-through entity that is 70736
a financial institution, the fraction calculated pursuant to 70737
division (C) of section 5733.056 of the Revised Code as if the 70738
qualifying pass-through entity were a financial institution 70739
subject to the tax imposed by section 5733.06 of the Revised Code. 70740

(3) With respect to a qualifying trust, the fraction 70741
calculated pursuant to division (B)(2) of section 5733.05 of the 70742
Revised Code as if the qualifying trust were a corporation subject 70743
to the tax imposed by section 5733.06 of the Revised Code, except 70744
that the property, payroll, and sales fractions shall be 70745
calculated by including in the numerator and denominator of the 70746
fractions only the property, payroll, and sales, respectively, 70747
directly related to the production of income or gain from 70748
acquisition, ownership, use, maintenance, management, or 70749
disposition of tangible personal property located in this state at 70750
any time during the qualifying trust's qualifying taxable year or 70751
of real property located in this state. 70752

(C) "Qualifying beneficiary" means any individual that, 70753
during the qualifying taxable year of a qualifying trust, is a 70754
beneficiary of that trust, but does not include an individual who 70755
is a resident taxpayer for the purposes of Chapter 5747. of the 70756
Revised Code for the entire qualifying taxable year of the 70757
qualifying trust. 70758

(D) "Fiscal year" means an accounting period ending on any 70759
day other than the thirty-first day of December. 70760

(E) "Individual" means a natural person. 70761

(F) "Month" means a calendar month. 70762

(G) "Partnership" has the same meaning as in section 5747.01 70763
of the Revised Code. 70764

(H) "Investor" means any person that, during any portion of a 70765
taxable year of a qualifying pass-through entity, is a partner, 70766
member, shareholder, or investor in that qualifying pass-through 70767
entity. 70768

(I) Except as otherwise provided in section 5733.402 or 70769
5747.401 of the Revised Code, "qualifying investor" means any 70770
investor except those described in divisions (I)(1) to (9) of this 70771
section. 70772

(1) An investor satisfying one of the descriptions under 70773
section 501(a) or (c) of the Internal Revenue Code, a partnership 70774
with equity securities registered with the United States 70775
securities and exchange commission under section 12 of the 70776
"Securities Exchange Act of 1934," as amended, or an investor 70777
described in division (F) of section 3334.01, or division (A) or 70778
(C) of section 5733.09 of the Revised Code for the entire 70779
qualifying taxable year of the qualifying pass-through entity. 70780

(2) An investor who is either an individual or an estate and 70781
is a resident taxpayer for the purposes of section 5747.01 of the 70782
Revised Code for the entire qualifying taxable year of the 70783
qualifying pass-through entity. 70784

(3) An investor who is an individual for whom the qualifying 70785
pass-through entity makes a good faith and reasonable effort to 70786
comply fully and timely with the filing and payment requirements 70787
set forth in division (D) of section 5747.08 of the Revised Code 70788
and section 5747.09 of the Revised Code with respect to the 70789
individual's adjusted qualifying amount for the entire qualifying 70790
taxable year of the qualifying pass-through entity. 70791

(4) An investor that is another qualifying pass-through 70792
entity having only investors described in division (I)(1), (2), 70793

(3), or (6) of this section during the three-year period beginning 70794
twelve months prior to the first day of the qualifying taxable 70795
year of the qualifying pass-through entity. 70796

(5) An investor that is another pass-through entity having no 70797
investors other than individuals and estates during the qualifying 70798
taxable year of the qualifying pass-through entity in which it is 70799
an investor, and that makes a good faith and reasonable effort to 70800
comply fully and timely with the filing and payment requirements 70801
set forth in division (D) of section 5747.08 of the Revised Code 70802
and section 5747.09 of the Revised Code with respect to investors 70803
that are not resident taxpayers of this state for the purposes of 70804
Chapter 5747. of the Revised Code for the entire qualifying 70805
taxable year of the qualifying pass-through entity in which it is 70806
an investor. 70807

(6) An investor that is a financial institution required to 70808
calculate the tax in accordance with division ~~(D)~~(E) of section 70809
5733.06 of the Revised Code on the first day of January of the 70810
calendar year immediately following the last day of the financial 70811
institution's calendar or fiscal year in which ends the taxpayer's 70812
taxable year. 70813

(7) An investor other than an individual that satisfies all 70814
the following: 70815

(a) The investor submits a written statement to the 70816
qualifying pass-through entity stating that the investor 70817
irrevocably agrees that the investor has nexus with this state 70818
under the Constitution of the United States and is subject to and 70819
liable for the tax calculated under division (A) or (B) of section 70820
5733.06 of the Revised Code with respect to the investor's 70821
adjusted qualifying amount for the entire qualifying taxable year 70822
of the qualifying pass-through entity. The statement is subject to 70823
the penalties of perjury, shall be retained by the qualifying 70824

pass-through entity for no fewer than seven years, and shall be 70825
delivered to the tax commissioner upon request. 70826

(b) The investor makes a good faith and reasonable effort to 70827
comply timely and fully with all the reporting and payment 70828
requirements set forth in Chapter 5733. of the Revised Code with 70829
respect to the investor's adjusted qualifying amount for the 70830
entire qualifying taxable year of the qualifying pass-through 70831
entity. 70832

(c) Neither the investor nor the qualifying pass-through 70833
entity in which it is an investor, before, during, or after the 70834
qualifying pass-through entity's qualifying taxable year, carries 70835
out any transaction or transactions with one or more related 70836
members of the investor or the qualifying pass-through entity 70837
resulting in a reduction or deferral of tax imposed by Chapter 70838
5733. of the Revised Code with respect to all or any portion of 70839
the investor's adjusted qualifying amount for the qualifying 70840
pass-through entity's taxable year, or that constitute a sham, 70841
lack economic reality, or are part of a series of transactions the 70842
form of which constitutes a step transaction or transactions or 70843
does not reflect the substance of those transactions. 70844

(8) Any other investor that the tax commissioner may 70845
designate by rule. The tax commissioner may adopt rules including 70846
a rule defining "qualifying investor" or "qualifying beneficiary" 70847
and governing the imposition of the withholding tax imposed by 70848
section 5747.41 of the Revised Code with respect to an individual 70849
who is a resident taxpayer for the purposes of Chapter 5747. of 70850
the Revised Code for only a portion of the qualifying taxable year 70851
of the qualifying entity. 70852

(9) An investor that is a trust or fund the beneficiaries of 70853
which, during the qualifying taxable year of the qualifying 70854
pass-through entity, are limited to the following: 70855

(a) A person that is or may be the beneficiary of a trust 70856
subject to Subchapter D of Chapter 1 of Subtitle A of the Internal 70857
Revenue Code. 70858

(b) A person that is or may be the beneficiary of or the 70859
recipient of payments from a trust or fund that is a nuclear 70860
decommissioning reserve fund, a designated settlement fund, or any 70861
other trust or fund established to resolve and satisfy claims that 70862
may otherwise be asserted by the beneficiary or a member of the 70863
beneficiary's family. Sections 267(c)(4), 468A(e), and 468B(d)(2) 70864
of the Internal Revenue Code apply to the determination of whether 70865
such a person satisfies division (I)(9) of this section. 70866

(c) A person who is or may be the beneficiary of a trust 70867
that, under its governing instrument, is not required to 70868
distribute all of its income currently. Division (I)(9)(c) of this 70869
section applies only if the trust, prior to the due date for 70870
filing the qualifying pass-through entity's return for taxes 70871
imposed by section 5733.41 and sections 5747.41 to 5747.453 of the 70872
Revised Code, irrevocably agrees in writing that for the taxable 70873
year during or for which the trust distributes any of its income 70874
to any of its beneficiaries, the trust is a qualifying trust and 70875
will pay the estimated tax, and will withhold and pay the withheld 70876
tax, as required under sections 5747.40 to 5747.453 of the Revised 70877
Code. 70878

For the purposes of division (I)(9) of this section, a trust 70879
or fund shall be considered to have a beneficiary other than 70880
persons described under divisions (I)(9)(a) to (c) of this section 70881
if a beneficiary would not qualify under those divisions under the 70882
doctrines of "economic reality," "sham transaction," "step 70883
doctrine," or "substance over form." A trust or fund described in 70884
division (I)(9) of this section bears the burden of establishing 70885
by a preponderance of the evidence that any transaction giving 70886
rise to the tax benefits provided under division (I)(9) of this 70887

section does not have as a principal purpose a claim of those tax 70888
benefits. Nothing in this section shall be construed to limit 70889
solely to this section the application of the doctrines referred 70890
to in this paragraph. 70891

(J) "Qualifying net gain" means any recognized net gain with 70892
respect to the acquisition, ownership, use, maintenance, 70893
management, or disposition of tangible personal property located 70894
in this state at any time during a trust's qualifying taxable year 70895
or real property located in this state. 70896

(K) "Qualifying net income" means any recognized income, net 70897
of related deductible expenses, other than distributions 70898
deductions with respect to the acquisition, ownership, use, 70899
maintenance, management, or disposition of tangible personal 70900
property located in this state at any time during the trust's 70901
qualifying taxable year or real property located in this state. 70902

(L) "Qualifying entity" means a qualifying pass-through 70903
entity or a qualifying trust. 70904

(M) "Qualifying trust" means a trust subject to subchapter J 70905
of the Internal Revenue Code that, during any portion of the 70906
trust's qualifying taxable year, has income or gain from the 70907
acquisition, management, ownership, use, or disposition of 70908
tangible personal property located in this state at any time 70909
during the trust's qualifying taxable year or real property 70910
located in this state. "Qualifying trust" does not include a 70911
person described in section 501(c) of the Internal Revenue Code or 70912
a person described in division (C) of section 5733.09 of the 70913
Revised Code. 70914

(N) "Qualifying pass-through entity" means a pass-through 70915
entity as defined in section 5733.04 of the Revised Code, 70916
excluding: a person described in section 501(c) of the Internal 70917
Revenue Code; a partnership with equity securities registered 70918

with the United States securities and exchange commission under 70919
section 12 of the Securities Exchange Act of 1934, as amended⁷ⁱ or 70920
a person described in division (C) of section 5733.09 of the 70921
Revised Code. 70922

(O) "Quarter" means the first three months, the second three 70923
months, the third three months, or the last three months of a 70924
qualifying entity's qualifying taxable year. 70925

(P) "Related member" has the same meaning as in division 70926
(A)(6) of section 5733.042 of the Revised Code without regard to 70927
division (B) of that section. However, for the purposes of 70928
divisions (A)(3) and (4) of this section only, "related member" 70929
has the same meaning as in division (A)(6) of section 5733.042 of 70930
the Revised Code without regard to division (B) of that section, 70931
but shall be applied by substituting "forty per cent" for "twenty 70932
per cent" wherever "twenty per cent" appears in division (A) of 70933
that section. 70934

(Q) "Return" or "report" means the notifications and reports 70935
required to be filed pursuant to sections 5747.42 to 5747.45 of 70936
the Revised Code for the purpose of reporting the tax imposed 70937
under section 5733.41 or 5747.41 of the Revised Code, and included 70938
declarations of estimated tax when so required. 70939

(R) "Qualifying taxable year" means the calendar year or the 70940
qualifying entity's fiscal year ending during the calendar year, 70941
or fractional part thereof, for which the adjusted qualifying 70942
amount is calculated pursuant to sections 5733.40 and 5733.41 or 70943
sections 5747.40 to 5747.453 of the Revised Code. 70944

(S) "Distributive share" includes the sum of the income, 70945
gain, expense, or loss of a disregarded entity or qualified 70946
subchapter S subsidiary. 70947

Sec. 5733.41. The purpose of the tax imposed by this section 70948

is to complement and to reinforce the tax imposed under section 70949
5733.06 of the Revised Code. 70950

For the same purposes for which the tax is levied under 70951
section 5733.06 of the Revised Code, there is hereby levied a tax 70952
on every qualifying pass-through entity having at least one 70953
qualifying investor that is not an individual. The tax imposed by 70954
this section is imposed on the sum of the adjusted qualifying 70955
amounts of the qualifying pass-through entity's qualifying 70956
investors that are not individuals as follows: for qualifying 70957
investors subject to division (G)(2) of section 5733.01 of the 70958
Revised Code, at six and eight-tenths per cent for the entity's 70959
taxable year ending in 2005, at five and one-tenth per cent for 70960
the entity's taxable year ending in 2006, at three and four-tenths 70961
per cent for the entity's taxable year ending in 2007, at one and 70962
seven-tenths per cent for the entity's taxable year ending in 70963
2008, and at zero per cent for the entity's taxable year ending in 70964
2009 or in subsequent years; and for all other qualifying 70965
investors that are not individuals, at the rate specified in 70966
division (B) of section 5733.06 of the Revised Code that is in 70967
effect on the last day of the entity's taxable year. 70968

The tax imposed by this section applies only if the 70969
qualifying entity has nexus with this state under the Constitution 70970
of the United States for any portion of the qualifying entity's 70971
qualifying taxable year, and the sum of the qualifying entity's 70972
adjusted qualifying amounts exceeds one thousand dollars for the 70973
qualifying entity's qualifying taxable year. This section does not 70974
apply to a pass-through entity if all of the partners, 70975
shareholders, members, or investors of the pass-through entity are 70976
taxpayers for the purposes of section 5733.04 of the Revised Code 70977
without regard to section 5733.09 of the Revised Code for the 70978
entire qualifying taxable year of the pass-through entity. 70979

If, prior to the due date of the return, a qualifying 70980

pass-through entity receives from an investor a written 70981
representation, under penalties of perjury, that the investor is 70982
described in division (I)(1), (2), (6), (7), (8), or (9) of 70983
section 5733.40 of the Revised Code for the qualifying 70984
pass-through entity's entire qualifying taxable year, the 70985
qualifying pass-through entity is not required to withhold or pay 70986
the taxes or estimated taxes imposed under this section or 70987
sections 5747.41 to 5747.453 of the Revised Code with respect to 70988
that investor for that qualifying taxable year, and is not subject 70989
to any interest or interest penalties for failure to withhold or 70990
pay those taxes or estimated taxes with respect to that investor 70991
for that qualifying taxable year. 70992

If, prior to the due date of the return, a qualifying trust 70993
receives from a beneficiary of that trust a written 70994
representation, under penalties of perjury, that the beneficiary 70995
is a resident taxpayer for the purposes of Chapter 5747. of the 70996
Revised Code for the qualifying trust's entire qualifying taxable 70997
year, the qualifying trust is not required to withhold or pay the 70998
taxes or estimated taxes imposed under this section or sections 70999
5747.41 to 5747.453 of the Revised Code with respect to that 71000
beneficiary for that qualifying taxable year, and is not subject 71001
to any interest or interest penalties for failure to withhold or 71002
pay those taxes or estimated taxes with respect to that 71003
beneficiary for that qualifying taxable year. 71004

The tax commissioner may adopt rules for the purpose of the 71005
tax levied by this section or section 5747.41 of the Revised Code, 71006
including a rule defining "qualifying investor" or "qualifying 71007
beneficiary", and a rule requiring or permitting a qualifying 71008
entity to combine its income with related members and to pay the 71009
tax and estimated tax on a combined basis. 71010

Sections 5747.10 to 5747.19 and 5747.42 to 5747.453 of the 71011
Revised Code apply to a qualifying entity subject to the tax 71012

imposed under this section.

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The levy of the tax under this section does not prevent a municipal corporation or a joint economic development district created under section 715.70 or 715.71 or sections 715.72 to 715.81 of the Revised Code from levying a tax on income.

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Sec. 5733.49. (A) Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a credit may be claimed against the tax imposed by section 5733.06 of the Revised Code. The credit shall be claimed for the tax year specified in the certificate issued by the authority and in the order required under section 5733.98 of the Revised Code.

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(B) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code and the amount of the credit shown on the certificate does not exceed the tax otherwise due under section 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted, then the taxpayer shall claim a refundable credit equal to the amount of the credit shown on the certificate.

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(C) If the taxpayer elected a refundable credit under section 150.07 of the Revised Code, and the amount of the credit shown on the certificate exceeds the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits, including the credit allowed under this section, are deducted in that order, the taxpayer shall receive a refund equal to seventy five per cent of that excess. If the taxpayer elected a nonrefundable credit, the amount of the credit, claimed in that order, shall not exceed the tax otherwise due under those sections after all the taxpayer's credits are deducted in that order. If claim a refundable credit equal to the sum of the following:

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(1) The amount, if any, of the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted; 71044
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(2) Seventy-five per cent of the difference between the amount of the refundable credit shown on the certificate and the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code after all nonrefundable credits are deducted. 71047
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(D) If the taxpayer elected a nonrefundable credit and the credit to which the taxpayer would otherwise be entitled under this section for any tax year is greater than the tax otherwise due under sections 5733.06, 5733.065, and 5733.066 of the Revised Code, after allowing for any other credits that, under section 5733.98 of the Revised Code, precede the credit allowed under this section, the excess shall be allowed as a nonrefundable credit in each of the ensuing ten tax years, but the amount of any excess credit allowed in the ensuing tax year shall be deducted from the balance carried forward to the next tax year. 71051
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Sec. 5733.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5733.06 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits to which it is entitled in the following order, except as otherwise provided in section 5733.058 of the Revised Code: 71061
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(1) The For tax year 2005, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code; 71067
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(2) The credit allowed for financial institutions under section 5733.45 of the Revised Code; 71070
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(3) The credit for qualifying affiliated groups under section 5733.068 of the Revised Code; 71072
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(4) The subsidiary corporation credit under section 5733.067 of the Revised Code;	71074 71075
(5) The savings and loan assessment credit under section 5733.063 of the Revised Code;	71076 71077
(6) The credit for recycling and litter prevention donations under section 5733.064 of the Revised Code;	71078 71079
(7) The credit for employers that enter into agreements with child day-care centers under section 5733.36 of the Revised Code;	71080 71081
(8) The credit for employers that reimburse employee child care expenses under section 5733.38 of the Revised Code;	71082 71083
(9) The credit for maintaining railroad active grade crossing warning devices under section 5733.43 of the Revised Code;	71084 71085
(10) The credit for purchases of lights and reflectors under section 5733.44 of the Revised Code;	71086 71087
(11) The job retention credit under division (B) of section 5733.0610 of the Revised Code;	71088 71089
(12) The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	71090 71091 71092 71093
(13) The credit for purchases of new manufacturing machinery and equipment under section 5733.31 or section 5733.311 of the Revised Code;	71094 71095 71096
(14) The second credit for purchases of new manufacturing machinery and equipment under section 5733.33 of the Revised Code;	71097 71098
(15) The job training credit under section 5733.42 of the Revised Code;	71099 71100
(16) The credit for qualified research expenses under section 5733.351 of the Revised Code;	71101 71102

(17) The enterprise zone credit under section 5709.66 of the Revised Code;	71103 71104
(18) The credit for the eligible costs associated with a voluntary action under section 5733.34 of the Revised Code;	71105 71106
(19) The credit for employers that establish on-site child day-care centers under section 5733.37 of the Revised Code;	71107 71108
(20) The ethanol plant investment credit under section 5733.46 of the Revised Code;	71109 71110
(21) The credit for purchases of qualifying grape production property under section 5733.32 of the Revised Code;	71111 71112
(22) The export sales credit under section 5733.069 of the Revised Code;	71113 71114
(23) The credit for research and development and technology transfer investors under section 5733.35 of the Revised Code;	71115 71116
(24) The enterprise zone credits under section 5709.65 of the Revised Code;	71117 71118
(25) The credit for using Ohio coal under section 5733.39 of the Revised Code;	71119 71120
(26) The research and development credit under section 5733.352 of the Revised Code;	71121 71122
(27) The credit for small telephone companies under section 5733.57 of the Revised Code;	71123 71124
(28) <u>(27)</u> The credit for eligible nonrecurring 9-1-1 charges under section 5733.55 of the Revised Code;	71125 71126
(29) <u>(28)</u> The credit for providing programs to aid the communicatively impaired under section 5733.56 of the Revised Code;	71127 71128 71129
(30) <u>(29)</u> <u>The research and development credit under section 5733.352 of the Revised Code;</u>	71130 71131

(30) For tax years 2006 and subsequent tax years, the credit for taxes paid by a qualifying pass-through entity allowed under section 5733.0611 of the Revised Code; 71132
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(31) The refundable jobs creation credit under division (A) of section 5733.0610 of the Revised Code; 71135
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~~(31)~~(32) The refundable credit for tax withheld under division (B)(2) of section 5747.062 of the Revised Code; 71137
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~~(32)~~(33) The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code. 71139
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(B) For any credit except the credits enumerated in divisions (A)~~(30)~~, (31), ~~and (32)~~, and (33) of this section, the amount of the credit for a tax year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. 71143
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Sec. 5733.99. Whoever violates section 5733.21 of the Revised Code shall be fined not less than one hundred nor more than ~~one~~ five thousand dollars. 71150
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Sec. 5735.99. (A) Whoever violates division (F) of section 5735.02, division (D) of section 5735.021, division (B) of section 5735.063, division (B) of section 5735.064, or division (A)(2) of section 5735.20 of the Revised Code is guilty of a misdemeanor of the first degree. 71153
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(B) Whoever violates division (E) of section 5735.06 of the Revised Code is guilty of a felony of the fourth degree. 71158
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(C) Whoever violates section 5735.025 or division (A)(1) of 71160

section 5735.20 of the Revised Code is guilty of a misdemeanor of 71161
the first degree, if the tax owed or the fraudulent refund 71162
received is not greater than five hundred dollars. If the tax owed 71163
or the fraudulent refund received is greater than five hundred 71164
dollars but not greater than ten thousand dollars, the ~~offender~~ 71165
person is guilty of a felony of the fourth degree; ~~for each~~ 71166
~~subsequent~~. If the person previously has been convicted of any 71167
~~offense when the tax owed or the fraudulent refund received is~~ 71168
~~greater than five hundred dollars but not greater than ten~~ 71169
~~thousand dollars under Title LVII of the Revised Code,~~ the 71170
~~offender~~ person is guilty of a felony of the third degree. If the 71171
tax owed or the fraudulent refund received is greater than ten 71172
thousand dollars, the ~~offender~~ person is guilty of a felony of the 71173
second degree. 71174

(D) Whoever violates a provision of this chapter for which a 71175
penalty is not otherwise prescribed under this section is guilty 71176
of a misdemeanor of the fourth degree. 71177

(E) Whoever violates division (D)(5) of section 5735.19 of 71178
the Revised Code is guilty of a misdemeanor of the first degree. 71179

Sec. 5737.03. An annual excise tax is hereby levied on the 71180
handling of grain, in lieu of all taxes on grain as property of 71181
any person engaged in such business, for all the purposes for 71182
which taxes would otherwise be levied on such grain as property in 71183
the taxing district in which any such business is carried on, 71184
measured as follows: 71185

~~One-half~~ (A) For the statement due in 2005, one-half mill per 71186
bushel upon all wheat and flax handled at one or more places in 71187
this state in any such business during the taxable year, as 71188
defined in section 5737.04 of the Revised Code, and one-fourth 71189
mill per bushel upon all other grain handled. ~~The~~ 71190

(B) For the statement due in 2006, one-fourth mill per bushel upon all wheat and flax handled at one or more places in this state in any such business during the taxable year, as defined in section 5737.04 of the Revised Code, and one-eighth mill per bushel upon all other grain handled.

(C) No statement or tax is due in 2007 or subsequent years thereafter.

The tax imposed by this section shall not be paid by a track buyer, who shall be liable for the personal property taxes only, as levied by sections 5711.01 to 5711.36, ~~inclusive,~~ of the Revised Code.

All grain included in the statements required by section 5737.04 of the Revised Code, upon the handling of which a tax is imposed by this section, is exempt from taxation as personal property. Any grain that would be included in such statements for taxable year 2007 or subsequent years thereafter is exempt from taxation as personal property.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to

be granted; 71221

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests; 71222
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(3) All transactions by which: 71224

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code; 71225
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(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service; 71228
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(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished; 71234
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(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided; 71236
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(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An affiliated group means two or more persons related in such a way that one person owns or controls the business operation of another member of the 71239
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group. In the case of corporations with stock, one corporation
owns or controls another if it owns more than fifty per cent of
the other corporation's common stock with voting rights.

(f) Telecommunications service, ~~other than mobile
telecommunications service after July 31, 2002 including prepaid
calling service, prepaid wireless calling service, or ancillary
service~~, is or is to be provided, but ~~does not include
transactions by which local telecommunications service is obtained
from a including coin-operated telephone and paid for by using
coin service~~;

(g) Landscaping and lawn care service is or is to be
provided;

(h) Private investigation and security service is or is to be
provided;

(i) Information services or tangible personal property is
provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to
be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be
provided;

(o) Recreation and sports club service is or is to be
provided.

(p) ~~After July 31, 2002, mobile telecommunications service is
or is to be provided when that service is situated to this state
pursuant to the "Mobile Telecommunications Sourcing Act," Pub. L.
No. 106-252, 114 Stat. 626 to 632 (2000), 4 U.S.C.A. 116 to 126,~~

~~as amended.~~ 71280

~~(g)~~ On and after August 1, 2003, satellite broadcasting 71281
service is or is to be provided; 71282

~~(r)~~(g) On and after August 1, 2003, personal care service is 71283
or is to be provided to an individual. As used in this division, 71284
"personal care service" includes skin care, the application of 71285
cosmetics, manicuring, pedicuring, hair removal, tattooing, body 71286
piercing, tanning, massage, and other similar services. "Personal 71287
care service" does not include a service provided by or on the 71288
order of a licensed physician or licensed chiropractor, or the 71289
cutting, coloring, or styling of an individual's hair. 71290

~~(s)~~(r) On and after August 1, 2003, the transportation of 71291
persons by motor vehicle or aircraft is or is to be provided, when 71292
the transportation is entirely within this state, except for 71293
transportation provided by an ambulance service, by a transit bus, 71294
as defined in section 5735.01 of the Revised Code, and 71295
transportation provided by a citizen of the United States holding 71296
a certificate of public convenience and necessity issued under 49 71297
U.S.C. 41102; 71298

~~(t)~~(s) On and after August 1, 2003, motor vehicle towing 71299
service is or is to be provided. As used in this division, "motor 71300
vehicle towing service" means the towing or conveyance of a 71301
wrecked, disabled, or illegally parked motor vehicle. 71302

~~(u)~~(t) On and after August 1, 2003, snow removal service is 71303
or is to be provided. As used in this division, "snow removal 71304
service" means the removal of snow by any mechanized means, but 71305
does not include the providing of such service by a person that 71306
has less than five thousand dollars in sales of such service 71307
during the calendar year. 71308

(4) All transactions by which printed, imprinted, 71309
overprinted, lithographic, multilithic, blueprinted, photostatic, 71310

or other productions or reproductions of written or graphic matter 71311
are or are to be furnished or transferred; 71312

(5) The production or fabrication of tangible personal 71313
property for a consideration for consumers who furnish either 71314
directly or indirectly the materials used in the production of 71315
fabrication work; and include the furnishing, preparing, or 71316
serving for a consideration of any tangible personal property 71317
consumed on the premises of the person furnishing, preparing, or 71318
serving such tangible personal property. Except as provided in 71319
section 5739.03 of the Revised Code, a construction contract 71320
pursuant to which tangible personal property is or is to be 71321
incorporated into a structure or improvement on and becoming a 71322
part of real property is not a sale of such tangible personal 71323
property. The construction contractor is the consumer of such 71324
tangible personal property, provided that the sale and 71325
installation of carpeting, the sale and installation of 71326
agricultural land tile, the sale and erection or installation of 71327
portable grain bins, or the provision of landscaping and lawn care 71328
service and the transfer of property as part of such service is 71329
never a construction contract. 71330

As used in division (B)(5) of this section: 71331

(a) "Agricultural land tile" means fired clay or concrete 71332
tile, or flexible or rigid perforated plastic pipe or tubing, 71333
incorporated or to be incorporated into a subsurface drainage 71334
system appurtenant to land used or to be used directly in 71335
production by farming, agriculture, horticulture, or floriculture. 71336
The term does not include such materials when they are or are to 71337
be incorporated into a drainage system appurtenant to a building 71338
or structure even if the building or structure is used or to be 71339
used in such production. 71340

(b) "Portable grain bin" means a structure that is used or to 71341

be used by a person engaged in farming or agriculture to shelter 71342
the person's grain and that is designed to be disassembled without 71343
significant damage to its component parts. 71344

(6) All transactions in which all of the shares of stock of a 71345
closely held corporation are transferred, if the corporation is 71346
not engaging in business and its entire assets consist of boats, 71347
planes, motor vehicles, or other tangible personal property 71348
operated primarily for the use and enjoyment of the shareholders; 71349

(7) All transactions in which a warranty, maintenance or 71350
service contract, or similar agreement by which the vendor of the 71351
warranty, contract, or agreement agrees to repair or maintain the 71352
tangible personal property of the consumer is or is to be 71353
provided; 71354

(8) ~~;(9)~~ The transfer of copyrighted motion picture films 71355
used solely for advertising purposes, except that the transfer of 71356
such films for exhibition purposes is not a sale. 71357

(9) On and after August 1, 2003, all transactions by which 71358
tangible personal property is or is to be stored, except such 71359
property that the consumer of the storage holds for sale in the 71360
regular course of business. 71361

Except ~~other than~~ as provided in this section, "sale" and 71362
"selling" do not include transfers of interest in leased property 71363
where the original lessee and the terms of the original lease 71364
agreement remain unchanged, or professional, insurance, or 71365
personal service transactions that involve the transfer of 71366
tangible personal property as an inconsequential element, for 71367
which no separate charges are made. 71368

(C) "Vendor" means the person providing the service or by 71369
whom the transfer effected or license given by a sale is or is to 71370
be made or given and, for sales described in division (B)(3)(i) of 71371
this section, the telecommunications service vendor that provides 71372

the nine hundred telephone service; if two or more persons are
engaged in business at the same place of business under a single
trade name in which all collections on account of sales by each
are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are
engaged in selling tangible personal property as received from
others, such as eyeglasses, mouthwashes, dentifrices, or similar
articles, are vendors. Veterinarians who are engaged in
transferring to others for a consideration drugs, the dispensing
of which does not require an order of a licensed veterinarian or
physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is
provided, to whom the transfer effected or license given by a sale
is or is to be made or given, to whom the service described in
division (B)(3)(f) or (i) of this section is charged, or to whom
the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated
by nonprofit institutions and persons licensed to practice
veterinary medicine, surgery, and dentistry are consumers of all
tangible personal property and services purchased by them in
connection with the practice of medicine, dentistry, the rendition
of hospital or blood bank service, or the practice of veterinary
medicine, surgery, and dentistry. In addition to being consumers
of drugs administered by them or by their assistants according to
their direction, veterinarians also are consumers of drugs that
under federal law may be dispensed only by or upon the order of a
licensed veterinarian or physician, when transferred by them to
others for a consideration to provide treatment to animals as
directed by the veterinarian.

(3) A person who performs a facility management, or similar
service contract for a contractee is a consumer of all tangible

personal property and services purchased for use in connection 71404
with the performance of such contract, regardless of whether title 71405
to any such property vests in the contractee. The purchase of such 71406
property and services is not subject to the exception for resale 71407
under division (E)(1) of this section. 71408

(4)(a) In the case of a person who purchases printed matter 71409
for the purpose of distributing it or having it distributed to the 71410
public or to a designated segment of the public, free of charge, 71411
that person is the consumer of that printed matter, and the 71412
purchase of that printed matter for that purpose is a sale. 71413

(b) In the case of a person who produces, rather than 71414
purchases, printed matter for the purpose of distributing it or 71415
having it distributed to the public or to a designated segment of 71416
the public, free of charge, that person is the consumer of all 71417
tangible personal property and services purchased for use or 71418
consumption in the production of that printed matter. That person 71419
is not entitled to claim exemption under division (B)~~(43)~~(42)(f) 71420
of section 5739.02 of the Revised Code for any material 71421
incorporated into the printed matter or any equipment, supplies, 71422
or services primarily used to produce the printed matter. 71423

(c) The distribution of printed matter to the public or to a 71424
designated segment of the public, free of charge, is not a sale to 71425
the members of the public to whom the printed matter is 71426
distributed or to any persons who purchase space in the printed 71427
matter for advertising or other purposes. 71428

(5) A person who makes sales of any of the services listed in 71429
division (B)(3) of this section is the consumer of any tangible 71430
personal property used in performing the service. The purchase of 71431
that property is not subject to the resale exception under 71432
division (E)(1) of this section. 71433

(6) A person who engages in highway transportation for hire 71434

is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2) and (3) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to

complete the sale; 71465

(iv) On and after August 1, 2003, delivery charges. As used 71466
in this division, "delivery charges" means charges by the vendor 71467
for preparation and delivery to a location designated by the 71468
consumer of tangible personal property or a service, including 71469
transportation, shipping, postage, handling, crating, and packing. 71470

(v) Installation charges; 71471

(vi) ~~The value of exempt tangible personal property given to 71472
the consumer where taxable and exempt tangible personal property 71473
have been bundled together and sold by the vendor as a single 71474
product or piece of merchandise~~ Credit for any trade-in. 71475

(b) "Price" includes consideration received by the vendor 71476
from a third party, if the vendor actually receives the 71477
consideration from a party other than the consumer, and the 71478
consideration is directly related to a price reduction or discount 71479
on the sale; the vendor has an obligation to pass the price 71480
reduction or discount through to the consumer; the amount of the 71481
consideration attributable to the sale is fixed and determinable 71482
by the vendor at the time of the sale of the item to the consumer; 71483
and one of the following criteria is met: 71484

(i) The consumer presents a coupon, certificate, or other 71485
document to the vendor to claim a price reduction or discount 71486
where the coupon, certificate, or document is authorized, 71487
distributed, or granted by a third party with the understanding 71488
that the third party will reimburse any vendor to whom the coupon, 71489
certificate, or document is presented; 71490

(ii) The consumer identifies the consumer's self to the 71491
seller as a member of a group or organization entitled to a price 71492
reduction or discount. A preferred customer card that is available 71493
to any patron does not constitute membership in such a group or 71494
organization. 71495

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

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(c) "Price" does not include any of the following:

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(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

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(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

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(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

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(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

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(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

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(3) In the case of a sale of any watercraft or outboard motor

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by a watercraft dealer licensed in accordance with section 71526
1547.543 of the Revised Code, in which another watercraft, 71527
watercraft and trailer, or outboard motor is accepted by the 71528
dealer as part of the consideration received, "price" has the same 71529
meaning as in division (H)(1) of this section, reduced by the 71530
credit afforded the consumer by the dealer for the watercraft, 71531
watercraft and trailer, or outboard motor received in trade. As 71532
used in this division, "watercraft" includes an outdrive unit 71533
attached to the watercraft. 71534

(4) In the case of a transaction in which telecommunications 71535
service, mobile telecommunications service, or cable television 71536
service is sold in a bundled transaction with other distinct 71537
services for a single price that is not itemized, the entire price 71538
is subject to the taxes levied under sections 5739.02, 5739.021, 71539
5739.023, and 5739.026 of the Revised Code, unless the vendor can 71540
reasonably identify the nontaxable portion from its books and 71541
records kept in the regular course of business. Upon the request 71542
of the consumer, the vendor shall disclose to the consumer the 71543
selling price for the taxable services included in the selling 71544
price for the taxable and nontaxable services billed on an 71545
aggregated basis. The burden of proving any nontaxable charges is 71546
on the vendor. 71547

(I) "Receipts" means the total amount of the prices of the 71548
sales of vendors, provided that cash discounts allowed and taken 71549
on sales at the time they are consummated are not included, minus 71550
any amount deducted as a bad debt pursuant to section 5739.121 of 71551
the Revised Code. "Receipts" does not include the sale price of 71552
property returned or services rejected by consumers when the full 71553
sale price and tax are refunded either in cash or by credit. 71554

(J) "Place of business" means any location at which a person 71555
engages in business. 71556

(K) "Premises" includes any real property or portion thereof 71557
upon which any person engages in selling tangible personal 71558
property at retail or making retail sales and also includes any 71559
real property or portion thereof designated for, or devoted to, 71560
use in conjunction with the business engaged in by such person. 71561

(L) "Casual sale" means a sale of an item of tangible 71562
personal property that was obtained by the person making the sale, 71563
through purchase or otherwise, for the person's own use and was 71564
previously subject to any state's taxing jurisdiction on its sale 71565
or use, and includes such items acquired for the seller's use that 71566
are sold by an auctioneer employed directly by the person for such 71567
purpose, provided the location of such sales is not the 71568
auctioneer's permanent place of business. As used in this 71569
division, "permanent place of business" includes any location 71570
where such auctioneer has conducted more than two auctions during 71571
the year. 71572

(M) "Hotel" means every establishment kept, used, maintained, 71573
advertised, or held out to the public to be a place where sleeping 71574
accommodations are offered to guests, in which five or more rooms 71575
are used for the accommodation of such guests, whether the rooms 71576
are in one or several structures. 71577

(N) "Transient guests" means persons occupying a room or 71578
rooms for sleeping accommodations for less than thirty consecutive 71579
days. 71580

(O) "Making retail sales" means the effecting of transactions 71581
wherein one party is obligated to pay the price and the other 71582
party is obligated to provide a service or to transfer title to or 71583
possession of the item sold. "Making retail sales" does not 71584
include the preliminary acts of promoting or soliciting the retail 71585
sales, other than the distribution of printed matter which 71586
displays or describes and prices the item offered for sale, nor 71587

does it include delivery of a predetermined quantity of tangible 71588
personal property or transportation of property or personnel to or 71589
from a place where a service is performed, regardless of whether 71590
the vendor is a delivery vendor. 71591

(P) "Used directly in the rendition of a public utility 71592
service" means that property that is to be incorporated into and 71593
will become a part of the consumer's production, transmission, 71594
transportation, or distribution system and that retains its 71595
classification as tangible personal property after such 71596
incorporation; fuel or power used in the production, transmission, 71597
transportation, or distribution system; and tangible personal 71598
property used in the repair and maintenance of the production, 71599
transmission, transportation, or distribution system, including 71600
only such motor vehicles as are specially designed and equipped 71601
for such use. Tangible personal property and services used 71602
primarily in providing highway transportation for hire are not 71603
used directly in the rendition of a public utility service. 71604

(Q) "Refining" means removing or separating a desirable 71605
product from raw or contaminated materials by distillation or 71606
physical, mechanical, or chemical processes. 71607

(R) "Assembly" and "assembling" mean attaching or fitting 71608
together parts to form a product, but do not include packaging a 71609
product. 71610

(S) "Manufacturing operation" means a process in which 71611
materials are changed, converted, or transformed into a different 71612
state or form from which they previously existed and includes 71613
refining materials, assembling parts, and preparing raw materials 71614
and parts by mixing, measuring, blending, or otherwise committing 71615
such materials or parts to the manufacturing process. 71616
"Manufacturing operation" does not include packaging. 71617

(T) "Fiscal officer" means, with respect to a regional 71618

transit authority, the secretary-treasurer thereof, and with
respect to a county that is a transit authority, the fiscal
officer of the county transit board if one is appointed pursuant
to section 306.03 of the Revised Code or the county auditor if the
board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority
created pursuant to section 306.31 of the Revised Code or a county
in which a county transit system is created pursuant to section
306.01 of the Revised Code. For the purposes of this chapter, a
transit authority must extend to at least the entire area of a
single county. A transit authority that includes territory in more
than one county must include all the area of the most populous
county that is a part of such transit authority. County population
shall be measured by the most recent census taken by the United
States census bureau.

(V) "Legislative authority" means, with respect to a regional
transit authority, the board of trustees thereof, and with respect
to a county that is a transit authority, the board of county
commissioners.

(W) "Territory of the transit authority" means all of the
area included within the territorial boundaries of a transit
authority as they from time to time exist. Such territorial
boundaries must at all times include all the area of a single
county or all the area of the most populous county that is a part
of such transit authority. County population shall be measured by
the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing
anything described in division (B)(3) of this section for
consideration.

(Y)(1)(a) "Automatic data processing" means processing of
others' data, including keypunching or similar data entry services

together with verification thereof, or providing access to 71650
computer equipment for the purpose of processing data. 71651

(b) "Computer services" means providing services consisting 71652
of specifying computer hardware configurations and evaluating 71653
technical processing characteristics, computer programming, and 71654
training of computer programmers and operators, provided in 71655
conjunction with and to support the sale, lease, or operation of 71656
taxable computer equipment or systems. 71657

(c) "Electronic information services" means providing access 71658
to computer equipment by means of telecommunications equipment for 71659
the purpose of either of the following: 71660

(i) Examining or acquiring data stored in or accessible to 71661
the computer equipment; 71662

(ii) Placing data into the computer equipment to be retrieved 71663
by designated recipients with access to the computer equipment. 71664

(d) "Automatic data processing, computer services, or 71665
electronic information services" shall not include personal or 71666
professional services. 71667

(2) As used in divisions (B)(3)(e) and (Y)(1) of this 71668
section, "personal and professional services" means all services 71669
other than automatic data processing, computer services, or 71670
electronic information services, including but not limited to: 71671

(a) Accounting and legal services such as advice on tax 71672
matters, asset management, budgetary matters, quality control, 71673
information security, and auditing and any other situation where 71674
the service provider receives data or information and studies, 71675
alters, analyzes, interprets, or adjusts such material; 71676

(b) Analyzing business policies and procedures; 71677

(c) Identifying management information needs; 71678

(d) Feasibility studies, including economic and technical 71679

analysis of existing or potential computer hardware or software 71680
needs and alternatives; 71681

(e) Designing policies, procedures, and custom software for 71682
collecting business information, and determining how data should 71683
be summarized, sequenced, formatted, processed, controlled, and 71684
reported so that it will be meaningful to management; 71685

(f) Developing policies and procedures that document how 71686
business events and transactions are to be authorized, executed, 71687
and controlled; 71688

(g) Testing of business procedures; 71689

(h) Training personnel in business procedure applications; 71690

(i) Providing credit information to users of such information 71691
by a consumer reporting agency, as defined in the "Fair Credit 71692
Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or 71693
as hereafter amended, including but not limited to gathering, 71694
organizing, analyzing, recording, and furnishing such information 71695
by any oral, written, graphic, or electronic medium; 71696

(j) Providing debt collection services by any oral, written, 71697
graphic, or electronic means. 71698

The services listed in divisions (Y)(2)(a) to (j) of this 71699
section are not automatic data processing or computer services. 71700

(Z) "Highway transportation for hire" means the 71701
transportation of personal property belonging to others for 71702
consideration by any of the following: 71703

(1) The holder of a permit or certificate issued by this 71704
state or the United States authorizing the holder to engage in 71705
transportation of personal property belonging to others for 71706
consideration over or on highways, roadways, streets, or any 71707
similar public thoroughfare; 71708

(2) A person who engages in the transportation of personal 71709

property belonging to others for consideration over or on 71710
highways, roadways, streets, or any similar public thoroughfare 71711
but who could not have engaged in such transportation on December 71712
11, 1985, unless the person was the holder of a permit or 71713
certificate of the types described in division (Z)(1) of this 71714
section; 71715

(3) A person who leases a motor vehicle to and operates it 71716
for a person described by division (Z)(1) or (2) of this section. 71717

(AA)(1) "Telecommunications service" means the ~~transmission~~ 71718
~~of any interactive, two-way electromagnetic communications,~~ 71719
~~including voice, image, data, and information, through the use of~~ 71720
~~any medium such as wires, cables, microwaves, cellular radio,~~ 71721
~~radio waves, light waves, or any combination of those or similar~~ 71722
~~media. "Telecommunications service" includes message toll service~~ 71723
~~even though the vendor provides the message toll service by means~~ 71724
~~of wide area transmission type service or private communications~~ 71725
~~service purchased from another telecommunications service~~ 71726
~~provider, and other related fees and ancillary services, including~~ 71727
~~universal service fees, detailed billing service, directory~~ 71728
~~assistance, service initiation, voice mail service, and vertical~~ 71729
~~services, such as caller ID and three-way calling electronic~~ 71730
~~transmission, conveyance, or routing of voice, data, audio, video,~~ 71731
~~or any other information or signals to a point, or between or~~ 71732
~~among points. "Telecommunications service" includes such~~ 71733
~~transmission, conveyance, or routing in which computer processing~~ 71734
~~applications are used to act on the form, code, or protocol of the~~ 71735
~~content for purposes of transmission, conveyance, or routing~~ 71736
~~without regard to whether the service is referred to as voice-over~~ 71737
~~internet protocol service or is classified by the federal~~ 71738
~~communications commission as enhanced or value-added.~~ 71739
"Telecommunications service" does not include any of the 71740
following: 71741

(1) Sales of telecommunications service billed to persons	71742
before January 1, 2004, by telephone companies subject to the	71743
excise tax imposed by Chapter 5727. of the Revised Code;	71744
(2) Sales of telecommunications service to a provider of	71745
telecommunications service or of mobile telecommunications	71746
service, including access services, for use in providing	71747
telecommunications service or mobile telecommunications service;	71748
(3) Value added nonvoice services in which computer	71749
processing applications are used to act on the form, content,	71750
code, or protocol of the information to be transmitted;	71751
(4) Transmission of interactive video programming by a cable	71752
television system as defined in section 505.90 of the Revised	71753
Code;	71754
(5) After July 31, 2002, mobile telecommunications service	71755
<u>(a) Data processing and information services that allow data to be</u>	71756
<u>generated, acquired, stored, processed, or retrieved and delivered</u>	71757
<u>by an electronic transmission to a consumer where the consumer's</u>	71758
<u>primary purpose for the underlying transaction is the processed</u>	71759
<u>data or information;</u>	71760
<u>(b) Installation or maintenance of wiring or equipment on a</u>	71761
<u>customer's premises;</u>	71762
<u>(c) Tangible personal property;</u>	71763
<u>(d) Advertising, including directory advertising;</u>	71764
<u>(e) Billing and collection services provided to third</u>	71765
<u>parties;</u>	71766
<u>(f) Internet access service;</u>	71767
<u>(g) Radio and television audio and video programming</u>	71768
<u>services, regardless of the medium, including the furnishing of</u>	71769
<u>transmission, conveyance, and routing of such services by the</u>	71770
<u>programming service provider. Radio and television audio and video</u>	71771

<u>programming services include cable service, as defined in 47</u>	71772
<u>U.S.C. 522(6), and audio and video programming services delivered</u>	71773
<u>by commercial mobile radio service providers, as defined in 47</u>	71774
<u>C.F.R. 20.3;</u>	71775
<u>(h) Ancillary service;</u>	71776
<u>(i) Digital products delivered electronically, including</u>	71777
<u>software, music, video, reading materials, or ring tones.</u>	71778
<u>(2) "Ancillary service" means a service that is associated</u>	71779
<u>with or incidental to the provision of telecommunications service,</u>	71780
<u>including conference bridging service, detailed telecommunications</u>	71781
<u>billing service, directory assistance, vertical service, and voice</u>	71782
<u>mail service. As used in this division:</u>	71783
<u>(a) "Conference bridging service" means an ancillary service</u>	71784
<u>that links two or more participants of an audio or video</u>	71785
<u>conference call, including providing a telephone number.</u>	71786
<u>"Conference bridging service" does not include telecommunications</u>	71787
<u>services used to reach the conference bridge.</u>	71788
<u>(b) "Detailed telecommunications billing service" means an</u>	71789
<u>ancillary service of separately stating information pertaining to</u>	71790
<u>individual calls on a customer's billing statement.</u>	71791
<u>(c) "Directory assistance" means an ancillary service of</u>	71792
<u>providing telephone number or address information.</u>	71793
<u>(d) "Vertical service" means an ancillary service that is</u>	71794
<u>offered in connection with one or more telecommunications</u>	71795
<u>services, which offers advanced calling features that allow</u>	71796
<u>customers to identify callers and manage multiple calls and call</u>	71797
<u>connections, including conference bridging service.</u>	71798
<u>(e) "Voice mail service" means an ancillary service that</u>	71799
<u>enables the customer to store, send, or receive recorded messages.</u>	71800
<u>"Voice mail service" does not include any vertical services that</u>	71801

the customer may be required to have in order to utilize the voice 71802
mail service. 71803

(3) "900 service" means an inbound toll telecommunications 71804
service purchased by a subscriber that allows the subscriber's 71805
customers to call in to the subscriber's prerecorded announcement 71806
or live service, and which is typically marketed under the name 71807
"900" service and any subsequent numbers designated by the federal 71808
communications commission. "900 service" does not include the 71809
charge for collection services provided by the seller of the 71810
telecommunications service to the subscriber, or services or 71811
products sold by the subscriber to the subscriber's customer. 71812

(4) "Prepaid calling service" means the right to access 71813
exclusively telecommunications services, which must be paid for in 71814
advance and which enables the origination of calls using an access 71815
number or authorization code, whether manually or electronically 71816
dialed, and that is sold in predetermined units of dollars of 71817
which the number declines with use in a known amount. 71818

(5) "Prepaid wireless calling service" means a 71819
telecommunications service that provides the right to utilize 71820
mobile telecommunications service as well as other 71821
non-telecommunications services, including the download of digital 71822
products delivered electronically, and content and ancillary 71823
services, that must be paid for in advance and that is sold in 71824
predetermined units of dollars of which the number declines with 71825
use in a known amount. 71826

(6) "Value-added non-voice data service" means a 71827
telecommunications service in which computer processing 71828
applications are used to act on the form, content, code, or 71829
protocol of the information or data primarily for a purpose other 71830
than transmission, conveyance, or routing. 71831

(7) "Coin-operated telephone service" means a 71832

telecommunications service paid for by inserting money into a 71833
telephone accepting direct deposits of money to operate. 71834

(8) "Customer" has the same meaning as in section 5739.034 of 71835
the Revised Code. 71836

(BB) "Laundry and dry cleaning services" means removing soil 71837
or dirt from towels, linens, articles of clothing, or other fabric 71838
items that belong to others and supplying towels, linens, articles 71839
of clothing, or other fabric items. "Laundry and dry cleaning 71840
services" does not include the provision of self-service 71841
facilities for use by consumers to remove soil or dirt from 71842
towels, linens, articles of clothing, or other fabric items. 71843

(CC) "Magazines distributed as controlled circulation 71844
publications" means magazines containing at least twenty-four 71845
pages, at least twenty-five per cent editorial content, issued at 71846
regular intervals four or more times a year, and circulated 71847
without charge to the recipient, provided that such magazines are 71848
not owned or controlled by individuals or business concerns which 71849
conduct such publications as an auxiliary to, and essentially for 71850
the advancement of the main business or calling of, those who own 71851
or control them. 71852

(DD) "Landscaping and lawn care service" means the services 71853
of planting, seeding, sodding, removing, cutting, trimming, 71854
pruning, mulching, aerating, applying chemicals, watering, 71855
fertilizing, and providing similar services to establish, promote, 71856
or control the growth of trees, shrubs, flowers, grass, ground 71857
cover, and other flora, or otherwise maintaining a lawn or 71858
landscape grown or maintained by the owner for ornamentation or 71859
other nonagricultural purpose. However, "landscaping and lawn care 71860
service" does not include the providing of such services by a 71861
person who has less than five thousand dollars in sales of such 71862
services during the calendar year. 71863

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development

equipment unless such property is primarily used by the consumer 71896
in testing the product, equipment, or manufacturing process being 71897
created, designed, or formulated by the consumer in the research 71898
and development activity or in recording or storing such test 71899
results. 71900

(II) "Building maintenance and janitorial service" means 71901
cleaning the interior or exterior of a building and any tangible 71902
personal property located therein or thereon, including any 71903
services incidental to such cleaning for which no separate charge 71904
is made. However, "building maintenance and janitorial service" 71905
does not include the providing of such service by a person who has 71906
less than five thousand dollars in sales of such service during 71907
the calendar year. 71908

(JJ) "Employment service" means providing or supplying 71909
personnel, on a temporary or long-term basis, to perform work or 71910
labor under the supervision or control of another, when the 71911
personnel so supplied receive their wages, salary, or other 71912
compensation from the provider of the service. "Employment 71913
service" does not include: 71914

(1) Acting as a contractor or subcontractor, where the 71915
personnel performing the work are not under the direct control of 71916
the purchaser. 71917

(2) Medical and health care services. 71918

(3) Supplying personnel to a purchaser pursuant to a contract 71919
of at least one year between the service provider and the 71920
purchaser that specifies that each employee covered under the 71921
contract is assigned to the purchaser on a permanent basis. 71922

(4) Transactions between members of an affiliated group, as 71923
defined in division (B)(3)(e) of this section. 71924

(KK) "Employment placement service" means locating or finding 71925

employment for a person or finding or locating an employee to fill
an available position. 71926
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(LL) "Exterminating service" means eradicating or attempting
to eradicate vermin infestations from a building or structure, or
the area surrounding a building or structure, and includes
activities to inspect, detect, or prevent vermin infestation of a
building or structure. 71928
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(MM) "Physical fitness facility service" means all
transactions by which a membership is granted, maintained, or
renewed, including initiation fees, membership dues, renewal fees,
monthly minimum fees, and other similar fees and dues, by a
physical fitness facility such as an athletic club, health spa, or
gymnasium, which entitles the member to use the facility for
physical exercise. 71933
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(NN) "Recreation and sports club service" means all
transactions by which a membership is granted, maintained, or
renewed, including initiation fees, membership dues, renewal fees,
monthly minimum fees, and other similar fees and dues, by a
recreation and sports club, which entitles the member to use the
facilities of the organization. "Recreation and sports club" means
an organization that has ownership of, or controls or leases on a
continuing, long-term basis, the facilities used by its members
and includes an aviation club, gun or shooting club, yacht club,
card club, swimming club, tennis club, golf club, country club,
riding club, amateur sports club, or similar organization. 71940
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(OO) "Livestock" means farm animals commonly raised for food
or food production, and includes but is not limited to cattle,
sheep, goats, swine, and poultry. "Livestock" does not include
invertebrates, fish, amphibians, reptiles, horses, domestic pets,
animals for use in laboratories or for exhibition, or other
animals not commonly raised for food or food production. 71951
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(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

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

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before ~~the effective date of this amendment~~ June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible

personal property" includes motor vehicles, electricity, water, 72050
gas, steam, and prewritten computer software. 72051

(ZZ) "Direct mail" means printed material delivered or 72052
distributed by United States mail or other delivery service to a 72053
mass audience or to addressees on a mailing list provided by the 72054
consumer or at the direction of the consumer when the cost of the 72055
items are not billed directly to the recipients. "Direct mail" 72056
includes tangible personal property supplied directly or 72057
indirectly by the consumer to the direct mail vendor for inclusion 72058
in the package containing the printed material. "Direct mail" does 72059
not include multiple items of printed material delivered to a 72060
single address. 72061

(AAA) "Computer" means an electronic device that accepts 72062
information in digital or similar form and manipulates it for a 72063
result based on a sequence of instructions. 72064

(BBB) "Computer software" means a set of coded instructions 72065
designed to cause a computer or automatic data processing 72066
equipment to perform a task. 72067

(CCC) "Delivered electronically" means delivery of computer 72068
software from the seller to the purchaser by means other than 72069
tangible storage media. 72070

(DDD) "Prewritten computer software" means computer software, 72071
including prewritten upgrades, that is not designed and developed 72072
by the author or other creator to the specifications of a specific 72073
purchaser. The combining of two or more prewritten computer 72074
software programs or prewritten portions thereof does not cause 72075
the combination to be other than prewritten computer software. 72076
"Prewritten computer software" includes software designed and 72077
developed by the author or other creator to the specifications of 72078
a specific purchaser when it is sold to a person other than the 72079
purchaser. If a person modifies or enhances computer software of 72080

which the person is not the author or creator, the person shall be
deemed to be the author or creator only of such person's
modifications or enhancements. Prewritten computer software or a
prewritten portion thereof that is modified or enhanced to any
degree, where such modification or enhancement is designed and
developed to the specifications of a specific purchaser, remains
prewritten computer software; provided, however, that where there
is a reasonable, separately stated charge or an invoice or other
statement of the price given to the purchaser for the modification
or enhancement, the modification or enhancement shall not
constitute prewritten computer software.

~~(EEE)(1) Prior to July 1, 2004, "food" means cereals and
cereal products, milk and milk products including ice cream, meat
and meat products, fish and fish products, eggs and egg products,
vegetables and vegetable products, fruits, fruit products, and
pure fruit juices, condiments, sugar and sugar products, coffee
and coffee substitutes, tea, and cocoa and cocoa products. "Food"
does not include spirituous liquors, wine, mixed beverages, or
beer; soft drinks; sodas and beverages that are ordinarily
dispensed at or in connection with bars and soda fountains, other
than coffee, tea, and cocoa; root beer and root beer extracts;
malt and malt extracts; mineral oils, cod liver oils, and halibut
liver oil; medicines, including tonics, vitamin preparations, and
other products sold primarily for their medicinal properties; and
water, including mineral, bottled, and carbonated waters, and ice.~~

~~(2) On and after July 1, 2004, "food "Food" means substances,~~
whether in liquid, concentrated, solid, frozen, dried, or
dehydrated form, that are sold for ingestion or chewing by humans
and are consumed for their taste or nutritional value. "Food" does
not include alcoholic beverages, dietary supplements, soft drinks,
or tobacco.

~~(3)(2)~~ As used in division (EEE)~~(2)(1)~~ of this section:

- (a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.
- (b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:
- (i) A vitamin;
 - (ii) A mineral;
 - (iii) An herb or other botanical;
 - (iv) An amino acid;
 - (v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;
 - (vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)~~(3)~~(2)(b)(i) to (v) of this section.
- (c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.
- (d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.
- (FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than

food, dietary supplements, or alcoholic beverages that is 72143
recognized in the official United States pharmacopoeia, official 72144
homeopathic pharmacopoeia of the United States, or official 72145
national formulary, and supplements to them; is intended for use 72146
in the diagnosis, cure, mitigation, treatment, or prevention of 72147
disease; or is intended to affect the structure or any function of 72148
the body. 72149

(GGG) "Prescription" means an order, formula, or recipe 72150
issued in any form of oral, written, electronic, or other means of 72151
transmission by a duly licensed practitioner authorized by the 72152
laws of this state to issue a prescription. 72153

(HHH) "Durable medical equipment" means equipment, including 72154
repair and replacement parts for such equipment, that can 72155
withstand repeated use, is primarily and customarily used to serve 72156
a medical purpose, generally is not useful to a person in the 72157
absence of illness or injury, and is not worn in or on the body. 72158
"Durable medical equipment" does not include mobility enhancing 72159
equipment. 72160

(III) "Mobility enhancing equipment" means equipment, 72161
including repair and replacement parts for such equipment, that is 72162
primarily and customarily used to provide or increase the ability 72163
to move from one place to another and is appropriate for use 72164
either in a home or a motor vehicle, that is not generally used by 72165
persons with normal mobility, and that does not include any motor 72166
vehicle or equipment on a motor vehicle normally provided by a 72167
motor vehicle manufacturer. "Mobility enhancing equipment" does 72168
not include durable medical equipment. 72169

(JJJ) "Prosthetic device" means a replacement, corrective, or 72170
supportive device, including repair and replacement parts for the 72171
device, worn on or in the human body to artificially replace a 72172
missing portion of the body, prevent or correct physical deformity 72173

or malfunction, or support a weak or deformed portion of the body. 72174
As used in this division, "prosthetic device" does not include 72175
corrective eyeglasses, contact lenses, or dental prosthesis. 72176

(KKK)(1) "Fractional aircraft ownership program" means a 72177
program in which persons within an affiliated group sell and 72178
manage fractional ownership program aircraft, provided that at 72179
least one hundred airworthy aircraft are operated in the program 72180
and the program meets all of the following criteria: 72181

(a) Management services are provided by at least one program 72182
manager within an affiliated group on behalf of the fractional 72183
owners. 72184

(b) Each program aircraft is owned or possessed by at least 72185
one fractional owner. 72186

(c) Each fractional owner owns or possesses at least a 72187
one-sixteenth interest in at least one fixed-wing program 72188
aircraft. 72189

(d) A dry-lease aircraft interchange arrangement is in effect 72190
among all of the fractional owners. 72191

(e) Multi-year program agreements are in effect regarding the 72192
fractional ownership, management services, and dry-lease aircraft 72193
interchange arrangement aspects of the program. 72194

(2) As used in division (KKK)(1) of this section: 72195

(a) "Affiliated group" has the same meaning as in division 72196
(B)(3)(e) of this section. 72197

(b) "Fractional owner" means a person that owns or possesses 72198
at least a one-sixteenth interest in a program aircraft and has 72199
entered into the agreements described in division (KKK)(1)(e) of 72200
this section. 72201

(c) "Fractional ownership program aircraft" or "program 72202
aircraft" means a turbojet aircraft that is owned or possessed by 72203

a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

Sec. 5739.012. (A) As used in this section:

(1) "Bundled transaction" means the retail sale of two or more products, except real property and services to real property, where the products are otherwise distinct and identifiable products and are sold for one non-itemized price. "Bundled transaction" does not include the sale of any products in which the sales price varies, or is negotiable, based on the selection by the consumer of the products included in the transaction.

As used in division (A)(1) of this section:

(a) "Distinct and identifiable products" does not include any 72234
of the following: 72235

(i) Packaging, including containers, boxes, sacks, bags, and 72236
bottles, and packaging materials, including wrapping, labels, 72237
tags, and instruction guides that accompany the retail sale of the 72238
products and are incidental or immaterial to the retail sale 72239
thereof; 72240

(ii) A product provided free of charge with the required 72241
purchase of another product. A product is provided free of charge 72242
if the sales price of the product purchased does not vary 72243
depending on the inclusion of the product provided free of charge. 72244

(iii) Items included in the definition of "price" under 72245
division (H) of section 5739.01 of the Revised Code. 72246

(b) "One non-itemized price" does not include a price that is 72247
separately identified by product on binding sales or other 72248
supporting sales-related documents made available to the consumer 72249
in paper or electronic form, including an invoice, bill of sale, 72250
receipt, contract, service agreement, lease agreement, periodic 72251
notice of rates and services, rate card, or price list. 72252

(2) "De minimis" means the vendor's or seller's purchase 72253
price or sales price of taxable products is ten per cent or less 72254
of the total purchase price or sales price of bundled products. 72255
Vendors and sellers shall use either the purchase price or the 72256
sales price of the products to determine if the taxable products 72257
are de minimis, and shall use the full term of a service contract 72258
to determine if the taxable products are de minimis. Vendors and 72259
sellers shall not use a combination of the purchase price and 72260
sales price of the products to determine if the taxable products 72261
are de minimis. 72262

(3) "Over-the-counter drug" means a drug that contains a 72263
label that identifies the product as a drug as required by 21 72264

C.F.R. 201.66, and the label includes either a "Drug Facts" panel 72265
or a statement of the active ingredients with a list of those 72266
ingredients contained in the drug. 72267

(B) A transaction that otherwise meets the definition of a 72268
bundled transaction is not a bundled transaction if it is any of 72269
the following: 72270

(1) A retail sale of tangible personal property and a service 72271
where the tangible personal property is essential to the use of 72272
the service, and is provided exclusively in connection with the 72273
service, and the true object of the transaction is the service; 72274

(2) A retail sale of services where one service is provided 72275
that is essential to the use or receipt of a second service, the 72276
first service is provided exclusively in connection with the 72277
second service, and the true object of the transaction is the 72278
second service; 72279

(3) A transaction that includes taxable products and 72280
nontaxable products, and the purchase price or sales price of the 72281
taxable products is de minimis; 72282

(4) A retail sale of exempt tangible personal property and 72283
taxable tangible personal property where the transaction includes 72284
food and food ingredients, drugs, durable medical equipment, 72285
mobility enhancing equipment, over-the-counter drugs, prosthetic 72286
devices, or medical supplies, and the vendor's or seller's 72287
purchase price or sales price of the taxable tangible personal 72288
property is fifty per cent or less of the total purchase price or 72289
sales price of the bundled tangible personal property. Vendors and 72290
sellers may not use a combination of the purchase price and sales 72291
price of the tangible personal property when making the fifty per 72292
cent determination for a transaction. 72293

(C) In the case of a bundled transaction that includes 72294
telecommunications service, ancillary service, internet access, or 72295

audio or video programming service: 72296

(1) If the price is attributable to products that are taxable and products that are nontaxable, the portion of the price attributable to the nontaxable products shall be subject to tax unless the provider, by reasonable and verifiable standards, can identify the portion from its books and records that are kept in the regular course of business for other purposes, including, but not limited to, non-tax purposes. 72297
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(2) If the price is attributable to products that are subject to tax at different tax rates, the total price shall be treated as attributable to the products subject to tax at the highest tax rate unless the provider can identify by reasonable and verifiable standards the portion of the price attributable to the products subject to tax at the lower rate from its books and records that are kept in the regular course of business for other purposes, including non-tax purposes. 72304
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(D) In all other cases of bundled transactions, the taxability of the transaction shall be determined by the true object of the consumer entering into the transaction. 72312
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Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state. 72315
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(A)(1) The tax shall be collected as provided in section 72325

5739.025 of the Revised Code, provided that on and after July 1, 2003, and on or before June 30, 2005, the rate of tax shall be six per cent. On and after July 1, 2005, the rate of the tax shall be five and one-half per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire

length of the lease period, including any renewal periods, until 72358
the termination penalty or similar provision no longer applies. 72359
The taxpayer shall bear the burden, by a preponderance of the 72360
evidence, that the transaction or series of transactions is not a 72361
sham transaction. 72362

(3) Except as provided in division (A)(2) of this section, in 72363
the case of a sale, the price of which consists in whole or in 72364
part of the lease or rental of tangible personal property, the tax 72365
shall be measured by the installments of that lease or rental. 72366

(4) In the case of a sale of a physical fitness facility 72367
service or recreation and sports club service, the price of which 72368
consists in whole or in part of a membership for the receipt of 72369
the benefit of the service, the tax applicable to the sale shall 72370
be measured by the installments thereof. 72371

(B) The tax does not apply to the following: 72372

(1) Sales to the state or any of its political subdivisions, 72373
or to any other state or its political subdivisions if the laws of 72374
that state exempt from taxation sales made to this state and its 72375
political subdivisions; 72376

(2) Sales of food for human consumption off the premises 72377
where sold; 72378

(3) Sales of food sold to students only in a cafeteria, 72379
dormitory, fraternity, or sorority maintained in a private, 72380
public, or parochial school, college, or university; 72381

(4) Sales of newspapers and of magazine subscriptions and 72382
sales or transfers of magazines distributed as controlled 72383
circulation publications; 72384

(5) The furnishing, preparing, or serving of meals without 72385
charge by an employer to an employee provided the employer records 72386
the meals as part compensation for services performed or work 72387

done; 72388

(6) Sales of motor fuel upon receipt, use, distribution, or 72389
sale of which in this state a tax is imposed by the law of this 72390
state, but this exemption shall not apply to the sale of motor 72391
fuel on which a refund of the tax is allowable under division (A) 72392
of section 5735.14 of the Revised Code; and the tax commissioner 72393
may deduct the amount of tax levied by this section applicable to 72394
the price of motor fuel when granting a refund of motor fuel tax 72395
pursuant to division (A) of section 5735.14 of the Revised Code 72396
and shall cause the amount deducted to be paid into the general 72397
revenue fund of this state; 72398

(7) Sales of natural gas by a natural gas company, of water 72399
by a water-works company, or of steam by a heating company, if in 72400
each case the thing sold is delivered to consumers through pipes 72401
or conduits, and all sales of communications services by a 72402
telegraph company, all terms as defined in section 5727.01 of the 72403
Revised Code, and sales of electricity delivered through wires; 72404

(8) Casual sales by a person, or auctioneer employed directly 72405
by the person to conduct such sales, except as to such sales of 72406
motor vehicles, watercraft or outboard motors required to be 72407
titled under section 1548.06 of the Revised Code, watercraft 72408
documented with the United States coast guard, snowmobiles, and 72409
all-purpose vehicles as defined in section 4519.01 of the Revised 72410
Code; 72411

(9) Sales of services or tangible personal property, other 72412
than motor vehicles, mobile homes, and manufactured homes, by 72413
churches, organizations exempt from taxation under section 72414
501(c)(3) of the Internal Revenue Code of 1986, or nonprofit 72415
organizations operated exclusively for charitable purposes as 72416
defined in division (B)(12) of this section, provided that the 72417
number of days on which such tangible personal property or 72418

services, other than items never subject to the tax, are sold does 72419
not exceed six in any calendar year. If the number of days on 72420
which such sales are made exceeds six in any calendar year, the 72421
church or organization shall be considered to be engaged in 72422
business and all subsequent sales by it shall be subject to the 72423
tax. In counting the number of days, all sales by groups within a 72424
church or within an organization shall be considered to be sales 72425
of that church or organization, except that sales made by separate 72426
student clubs and other groups of students of a primary or 72427
secondary school, and sales made by a parent-teacher association, 72428
booster group, or similar organization that raises money to 72429
support or fund curricular or extracurricular activities of a 72430
primary or secondary school, shall not be considered to be sales 72431
of such school, and sales by each such club, group, association, 72432
or organization shall be counted separately for purposes of the 72433
six-day limitation. This division does not apply to sales by a 72434
noncommercial educational radio or television broadcasting 72435
station. 72436

(10) Sales not within the taxing power of this state under 72437
the Constitution of the United States; 72438

(11) Except for transactions that are sales under division 72439
(B)(3)~~(s)~~(r) of section 5739.01 of the Revised Code, the 72440
transportation of persons or property, unless the transportation 72441
is by a private investigation and security service; 72442

(12) Sales of tangible personal property or services to 72443
churches, to organizations exempt from taxation under section 72444
501(c)(3) of the Internal Revenue Code of 1986, and to any other 72445
nonprofit organizations operated exclusively for charitable 72446
purposes in this state, no part of the net income of which inures 72447
to the benefit of any private shareholder or individual, and no 72448
substantial part of the activities of which consists of carrying 72449
on propaganda or otherwise attempting to influence legislation; 72450

sales to offices administering one or more homes for the aged or 72451
one or more hospital facilities exempt under section 140.08 of the 72452
Revised Code; and sales to organizations described in division (D) 72453
of section 5709.12 of the Revised Code. 72454

"Charitable purposes" means the relief of poverty; the 72455
improvement of health through the alleviation of illness, disease, 72456
or injury; the operation of an organization exclusively for the 72457
provision of professional, laundry, printing, and purchasing 72458
services to hospitals or charitable institutions; the operation of 72459
a home for the aged, as defined in section 5701.13 of the Revised 72460
Code; the operation of a radio or television broadcasting station 72461
that is licensed by the federal communications commission as a 72462
noncommercial educational radio or television station; the 72463
operation of a nonprofit animal adoption service or a county 72464
humane society; the promotion of education by an institution of 72465
learning that maintains a faculty of qualified instructors, 72466
teaches regular continuous courses of study, and confers a 72467
recognized diploma upon completion of a specific curriculum; the 72468
operation of a parent-teacher association, booster group, or 72469
similar organization primarily engaged in the promotion and 72470
support of the curricular or extracurricular activities of a 72471
primary or secondary school; the operation of a community or area 72472
center in which presentations in music, dramatics, the arts, and 72473
related fields are made in order to foster public interest and 72474
education therein; the production of performances in music, 72475
dramatics, and the arts; or the promotion of education by an 72476
organization engaged in carrying on research in, or the 72477
dissemination of, scientific and technological knowledge and 72478
information primarily for the public. 72479

Nothing in this division shall be deemed to exempt sales to 72480
any organization for use in the operation or carrying on of a 72481
trade or business, or sales to a home for the aged for use in the 72482

operation of independent living facilities as defined in division	72483
(A) of section 5709.12 of the Revised Code.	72484
(13) Building and construction materials and services sold to	72485
construction contractors for incorporation into a structure or	72486
improvement to real property under a construction contract with	72487
this state or a political subdivision of this state, or with the	72488
United States government or any of its agencies; building and	72489
construction materials and services sold to construction	72490
contractors for incorporation into a structure or improvement to	72491
real property that are accepted for ownership by this state or any	72492
of its political subdivisions, or by the United States government	72493
or any of its agencies at the time of completion of the structures	72494
or improvements; building and construction materials sold to	72495
construction contractors for incorporation into a horticulture	72496
structure or livestock structure for a person engaged in the	72497
business of horticulture or producing livestock; building	72498
materials and services sold to a construction contractor for	72499
incorporation into a house of public worship or religious	72500
education, or a building used exclusively for charitable purposes	72501
under a construction contract with an organization whose purpose	72502
is as described in division (B)(12) of this section; building	72503
materials and services sold to a construction contractor for	72504
incorporation into a building under a construction contract with	72505
an organization exempt from taxation under section 501(c)(3) of	72506
the Internal Revenue Code of 1986 when the building is to be used	72507
exclusively for the organization's exempt purposes; building and	72508
construction materials sold for incorporation into the original	72509
construction of a sports facility under section 307.696 of the	72510
Revised Code; and building and construction materials and services	72511
sold to a construction contractor for incorporation into real	72512
property outside this state if such materials and services, when	72513
sold to a construction contractor in the state in which the real	72514

property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)~~(43)~~(42)(a) or (g) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)~~(14)~~(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using food stamp benefits to purchase the food. As used in this division, "food" has the same meaning as in the "Food Stamp Act of 1977," 91 Stat. 958, 7 U.S.C. 2012, as amended, and federal regulations adopted pursuant to that act.

(17) Sales to persons engaged in farming, agriculture,

horticulture, or floriculture, of tangible personal property for 72546
use or consumption directly in the production by farming, 72547
agriculture, horticulture, or floriculture of other tangible 72548
personal property for use or consumption directly in the 72549
production of tangible personal property for sale by farming, 72550
agriculture, horticulture, or floriculture; or material and parts 72551
for incorporation into any such tangible personal property for use 72552
or consumption in production; and of tangible personal property 72553
for such use or consumption in the conditioning or holding of 72554
products produced by and for such use, consumption, or sale by 72555
persons engaged in farming, agriculture, horticulture, or 72556
floriculture, except where such property is incorporated into real 72557
property; 72558

(18) Sales of drugs for a human being, that may be dispensed 72559
only pursuant to a prescription; insulin as recognized in the 72560
official United States pharmacopoeia; urine and blood testing 72561
materials when used by diabetics or persons with hypoglycemia to 72562
test for glucose or acetone; hypodermic syringes and needles when 72563
used by diabetics for insulin injections; epoetin alfa when 72564
purchased for use in the treatment of persons with medical 72565
disease; hospital beds when purchased ~~for use by persons with~~ 72566
~~medical problems for medical purposes by hospitals, nursing homes,~~ 72567
or other medical facilities; and medical oxygen and medical 72568
oxygen-dispensing equipment when purchased ~~for use by persons with~~ 72569
~~medical problems for medical purposes by hospitals, nursing homes,~~ 72570
or other medical facilities; 72571

(19) Sales of prosthetic devices, durable medical equipment 72572
for home use, or mobility enhancing equipment, when made pursuant 72573
to a prescription and when such devices or equipment are for use 72574
by a human being. 72575

(20) Sales of emergency and fire protection vehicles and 72576
equipment to nonprofit organizations for use solely in providing 72577

fire protection and emergency services, including trauma care and 72578
emergency medical services, for political subdivisions of the 72579
state; 72580

(21) Sales of tangible personal property manufactured in this 72581
state, if sold by the manufacturer in this state to a retailer for 72582
use in the retail business of the retailer outside of this state 72583
and if possession is taken from the manufacturer by the purchaser 72584
within this state for the sole purpose of immediately removing the 72585
same from this state in a vehicle owned by the purchaser; 72586

(22) Sales of services provided by the state or any of its 72587
political subdivisions, agencies, instrumentalities, institutions, 72588
or authorities, or by governmental entities of the state or any of 72589
its political subdivisions, agencies, instrumentalities, 72590
institutions, or authorities; 72591

(23) Sales of motor vehicles to nonresidents of this state 72592
upon the presentation of an affidavit executed in this state by 72593
the nonresident purchaser affirming that the purchaser is a 72594
nonresident of this state, that possession of the motor vehicle is 72595
taken in this state for the sole purpose of immediately removing 72596
it from this state, that the motor vehicle will be permanently 72597
titled and registered in another state, and that the motor vehicle 72598
will not be used in this state; 72599

(24) Sales to persons engaged in the preparation of eggs for 72600
sale of tangible personal property used or consumed directly in 72601
such preparation, including such tangible personal property used 72602
for cleaning, sanitizing, preserving, grading, sorting, and 72603
classifying by size; packages, including material and parts for 72604
packages, and machinery, equipment, and material for use in 72605
packaging eggs for sale; and handling and transportation equipment 72606
and parts therefor, except motor vehicles licensed to operate on 72607
public highways, used in intraplant or interplant transfers or 72608

shipment of eggs in the process of preparation for sale, when the
plant or plants within or between which such transfers or
shipments occur are operated by the same person. "Packages"
includes containers, cases, baskets, flats, fillers, filler flats,
cartons, closure materials, labels, and labeling materials, and
"packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use,
except the sale of bottled water, distilled water, mineral water,
carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged
exclusively in the treatment, distribution, and sale of water to
consumers, if such water is delivered to consumers through pipes
or tubing.

(26) Fees charged for inspection or reinspection of motor
vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service
operation pursuant to section 3717.43 of the Revised Code, of
tangible personal property primarily used directly for the
following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for
human consumption for sale by the food service operator, not
including tangible personal property used to display food for
selection by the consumer;

(c) To clean tangible personal property used to prepare or
serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services
or county humane societies;

(29) Sales of services to a corporation described in division
(A) of section 5709.72 of the Revised Code, and sales of tangible

personal property that qualifies for exemption from taxation under 72639
section 5709.72 of the Revised Code; 72640

(30) Sales and installation of agricultural land tile, as 72641
defined in division (B)(5)(a) of section 5739.01 of the Revised 72642
Code; 72643

(31) Sales and erection or installation of portable grain 72644
bins, as defined in division (B)(5)(b) of section 5739.01 of the 72645
Revised Code; 72646

(32) The sale, lease, repair, and maintenance of, parts for, 72647
or items attached to or incorporated in, motor vehicles that are 72648
primarily used for transporting tangible personal property 72649
belonging to others by a person engaged in highway transportation 72650
for hire, except for packages and packaging used for the 72651
transportation of tangible personal property; 72652

(33) Sales to the state headquarters of any veterans' 72653
organization in this state that is either incorporated and issued 72654
a charter by the congress of the United States or is recognized by 72655
the United States veterans administration, for use by the 72656
headquarters; 72657

(34) Sales to a telecommunications service vendor, mobile 72658
telecommunications service vendor, or satellite broadcasting 72659
service vendor of tangible personal property and services used 72660
directly and primarily in transmitting, receiving, switching, or 72661
recording any interactive, one- or two-way electromagnetic 72662
communications, including voice, image, data, and information, 72663
through the use of any medium, including, but not limited to, 72664
poles, wires, cables, switching equipment, computers, and record 72665
storage devices and media, and component parts for the tangible 72666
personal property. The exemption provided in this division shall 72667
be in lieu of all other exemptions under division (B)~~(43)~~(42)(a) 72668
of this section to which the vendor may otherwise be entitled, 72669

based upon the use of the thing purchased in providing the 72670
telecommunications, mobile telecommunications, or satellite 72671
broadcasting service. 72672

~~(35) Sales of investment metal bullion and investment coins. 72673~~
~~"Investment metal bullion" means any elementary precious metal 72674~~
~~that has been put through a process of smelting or refining, 72675~~
~~including, but not limited to, gold, silver, platinum, and 72676~~
~~palladium, and which is in such state or condition that its value 72677~~
~~depends upon its content and not upon its form. "Investment metal 72678~~
~~bullion" does not include fabricated precious metal that has been 72679~~
~~processed or manufactured for one or more specific and customary 72680~~
~~industrial, professional, or artistic uses. "Investment coins" 72681~~
~~means numismatic coins or other forms of money and legal tender 72682~~
~~manufactured of gold, silver, platinum, palladium, or other metal 72683~~
~~under the laws of the United States or any foreign nation with a 72684~~
~~fair market value greater than any statutory or nominal value of 72685~~
~~such coins. 72686~~

~~(36)~~(35)(a) Sales where the purpose of the consumer is to use 72687
or consume the things transferred in making retail sales and 72688
consisting of newspaper inserts, catalogues, coupons, flyers, gift 72689
certificates, or other advertising material that prices and 72690
describes tangible personal property offered for retail sale. 72691

(b) Sales to direct marketing vendors of preliminary 72692
materials such as photographs, artwork, and typesetting that will 72693
be used in printing advertising material; of printed matter that 72694
offers free merchandise or chances to win sweepstake prizes and 72695
that is mailed to potential customers with advertising material 72696
described in division (B)~~(36)~~(35)(a) of this section; and of 72697
equipment such as telephones, computers, facsimile machines, and 72698
similar tangible personal property primarily used to accept orders 72699
for direct marketing retail sales. 72700

(c) Sales of automatic food vending machines that preserve 72701

food with a shelf life of forty-five days or less by refrigeration 72702
and dispense it to the consumer. 72703

For purposes of division (B)~~(36)~~(35) of this section, "direct 72704
marketing" means the method of selling where consumers order 72705
tangible personal property by United States mail, delivery 72706
service, or telecommunication and the vendor delivers or ships the 72707
tangible personal property sold to the consumer from a warehouse, 72708
catalogue distribution center, or similar fulfillment facility by 72709
means of the United States mail, delivery service, or common 72710
carrier. 72711

~~(37)~~(36) Sales to a person engaged in the business of 72712
horticulture or producing livestock of materials to be 72713
incorporated into a horticulture structure or livestock structure; 72714

~~(38)~~(37) Sales of personal computers, computer monitors, 72715
computer keyboards, modems, and other peripheral computer 72716
equipment to an individual who is licensed or certified to teach 72717
in an elementary or a secondary school in this state for use by 72718
that individual in preparation for teaching elementary or 72719
secondary school students; 72720

~~(39)~~(38) Sales to a professional racing team of any of the 72721
following: 72722

(a) Motor racing vehicles; 72723

(b) Repair services for motor racing vehicles; 72724

(c) Items of property that are attached to or incorporated in 72725
motor racing vehicles, including engines, chassis, and all other 72726
components of the vehicles, and all spare, replacement, and 72727
rebuilt parts or components of the vehicles; except not including 72728
tires, consumable fluids, paint, and accessories consisting of 72729
instrumentation sensors and related items added to the vehicle to 72730
collect and transmit data by means of telemetry and other forms of 72731

communication.	72732
(40) <u>(39)</u> Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;	72733 72734 72735
(41) <u>(40)</u> Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B) (43) <u>(42)</u> (a) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.	72736 72737 72738 72739 72740 72741 72742 72743 72744 72745 72746 72747 72748 72749 72750 72751 72752
(42) <u>(41)</u> Sales to a person providing services under division (B)(3) (s) <u>(r)</u> of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.	72753 72754 72755 72756
(43) <u>(42)</u> Sales where the purpose of the purchaser is to do any of the following:	72757 72758
(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible	72759 72760 72761 72762

personal property for sale by mining, including, without 72763
limitation, the extraction from the earth of all substances that 72764
are classed geologically as minerals, production of crude oil and 72765
natural gas, farming, agriculture, horticulture, or floriculture, 72766
or directly in the rendition of a public utility service, except 72767
that the sales tax levied by this section shall be collected upon 72768
all meals, drinks, and food for human consumption sold when 72769
transporting persons. Persons engaged in rendering farming, 72770
agricultural, horticultural, or floricultural services, and 72771
services in the exploration for, and production of, crude oil and 72772
natural gas, for others are deemed engaged directly in farming, 72773
agriculture, horticulture, and floriculture, or exploration for, 72774
and production of, crude oil and natural gas. This paragraph does 72775
not exempt from "retail sale" or "sales at retail" the sale of 72776
tangible personal property that is to be incorporated into a 72777
structure or improvement to real property. 72778

(b) To hold the thing transferred as security for the 72779
performance of an obligation of the vendor; 72780

(c) To resell, hold, use, or consume the thing transferred as 72781
evidence of a contract of insurance; 72782

(d) To use or consume the thing directly in commercial 72783
fishing; 72784

(e) To incorporate the thing transferred as a material or a 72785
part into, or to use or consume the thing transferred directly in 72786
the production of, magazines distributed as controlled circulation 72787
publications; 72788

(f) To use or consume the thing transferred in the production 72789
and preparation in suitable condition for market and sale of 72790
printed, imprinted, overprinted, lithographic, multilithic, 72791
blueprinted, photostatic, or other productions or reproductions of 72792
written or graphic matter; 72793

(g) To use the thing transferred, as described in section 72794
5739.011 of the Revised Code, primarily in a manufacturing 72795
operation to produce tangible personal property for sale; 72796

(h) To use the benefit of a warranty, maintenance or service 72797
contract, or similar agreement, as described in division (B)(7) of 72798
section 5739.01 of the Revised Code, to repair or maintain 72799
tangible personal property, if all of the property that is the 72800
subject of the warranty, contract, or agreement would not be 72801
subject to the tax imposed by this section; 72802

(i) To use the thing transferred as qualified research and 72803
development equipment; 72804

(j) To use or consume the thing transferred primarily in 72805
storing, transporting, mailing, or otherwise handling purchased 72806
sales inventory in a warehouse, distribution center, or similar 72807
facility when the inventory is primarily distributed outside this 72808
state to retail stores of the person who owns or controls the 72809
warehouse, distribution center, or similar facility, to retail 72810
stores of an affiliated group of which that person is a member, or 72811
by means of direct marketing. This division does not apply to 72812
motor vehicles registered for operation on the public highways. As 72813
used in this division, "affiliated group" has the same meaning as 72814
in division (B)(3)(e) of section 5739.01 of the Revised Code and 72815
"direct marketing" has the same meaning as in division (B)~~(36)~~(35) 72816
of this section. 72817

(k) To use or consume the thing transferred to fulfill a 72818
contractual obligation incurred by a warrantor pursuant to a 72819
warranty provided as a part of the price of the tangible personal 72820
property sold or by a vendor of a warranty, maintenance or service 72821
contract, or similar agreement the provision of which is defined 72822
as a sale under division (B)(7) of section 5739.01 of the Revised 72823
Code; 72824

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service.

As used in division (B)~~(43)~~(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

~~(44)~~(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

~~(45)~~(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

~~(46)~~(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division, "call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient

individuals to fill fifty full-time equivalent positions. 72856

(46) Sales by a telecommunications service vendor of 900 72857
service to a subscriber. This division does not apply to 72858
information services, as defined in division (FF) of section 72859
5739.01 of the Revised Code. 72860

(47) Sales of value-added non-voice data service. This 72861
division does not apply to any similar service that is not 72862
otherwise a telecommunications service. 72863

(C) For the purpose of the proper administration of this 72864
chapter, and to prevent the evasion of the tax, it is presumed 72865
that all sales made in this state are subject to the tax until the 72866
contrary is established. 72867

~~(D)~~~~(E)~~(D) The levy of this tax on retail sales of recreation 72868
and sports club service shall not prevent a municipal corporation 72869
from levying any tax on recreation and sports club dues or on any 72870
income generated by recreation and sports club dues. 72871

(E) The tax collected by the vendor from the consumer under 72872
this chapter is not part of the price, but is a tax collection for 72873
the benefit of the state, and of counties levying an additional 72874
sales tax pursuant to section 5739.021 or 5739.026 of the Revised 72875
Code and of transit authorities levying an additional sales tax 72876
pursuant to section 5739.023 of the Revised Code. Except for the 72877
discount authorized under section 5739.12 of the Revised Code and 72878
the effects of any rounding pursuant to section 5703.055 of the 72879
Revised Code, no person other than the state or such a county or 72880
transit authority shall derive any benefit from the collection or 72881
payment of the tax levied by this section or section 5739.021, 72882
5739.023, or 5739.026 of the Revised Code. 72883

Sec. 5739.021. (A) For the purpose of providing additional 72884
general revenues for the county or supporting criminal and 72885

administrative justice services in the county, or both, and to pay 72886
the expenses of administering such levy, any county may levy a tax 72887
at the rate of not more than one per cent at any multiple of 72888
one-fourth of one per cent upon every retail sale made in the 72889
county, except sales of watercraft and outboard motors required to 72890
be titled pursuant to Chapter 1548. of the Revised Code and sales 72891
of motor vehicles, and may increase the rate of an existing tax to 72892
not more than one per cent at any multiple of one-fourth of one 72893
per cent. 72894

The tax shall be levied and the rate increased pursuant to a 72895
resolution of the board of county commissioners. The resolution 72896
shall state the purpose for which the tax is to be levied and the 72897
number of years for which the tax is to be levied, or that it is 72898
for a continuing period of time. If the tax is to be levied for 72899
the purpose of providing additional general revenues and for the 72900
purpose of supporting criminal and administrative justice 72901
services, the resolution shall state the rate or amount of the tax 72902
to be apportioned to each such purpose. The rate or amount may be 72903
different for each year the tax is to be levied, but the rates or 72904
amounts actually apportioned each year shall not be different from 72905
that stated in the resolution for that year. Unless the resolution 72906
is adopted as an emergency measure, or is to be submitted to the 72907
electors of the county under division (B)(1) of this section, the 72908
resolution shall be adopted at least one hundred twenty days prior 72909
to the date on which the tax or the increased rate of tax is to go 72910
into effect. If the resolution is adopted as an emergency measure 72911
necessary for the immediate preservation of the public peace, 72912
health, or safety, it must receive an affirmative vote of all of 72913
the members of the board of county commissioners and shall state 72914
the reasons for such necessity. The board shall deliver a 72915
certified copy of the resolution to the tax commissioner, not 72916
later than the sixty-fifth day prior to the date on which the tax 72917
is to become effective, which shall be the first day of the 72918

calendar quarter. 72919

Prior to the adoption of any resolution under this section, 72920
the board of county commissioners shall conduct two public 72921
hearings on the resolution, the second hearing to be not less than 72922
three nor more than ten days after the first. Notice of the date, 72923
time, and place of the hearings shall be given by publication in a 72924
newspaper of general circulation in the county once a week on the 72925
same day of the week for two consecutive weeks, the second 72926
publication being not less than ten nor more than thirty days 72927
prior to the first hearing. 72928

Except as provided in division (B)(3) of this section, the 72929
resolution shall be subject to a referendum as provided in 72930
sections 305.31 to 305.41 of the Revised Code. 72931

If a petition for a referendum is filed, the county auditor 72932
with whom the petition was filed shall, within five days, notify 72933
the board of county commissioners and the tax commissioner of the 72934
filing of the petition by certified mail. If the board of 72935
elections with which the petition was filed declares the petition 72936
invalid, the board of elections, within five days, shall notify 72937
the board of county commissioners and the tax commissioner of that 72938
declaration by certified mail. If the petition is declared to be 72939
invalid, the effective date of the tax or increased rate of tax 72940
levied by this section shall be the first day of a calendar 72941
quarter following the expiration of sixty-five days from the date 72942
the commissioner receives notice from the board of elections that 72943
the petition is invalid. 72944

(B)(1) A resolution that is not adopted as an emergency 72945
measure may direct the board of elections to submit the question 72946
of levying the tax or increasing the rate of tax to the electors 72947
of the county at a special election held on the date specified by 72948
the board of county commissioners in the resolution, provided that 72949
the election occurs not less than seventy-five days after a 72950

certified copy of such resolution is transmitted to the board of
elections and the election is not held in February or August of
any year. Upon transmission of the resolution to the board of
elections, the board of county commissioners shall notify the tax
commissioner in writing of the levy question to be submitted to
the electors. No resolution adopted under this division shall go
into effect unless approved by a majority of those voting upon it,
and, except as provided in division (B)(3) of this section, shall
become effective on the first day of a calendar quarter following
the expiration of sixty-five days from the date the tax
commissioner receives notice from the board of elections of the
affirmative vote.

(2) A resolution that is adopted as an emergency measure
shall go into effect as provided in ~~division~~ divisions (A) and (H)
of this section, but may direct the board of elections to submit
the question of repealing the tax or increase in the rate of the
tax to the electors of the county at the next general election in
the county occurring not less than seventy-five days after a
certified copy of the resolution is transmitted to the board of
elections. Upon transmission of the resolution to the board of
elections, the board of county commissioners shall notify the tax
commissioner in writing of the levy question to be submitted to
the electors. The ballot question shall be the same as that
prescribed in section 5739.022 of the Revised Code. The board of
elections shall notify the board of county commissioners and the
tax commissioner of the result of the election immediately after
the result has been declared. If a majority of the qualified
electors voting on the question of repealing the tax or increase
in the rate of the tax vote for repeal of the tax or repeal of the
increase, the board of county commissioners, on the first day of a
calendar quarter following the expiration of sixty-five days after
the date the board and tax commissioner receive notice of the

result of the election, shall, in the case of a repeal of the tax, 72983
cease to levy the tax, or, in the case of a repeal of an increase 72984
in the rate of the tax, cease to levy the increased rate and levy 72985
the tax at the rate at which it was imposed immediately prior to 72986
the increase in rate. 72987

(3) If a vendor that is registered with the central 72988
electronic registration system provided for in section 5740.05 of 72989
the Revised Code makes a sale in this state by printed catalog and 72990
the consumer computed the tax on the sale based on local rates 72991
published in the catalog, any tax levied or repealed or rate 72992
changed under this section shall not apply to such a sale until 72993
the first day of a calendar quarter following the expiration of 72994
one hundred twenty days from the date of notice by the tax 72995
commissioner pursuant to division (H) of this section. 72996

(C) If a resolution is rejected at a referendum or if a 72997
resolution adopted after January 1, 1982, as an emergency measure 72998
is repealed by the electors pursuant to division (B)(2) of this 72999
section or section 5739.022 of the Revised Code, then for one year 73000
after the date of the election at which the resolution was 73001
rejected or repealed the board of county commissioners may not 73002
adopt any resolution authorized by this section as an emergency 73003
measure. 73004

(D) The board of county commissioners, at any time while a 73005
tax levied under this section is in effect, may by resolution 73006
reduce the rate at which the tax is levied to a lower rate 73007
authorized by this section. Any reduction in the rate at which the 73008
tax is levied shall be made effective on the first day of a 73009
calendar quarter next following the sixty-fifth day after a 73010
certified copy of the resolution is delivered to the tax 73011
commissioner. 73012

(E) The tax on every retail sale subject to a tax levied 73013
pursuant to this section shall be in addition to the tax levied by 73014

section 5739.02 of the Revised Code and any tax levied pursuant to 73015
section 5739.023 or 5739.026 of the Revised Code. 73016

A county that levies a tax pursuant to this section shall 73017
levy a tax at the same rate pursuant to section 5741.021 of the 73018
Revised Code. 73019

The additional tax levied by the county shall be collected 73020
pursuant to section 5739.025 of the Revised Code. If the 73021
additional tax or some portion thereof is levied for the purpose 73022
of criminal and administrative justice services, the revenue from 73023
the tax, or the amount or rate apportioned to that purpose, shall 73024
be credited to a special fund created in the county treasury for 73025
receipt of that revenue. 73026

Any tax levied pursuant to this section is subject to the 73027
exemptions provided in section 5739.02 of the Revised Code and in 73028
addition shall not be applicable to sales not within the taxing 73029
power of a county under the Constitution of the United States or 73030
the Ohio Constitution. 73031

(F) For purposes of this section, a copy of a resolution is 73032
"certified" when it contains a written statement attesting that 73033
the copy is a true and exact reproduction of the original 73034
resolution. 73035

(G) If a board of commissioners intends to adopt a resolution 73036
to levy a tax in whole or in part for the purpose of criminal and 73037
administrative justice services, the board shall prepare and make 73038
available at the first public hearing at which the resolution is 73039
considered a statement containing the following information: 73040

(1) For each of the two preceding fiscal years, the amount of 73041
expenditures made by the county from the county general fund for 73042
the purpose of criminal and administrative justice services; 73043

(2) For the fiscal year in which the resolution is adopted, 73044

the board's estimate of the amount of expenditures to be made by 73045
the county from the county general fund for the purpose of 73046
criminal and administrative justice services; 73047

(3) For each of the two fiscal years after the fiscal year in 73048
which the resolution is adopted, the board's preliminary plan for 73049
expenditures to be made from the county general fund for the 73050
purpose of criminal and administrative justice services, both 73051
under the assumption that the tax will be imposed for that purpose 73052
and under the assumption that the tax would not be imposed for 73053
that purpose, and for expenditures to be made from the special 73054
fund created under division (E) of this section under the 73055
assumption that the tax will be imposed for that purpose. 73056

The board shall prepare the statement and the preliminary 73057
plan using the best information available to the board at the time 73058
the statement is prepared. Neither the statement nor the 73059
preliminary plan shall be used as a basis to challenge the 73060
validity of the tax in any court of competent jurisdiction, nor 73061
shall the statement or preliminary plan limit the authority of the 73062
board to appropriate, pursuant to section 5705.38 of the Revised 73063
Code, an amount different from that specified in the preliminary 73064
plan. 73065

(H) Upon receipt from a board of county commissioners of a 73066
certified copy of a resolution required by division (A) or (D) of 73067
this section, or from the board of elections of a notice of the 73068
results of an election required by division (A) or (B)(1) or (2) 73069
of this section, the tax commissioner shall provide notice of a 73070
tax rate change in a manner that is reasonably accessible to all 73071
affected vendors. The commissioner shall provide this notice at 73072
least sixty days prior to the effective date of the rate change. 73073
The commissioner, by rule, may establish the method by which 73074
notice will be provided. 73075

is at least	But not more than	the tax is	73107
\$.01	\$.15	No tax	73108
.16	.16	1¢	73109
.17	.33	2¢	73110
.34	.50	3¢	73111
.51	.66	4¢	73112
.67	.83	5¢	73113
.84	1.00	6¢	73114

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

(2) On and after July 1, 2005, and on and before December 31, 2005, in accordance with the following schedule:

If the price	But not	The amount	73125
is at least	more than	of the tax is	73126
\$.01	\$.15	No tax	73127
.16	.20	1¢	73128
	<u>.18</u>		
.21	.40	2¢	73129
<u>.19</u>	<u>.36</u>		
.41	.60	3¢	73130
<u>.37</u>	<u>.54</u>		
.61	.80	4¢	73131
<u>.55</u>	<u>.72</u>		
.81	1.00	5¢	73132
<u>.73</u>	<u>.90</u>		
<u>.91</u>	<u>1.09</u>	<u>6¢</u>	73133

<u>1.10</u>	<u>1.27</u>	<u>7¢</u>	73134
<u>1.28</u>	<u>1.46</u>	<u>8¢</u>	73135
<u>1.47</u>	<u>1.64</u>	<u>9¢</u>	73136
<u>1.65</u>	<u>1.82</u>	<u>10¢</u>	73137
<u>1.83</u>	<u>2.00</u>	<u>11¢</u>	73138

If the price exceeds ~~one dollar~~ two dollars, the tax is ~~five~~ eleven cents on each ~~one dollar~~ two dollars. If the price exceeds ~~one dollar~~ two dollars or a multiple thereof by not more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar~~ two dollars plus one cent. If the price exceeds ~~one dollar~~ two dollars or a multiple thereof by more than ~~twenty~~ eighteen cents, the amount of tax is ~~five~~ eleven cents for each ~~one dollar~~ two dollars plus the amount of tax for prices ~~twenty-one~~ nineteen cents through one dollar and ninety-nine cents in accordance with the schedule above.

(B) On and after July 1, 2003, and on and before June 30, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the combined rate of state and local tax is six and one-fourth per cent:

If the price		The amount of	73156
is at least	But not more than	the tax is	73157
\$.01	\$.15	No tax	73158
.16	.16	1¢	73159
.17	.32	2¢	73160
.33	.48	3¢	73161
.49	.64	4¢	73162
.65	.80	5¢	73163
.81	.96	6¢	73164
.97	1.12	7¢	73165

1.13	1.28	8¢	73166
1.29	1.44	9¢	73167
1.45	1.60	10¢	73168
1.61	1.76	11¢	73169
1.77	1.92	12¢	73170
1.93	2.08	13¢	73171
2.09	2.24	14¢	73172
2.25	2.40	15¢	73173
2.41	2.56	16¢	73174
2.57	2.72	17¢	73175
2.73	2.88	18¢	73176
2.89	3.04	19¢	73177
3.05	3.20	20¢	73178
3.21	3.36	21¢	73179
3.37	3.52	22¢	73180
3.53	3.68	23¢	73181
3.69	3.84	24¢	73182
3.85	4.00	25¢	73183

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

(2) When the combined rate of state and local tax is six and one-half per cent:

If the price		The amount of	73195
is at least	But not more than	the tax is	73196
\$.01	\$.15	No tax	73197

.16	.30	2¢	73198
.31	.46	3¢	73199
.47	.61	4¢	73200
.62	.76	5¢	73201
.77	.92	6¢	73202
.93	1.07	7¢	73203
1.08	1.23	8¢	73204
1.24	1.38	9¢	73205
1.39	1.53	10¢	73206
1.54	1.69	11¢	73207
1.70	1.84	12¢	73208
1.85	2.00	13¢	73209

If the price exceeds two dollars, the tax is thirteen cents 73210
on each two dollars. If the price exceeds two dollars or a 73211
multiple thereof by not more than fifteen cents, the amount of tax 73212
is thirteen cents for each two dollars plus one cent. If the price 73213
exceeds two dollars or a multiple thereof by more than fifteen 73214
cents, the amount of tax is thirteen cents for each two dollars 73215
plus the amount of tax for prices sixteen cents through one dollar 73216
and ninety-nine cents in accordance with the schedule above. 73217

(3) When the combined rate of state and local tax is six and 73218
three-fourths per cent: 73219

If the price		The amount of	73220
is at least	But not more than	the tax is	73221
\$.01	\$.15	No tax	73222
.16	.29	2¢	73223
.30	.44	3¢	73224
.45	.59	4¢	73225
.60	.74	5¢	73226
.75	.88	6¢	73227
.89	1.03	7¢	73228
1.04	1.18	8¢	73229

1.19	1.33	9¢	73230
1.34	1.48	10¢	73231
1.49	1.62	11¢	73232
1.63	1.77	12¢	73233
1.78	1.92	13¢	73234
1.93	2.07	14¢	73235
2.08	2.22	15¢	73236
2.23	2.37	16¢	73237
2.38	2.51	17¢	73238
2.52	2.66	18¢	73239
2.67	2.81	19¢	73240
2.82	2.96	20¢	73241
2.97	3.11	21¢	73242
3.12	3.25	22¢	73243
3.26	3.40	23¢	73244
3.41	3.55	24¢	73245
3.56	3.70	25¢	73246
3.71	3.85	26¢	73247
3.86	4.00	27¢	73248

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

(4) When the combined rate of state and local tax is seven

per cent:			73262
If the price		The amount of	73263
is at least	But not more than	the tax is	73264
\$.01	\$.15	No tax	73265
.16	.28	2¢	73266
.29	.42	3¢	73267
.43	.57	4¢	73268
.58	.71	5¢	73269
.72	.85	6¢	73270
.86	1.00	7¢	73271
If the price exceeds one dollar, the tax is seven cents on			73272
each one dollar. If the price exceeds one dollar or a multiple			73273
thereof by not more than fifteen cents, the amount of tax is seven			73274
cents for each one dollar plus one cent. If the price exceeds one			73275
dollar or a multiple thereof by more than fifteen cents, the			73276
amount of tax is seven cents for each one dollar plus the amount			73277
of tax for prices sixteen cents through ninety-nine cents in			73278
accordance with the schedule above.			73279
(5) When the combined rate of state and local tax is seven			73280
and one-fourth per cent:			73281
If the price		The amount of	73282
is at least	But not more than	the tax is	73283
\$.01	\$.15	No tax	73284
.16	.27	2¢	73285
.28	.41	3¢	73286
.42	.55	4¢	73287
.56	.68	5¢	73288
.69	.82	6¢	73289
.83	.96	7¢	73290
.97	1.10	8¢	73291
1.11	1.24	9¢	73292
1.25	1.37	10¢	73293

1.38	1.51	11¢	73294
1.52	1.65	12¢	73295
1.66	1.79	13¢	73296
1.80	1.93	14¢	73297
1.94	2.06	15¢	73298
2.07	2.20	16¢	73299
2.21	2.34	17¢	73300
2.35	2.48	18¢	73301
2.49	2.62	19¢	73302
2.63	2.75	20¢	73303
2.76	2.89	21¢	73304
2.90	3.03	22¢	73305
3.04	3.17	23¢	73306
3.18	3.31	24¢	73307
3.32	3.44	25¢	73308
3.45	3.58	26¢	73309
3.59	3.72	27¢	73310
3.73	3.86	28¢	73311
3.87	4.00	29¢	73312

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

(6) When the combined rate of state and local tax is seven

and one-half per cent:			73326
If the price		The amount of	73327
is at least	But not more than	the tax is	73328
\$.01	\$.15	No tax	73329
.16	.26	2¢	73330
.27	.40	3¢	73331
.41	.53	4¢	73332
.54	.65	5¢	73333
.66	.80	6¢	73334
.81	.93	7¢	73335
.94	1.06	8¢	73336
1.07	1.20	9¢	73337
1.21	1.33	10¢	73338
1.34	1.46	11¢	73339
1.47	1.60	12¢	73340
1.61	1.73	13¢	73341
1.74	1.86	14¢	73342
1.87	2.00	15¢	73343

If the price exceeds two dollars, the tax is fifteen cents on 73344
 each two dollars. If the price exceeds two dollars or a multiple 73345
 thereof by not more than fifteen cents, the amount of tax is 73346
 fifteen cents for each two dollars plus one cent. If the price 73347
 exceeds two dollars or a multiple thereof by more than fifteen 73348
 cents, the amount of tax is fifteen cents for each two dollars 73349
 plus the amount of tax for prices sixteen cents through one dollar 73350
 and ninety-nine cents in accordance with the schedule above. 73351

(7) When the combined rate of state and local tax is seven 73352
 and three-fourths per cent: 73353

If the price		The amount of	73354
is at least	But not more than	the tax is	73355
\$.01	\$.15	No tax	73356
.16	.25	2¢	73357

.26	.38	3¢	73358
.39	.51	4¢	73359
.52	.64	5¢	73360
.65	.77	6¢	73361
.78	.90	7¢	73362
.91	1.03	8¢	73363
1.04	1.16	9¢	73364
1.17	1.29	10¢	73365
1.30	1.41	11¢	73366
1.42	1.54	12¢	73367
1.55	1.67	13¢	73368
1.68	1.80	14¢	73369
1.81	1.93	15¢	73370
1.94	2.06	16¢	73371
2.07	2.19	17¢	73372
2.20	2.32	18¢	73373
2.33	2.45	19¢	73374
2.46	2.58	20¢	73375
2.59	2.70	21¢	73376
2.71	2.83	22¢	73377
2.84	2.96	23¢	73378
2.97	3.09	24¢	73379
3.10	3.22	25¢	73380
3.23	3.35	26¢	73381
3.36	3.48	27¢	73382
3.49	3.61	28¢	73383
3.62	3.74	29¢	73384
3.75	3.87	30¢	73385
3.88	4.00	31¢	73386

If the price exceeds four dollars, the tax is thirty-one cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than twelve cents, the amount of tax is thirty-one cents for each four dollars plus one cent. If the

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price exceeds four dollars or a multiple thereof by more than 73391
twelve cents but by not more than twenty-five cents, the amount of 73392
tax is thirty-one cents for each four dollars plus two cents. If 73393
the price exceeds four dollars or a multiple thereof by more than 73394
twenty-five cents, the amount of tax is thirty-one cents for each 73395
four dollars plus the amount of tax for prices twenty-six cents 73396
through three dollars and ninety-nine cents in accordance with the 73397
schedule above. 73398

(8) When the combined rate of state and local tax is eight 73399
per cent: 73400

If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	73403
.16	.25	2¢	73404
.26	.37	3¢	73405
.38	.50	4¢	73406
.51	.62	5¢	73407
.63	.75	6¢	73408
.76	.87	7¢	73409
.88	1.00	8¢	73410

If the price exceeds one dollar, the tax is eight cents on 73411
each one dollar. If the price exceeds one dollar or a multiple 73412
thereof by not more than twelve cents, the amount of tax is eight 73413
cents for each one dollar plus one cent. If the price exceeds one 73414
dollar or a multiple thereof by more than twelve cents but not 73415
more than twenty-five cents, the amount of tax is eight cents for 73416
each one dollar plus two cents. If the price exceeds one dollar or 73417
a multiple thereof by more than twenty-five cents, the amount of 73418
tax is eight cents for each one dollar plus the amount of tax for 73419
prices twenty-six cents through ninety-nine cents in accordance 73420
with the schedule above. 73421

(9) When the combined rate of state and local tax is eight 73422

and one-fourth per cent:			73423
If the price		The amount of	73424
is at least	But not more than	the tax is	73425
\$.01	\$.15	No tax	73426
.16	.24	2¢	73427
.25	.36	3¢	73428
.37	.48	4¢	73429
.49	.60	5¢	73430
.61	.72	6¢	73431
.73	.84	7¢	73432
.85	.96	8¢	73433
.97	1.09	9¢	73434
1.10	1.21	10¢	73435
1.22	1.33	11¢	73436
1.34	1.45	12¢	73437
1.46	1.57	13¢	73438
1.58	1.69	14¢	73439
1.70	1.81	15¢	73440
1.82	1.93	16¢	73441
1.94	2.06	17¢	73442
2.07	2.18	18¢	73443
2.19	2.30	19¢	73444
2.31	2.42	20¢	73445
2.43	2.54	21¢	73446
2.55	2.66	22¢	73447
2.67	2.78	23¢	73448
2.79	2.90	24¢	73449
2.91	3.03	25¢	73450
3.04	3.15	26¢	73451
3.16	3.27	27¢	73452
3.28	3.39	28¢	73453
3.40	3.51	29¢	73454
3.52	3.63	30¢	73455

3.64	3.75	31¢	73456
3.76	3.87	32¢	73457
3.88	4.00	33¢	73458

If the price exceeds four dollars, the tax is thirty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than eleven cents, the amount of tax is thirty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than eleven cents but by not more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-four cents, the amount of tax is thirty-three cents for each four dollars plus the amount of tax for prices twenty-six cents through three dollars and ninety-nine cents in accordance with the schedule above.

(10) When the combined rate of state and local tax is eight and one-half per cent:

If the price		The amount of	
is at least	But not more than	the tax is	
\$.01	\$.15	No tax	73475
.16	.23	2¢	73476
.24	.35	3¢	73477
.36	.47	4¢	73478
.48	.58	5¢	73479
.59	.70	6¢	73480
.71	.82	7¢	73481
.83	.94	8¢	73482
.95	1.05	9¢	73483
1.06	1.17	10¢	73484
1.18	1.29	11¢	73485
1.30	1.41	12¢	73486
1.42	1.52	13¢	73487

1.53	1.64	14¢	73488
1.65	1.76	15¢	73489
1.77	1.88	16¢	73490
1.89	2.00	17¢	73491

If the price exceeds two dollars, the tax is seventeen cents 73492
on each two dollars. If the price exceeds two dollars or a 73493
multiple thereof by not more than eleven cents, the amount of tax 73494
is seventeen cents for each two dollars plus one cent. If the 73495
price exceeds two dollars or a multiple thereof by more than 73496
eleven cents but by not more than twenty-three cents, the amount 73497
of tax is seventeen cents for each two dollars plus two cents. If 73498
the price exceeds two dollars or a multiple thereof by more than 73499
twenty-three cents, the amount of tax is seventeen cents for each 73500
two dollars plus the amount of tax for prices twenty-four cents 73501
through one dollar and ninety-nine cents in accordance with the 73502
schedule above. 73503

(11) When the combined rate of state and local tax is eight 73504
and three-fourths per cent: 73505

If the price		The amount of	73506
is at least	But not more than	the tax is	73507
\$.01	\$.15	No tax	73508
.16	.22	2¢	73509
.23	.34	3¢	73510
.35	.45	4¢	73511
.46	.57	5¢	73512
.58	.68	6¢	73513
.69	.80	7¢	73514
.81	.91	8¢	73515
.92	1.02	9¢	73516
1.03	1.14	10¢	73517
1.15	1.25	11¢	73518
1.26	1.37	12¢	73519

1.38	1.48	13¢	73520
1.49	1.60	14¢	73521
1.61	1.71	15¢	73522
1.72	1.82	16¢	73523
1.83	1.94	17¢	73524
1.95	2.05	18¢	73525
2.06	2.17	19¢	73526
2.18	2.28	20¢	73527
2.29	2.40	21¢	73528
2.41	2.51	22¢	73529
2.52	2.62	23¢	73530
2.63	2.74	24¢	73531
2.75	2.85	25¢	73532
2.86	2.97	26¢	73533
2.98	3.08	27¢	73534
3.09	3.20	28¢	73535
3.21	3.31	29¢	73536
3.32	3.42	30¢	73537
3.43	3.54	31¢	73538
	3.65	32¢	73539
3.66	3.77	33¢	73540
3.78	3.88	34¢	73541
3.89	4.00	35¢	73542

If the price exceeds four dollars, the tax is thirty-five 73543
cents on each four dollars. If the price exceeds four dollars or a 73544
multiple thereof by not more than eleven cents, the amount of tax 73545
is thirty-five cents for each four dollars plus one cent. If the 73546
price exceeds four dollars or a multiple thereof by more than 73547
eleven cents but by not more than twenty-two cents, the amount of 73548
tax is thirty-five cents for each four dollars plus two cents. If 73549
the price exceeds four dollars or a multiple thereof by more than 73550
twenty-two cents, the amount of tax is thirty-five cents for each 73551
four dollars plus the amount of tax for prices twenty-three cents 73552

through three dollars and ninety-nine cents in accordance with the schedule above.

(12) When the combined rate of state and local tax is nine per cent:

If the price is at least	But not more than	The amount of the tax is
\$.01	\$.15	No tax
.16	.22	2¢
.23	.33	3¢
.34	.44	4¢
.45	.55	5¢
.56	.66	6¢
.67	.77	7¢
.78	.88	8¢
.89	1.00	9¢

If the price exceeds one dollar, the tax is nine cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than eleven cents, the amount of tax is nine cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than eleven cents but by not more than twenty-two cents, the amount of tax is nine cents for each one dollar plus two cents. If the price exceeds one dollar or a multiple thereof by more than twenty-two cents, the amount of tax is nine cents for each one dollar plus the amount of tax for prices twenty-three cents through ninety-nine cents in accordance with the schedule above.

(C) On and after July 1, 2005, and on and before December 31, 2005, the combined taxes levied by sections 5739.02 and 5741.02 and pursuant to sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code shall be collected in accordance with the following schedules:

(1) When the total rate of local tax is one-fourth per cent:			73584
If the price	But not	The amount	73585
is at least	more than	of the tax is	73586
\$.01	\$.15	No tax	73587
.16	.19	1¢	73588
.20	.38	2¢	73589
.39	.57	3¢	73590
.58	.76	4¢	73591
.77	.95	5¢	73592
.96	1.14	6¢	73593
1.15	1.33	7¢	73594
1.34	1.52	8¢	73595
1.53	1.71	9¢	73596
1.72	1.90	10¢	73597
1.91	2.09	11¢	73598
2.10	2.28	12¢	73599
2.29	2.47	13¢	73600
2.48	2.66	14¢	73601
2.67	2.85	15¢	73602
2.86	3.04	16¢	73603
3.05	3.23	17¢	73604
3.24	3.42	18¢	73605
3.43	3.61	19¢	73606
3.62	3.80	20¢	73607
3.81	4.00	21¢	73608
If the price exceeds four dollars, the tax is twenty one			73609
cents on each four dollars. If the price exceeds four dollars or a			73610
multiple thereof by not more than nineteen cents, the amount of			73611
tax is twenty one cents for each four dollars plus one cent. If			73612
the price exceeds four dollars or a multiple thereof by more than			73613
nineteen cents, the amount of tax is twenty one cents for each			73614
four dollars plus the amount of tax for prices twenty cents			73615

~~through three dollars and ninety nine cents in accordance with the~~ 73616
~~schedule above.~~ 73617

~~(2) When the combined rate of local tax is one half per cent:~~ 73618

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73621
.16	.18	1¢	73622
.19	.36	2¢	73623
.37	.54	3¢	73624
.55	.72	4¢	73625
.73	.90	5¢	73626
.91	1.09	6¢	73627
1.10	1.27	7¢	73628
1.28	1.46	8¢	73629
1.47	1.64	9¢	73630
1.65	1.82	10¢	73631
1.83	2.00	11¢	73632

~~If the price exceeds two dollars, the tax is eleven cents on~~ 73633
~~each two dollars. If the price exceeds two dollars or a multiple~~ 73634
~~thereof by not more than eighteen cents, the amount of tax is~~ 73635
~~eleven cents for each two dollars plus one cent. If the price~~ 73636
~~exceeds two dollars or a multiple thereof by more than eighteen~~ 73637
~~cents, the amount of tax is eleven cents for each two dollars plus~~ 73638
~~the amount of tax for prices nineteen cents through one dollar and~~ 73639
~~ninety nine cents in accordance with the schedule above.~~ 73640

~~(3) When the combined rate of local tax is three fourths per~~ 73641
~~cent:~~ 73642

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73645
.16	.17	1¢	73646
.18	.34	2¢	73647

.35	.52	3¢	73648
.53	.69	4¢	73649
.70	.86	5¢	73650
.87	1.04	6¢	73651
1.05	1.21	7¢	73652
1.22	1.39	8¢	73653
1.40	1.56	9¢	73654
1.57	1.73	10¢	73655
1.74	1.91	11¢	73656
1.92	2.08	12¢	73657
2.09	2.26	13¢	73658
2.27	2.43	14¢	73659
2.44	2.60	15¢	73660
2.61	2.78	16¢	73661
2.79	2.95	17¢	73662
2.96	3.13	18¢	73663
3.14	3.30	19¢	73664
3.31	3.47	20¢	73665
3.48	3.65	21¢	73666
3.66	3.82	22¢	73667
3.83	4.00	23¢	73668

If the price exceeds four dollars, the tax is twenty-three cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than seventeen cents, the amount of tax is twenty-three cents for each four dollars plus the amount of tax for prices eighteen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(4)~~(2) When the combined rate of local tax is ~~one~~ one-half per cent:

If the price	But not	The amount	73680
is at least	more than	of the tax is	73681
\$.01	\$.15	No tax	73682
.16	.17	1¢	73683
.18	.34	2¢	73684
.35	.50	3¢	73685
.51	.67	4¢	73686
.68	.83	5¢	73687
.84	1.00	6¢	73688

If the price exceeds one dollar, the tax is six cents on each one dollar. If the price exceeds one dollar or a multiple thereof by not more than seventeen cents, the amount of tax is six cents for each one dollar plus one cent. If the price exceeds one dollar or a multiple thereof by more than seventeen cents, the amount of tax is six cents for each one dollar plus the amount of tax for prices eighteen cents through ninety-nine cents in accordance with the schedule above.

~~(5)(3)~~ When the combined rate of local tax is ~~one and one-fourth~~ three-fourths per cent:

If the price	But not	The amount	73699
is at least	more than	of the tax is	73700
\$.01	\$.15	No tax	73701
.16	.16	1¢	73702
.17	.32	2¢	73703
.33	.48	3¢	73704
.49	.64	4¢	73705
.65	.80	5¢	73706
.81	.96	6¢	73707
.97	1.12	7¢	73708
1.13	1.28	8¢	73709
1.29	1.44	9¢	73710
1.45	1.60	10¢	73711

1.61	1.76	11¢	73712
1.77	1.92	12¢	73713
1.93	2.08	13¢	73714
2.09	2.24	14¢	73715
2.25	2.40	15¢	73716
2.41	2.56	16¢	73717
2.57	2.72	17¢	73718
2.73	2.88	18¢	73719
2.89	3.04	19¢	73720
3.05	3.20	20¢	73721
3.21	3.36	21¢	73722
3.37	3.52	22¢	73723
3.53	3.68	23¢	73724
3.69	3.84	24¢	73725
3.85	4.00	25¢	73726

If the price exceeds four dollars, the tax is twenty-five cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than sixteen cents, the amount of tax is twenty-five cents for each four dollars plus the amount of tax for prices seventeen cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(6)~~(4) When the combined rate of local tax is one ~~and~~ ~~one-half~~ per cent:

If the price is at least	But not more than	The amount of the tax is	
\$.01	\$.15	No tax	73738
.16	.30	2¢	73739
.31	.46	3¢	73740
.47	.61	4¢	73741

.62	.76	5¢	73744
.77	.92	6¢	73745
.93	1.07	7¢	73746
1.08	1.23	8¢	73747
1.24	1.38	9¢	73748
1.39	1.53	10¢	73749
1.54	1.69	11¢	73750
1.70	1.84	12¢	73751
1.85	2.00	13¢	73752

If the price exceeds two dollars, the tax is thirteen cents 73753
on each two dollars. If the price exceeds two dollars or a 73754
multiple thereof by not more than fifteen cents, the amount of tax 73755
is thirteen cents for each two dollars plus one cent. If the price 73756
exceeds two dollars or a multiple thereof by more than fifteen 73757
cents, the amount of tax is thirteen cents for each two dollars 73758
plus the amount of tax for prices sixteen cents through one dollar 73759
and ninety-nine cents in accordance with the schedule above. 73760

~~(7)(5)~~ When the combined rate of local tax is one and 73761
~~three-fourths~~ one-fourth per cent: 73762

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73763
.16	.29	2¢	73764
.30	.44	3¢	73765
.45	.59	4¢	73766
.60	.74	5¢	73767
.75	.88	6¢	73768
.89	1.03	7¢	73769
1.04	1.18	8¢	73770
1.19	1.33	9¢	73771
1.34	1.48	10¢	73772
1.49	1.62	11¢	73773

1.63	1.77	12¢	73776
1.78	1.92	13¢	73777
1.93	2.07	14¢	73778
2.08	2.22	15¢	73779
2.23	2.37	16¢	73780
2.38	2.51	17¢	73781
2.52	2.66	18¢	73782
2.67	2.81	19¢	73783
2.82	2.96	20¢	73784
2.97	3.11	21¢	73785
3.12	3.25	22¢	73786
3.26	3.40	23¢	73787
3.41	3.55	24¢	73788
3.56	3.70	25¢	73789
3.71	3.85	26¢	73790
3.86	4.00	27¢	73791

If the price exceeds four dollars, the tax is twenty-seven cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than fourteen cents, the amount of tax is twenty-seven cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than fourteen but by not more than twenty-nine cents, the amount of tax is twenty-seven cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-nine cents the amount of tax is twenty-seven cents for each four dollars plus the amount of tax for prices thirty cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(8)~~(6) When the combined rate of local tax is ~~two~~ one and one-half per cent:

If the price	But not	The amount	73806
is at least	more than	of the tax is	73807

\$.01	\$.15	No tax	73808
.16	.28	2¢	73809
.29	.42	3¢	73810
.43	.57	4¢	73811
.58	.71	5¢	73812
.72	.85	6¢	73813
.86	1.00	7¢	73814

If the price exceeds one dollar, the tax is seven cents on 73815
each one dollar. If the price exceeds one dollar or a multiple 73816
thereof by not more than fifteen cents, the amount of tax is seven 73817
cents for each one dollar plus one cent. If the price exceeds one 73818
dollar or a multiple thereof by more than fifteen cents, the 73819
amount of tax is seven cents for each one dollar plus the amount 73820
of tax for prices sixteen cents through ninety-nine cents in 73821
accordance with the schedule above. 73822

~~(9)(7)~~ When the combined rate of local tax is ~~two one~~ and 73823
~~one-fourth three-fourths~~ per cent: 73824

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73825
.16	.27	2¢	73826
.28	.41	3¢	73827
.42	.55	4¢	73828
.56	.68	5¢	73829
.69	.82	6¢	73830
.83	.96	7¢	73831
.97	1.10	8¢	73832
1.11	1.24	9¢	73833
1.25	1.37	10¢	73834
1.38	1.51	11¢	73835
1.52	1.65	12¢	73836
1.66	1.79	13¢	73837

1.80	1.93	14¢	73840
1.94	2.06	15¢	73841
2.07	2.20	16¢	73842
2.21	2.34	17¢	73843
2.35	2.48	18¢	73844
2.49	2.62	19¢	73845
2.63	2.75	20¢	73846
2.76	2.89	21¢	73847
2.90	3.03	22¢	73848
3.04	3.17	23¢	73849
3.18	3.31	24¢	73850
3.32	3.44	25¢	73851
3.45	3.58	26¢	73852
3.59	3.72	27¢	73853
3.73	3.86	28¢	73854
3.87	4.00	29¢	73855

If the price exceeds four dollars, the tax is twenty-nine cents on each four dollars. If the price exceeds four dollars or a multiple thereof by not more than thirteen cents, the amount of tax is twenty-nine cents for each four dollars plus one cent. If the price exceeds four dollars or a multiple thereof by more than thirteen cents but by not more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus two cents. If the price exceeds four dollars or a multiple thereof by more than twenty-seven cents, the amount of tax is twenty-nine cents for each four dollars plus the amount of tax for prices twenty-eight cents through three dollars and ninety-nine cents in accordance with the schedule above.

~~(10)~~(8) When the combined rate of local tax is two ~~and~~ one-half per cent:

If the price	But not	The amount	73870
is at least	more than	of the tax is	73871

\$.01	\$.15	No tax	73872
.16	.26	2¢	73873
.27	.40	3¢	73874
.41	.53	4¢	73875
.54	.65	5¢	73876
.66	.80	6¢	73877
.81	.93	7¢	73878
.94	1.06	8¢	73879
1.07	1.20	9¢	73880
1.21	1.33	10¢	73881
1.34	1.46	11¢	73882
1.47	1.60	12¢	73883
1.61	1.73	13¢	73884
1.74	1.86	14¢	73885
1.87	2.00	15¢	73886

If the price exceeds two dollars, the tax is fifteen cents on 73887
 each two dollars. If the price exceeds two dollars or a multiple 73888
 thereof by not more than fifteen cents, the amount of tax is 73889
 fifteen cents for each two dollars plus one cent. If the price 73890
 exceeds two dollars or a multiple thereof by more than fifteen 73891
 cents, the amount of tax is fifteen cents for each two dollars 73892
 plus the amount of tax for prices sixteen cents through one dollar 73893
 and ninety-nine cents in accordance with the schedule above. 73894

~~(11)~~(9) When the combined rate of local tax is two and 73895
~~three-fourths~~ one-fourth per cent: 73896

If the price	But not	The amount	73897
is at least	more than	of the tax is	73898
\$.01	\$.15	No tax	73899
.16	.25	2¢	73900
.26	.38	3¢	73901
.39	.51	4¢	73902
.52	.64	5¢	73903

.65	.77	6¢	73904
.78	.90	7¢	73905
.91	1.03	8¢	73906
1.04	1.16	9¢	73907
1.17	1.29	10¢	73908
1.30	1.41	11¢	73909
1.42	1.54	12¢	73910
1.55	1.67	13¢	73911
1.68	1.80	14¢	73912
1.81	1.93	15¢	73913
1.94	2.06	16¢	73914
2.07	2.19	17¢	73915
2.20	2.32	18¢	73916
2.33	2.45	19¢	73917
2.46	2.58	20¢	73918
2.59	2.70	21¢	73919
2.71	2.83	22¢	73920
2.84	2.96	23¢	73921
2.97	3.09	24¢	73922
3.10	3.22	25¢	73923
3.23	3.35	26¢	73924
3.36	3.48	27¢	73925
3.49	3.61	28¢	73926
3.62	3.74	29¢	73927
3.75	3.87	30¢	73928
3.88	4.00	31¢	73929

If the price exceeds four dollars, the tax is thirty-one 73930
cents on each four dollars. If the price exceeds four dollars or a 73931
multiple thereof by not more than twelve cents, the amount of tax 73932
is thirty-one cents for each four dollars plus one cent. If the 73933
price exceeds four dollars or a multiple thereof by more than 73934
twelve cents but not more than twenty-five cents, the amount of 73935
tax is thirty-one cents for each four dollars plus two cents. If 73936

the price exceeds four dollars or a multiple thereof by more than 73937
 twenty-five cents, the amount of tax is thirty-one cents for each 73938
 four dollars plus the amount of tax for prices twenty-six cents 73939
 through three dollars and ninety-nine cents in accordance with the 73940
 schedule above. 73941

~~(12)~~(10) When the combined rate of local tax is ~~three two and~~ 73942
one-half per cent: 73943

If the price	But not	The amount	
is at least	more than	of the tax is	
\$.01	\$.15	No tax	73944
.16	.25	2¢	73947
.26	.37	3¢	73948
.38	.50	4¢	73949
.51	.62	5¢	73950
.63	.75	6¢	73951
.76	.87	7¢	73952
.88	1.00	8¢	73953

If the price exceeds one dollar, the tax is eight cents on 73954
 each one dollar. If the price exceeds one dollar or a multiple 73955
 thereof by not more than twelve cents, the amount of tax is eight 73956
 cents for each one dollar plus one cent. If the price exceeds one 73957
 dollar or a multiple thereof by more than twelve cents but not 73958
 more than twenty-five cents, the amount of tax is eight cents for 73959
 each one dollar plus two cents. If the price exceeds one dollar or 73960
 a multiple thereof by more than twenty-five cents, the amount of 73961
 tax is eight cents for each one dollar plus the amount of tax for 73962
 prices twenty-six cents through ninety-nine cents in accordance 73963
 with the schedule above. 73964

(11) When the combined rate of local tax is two and 73965
three-fourths per cent: 73966

<u>If the price</u>	<u>But not</u>	<u>The amount</u>	
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	
			73967
			73968

<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	73969
<u>.16</u>	<u>.24</u>	<u>2¢</u>	73970
<u>.25</u>	<u>.36</u>	<u>3¢</u>	73971
<u>.37</u>	<u>.48</u>	<u>4¢</u>	73972
<u>.49</u>	<u>.60</u>	<u>5¢</u>	73973
<u>.61</u>	<u>.72</u>	<u>6¢</u>	73974
<u>.73</u>	<u>.84</u>	<u>7¢</u>	73975
<u>.85</u>	<u>.96</u>	<u>8¢</u>	73976
<u>.97</u>	<u>1.09</u>	<u>9¢</u>	73977
<u>1.10</u>	<u>1.21</u>	<u>10¢</u>	73978
<u>1.22</u>	<u>1.33</u>	<u>11¢</u>	73979
<u>1.34</u>	<u>1.45</u>	<u>12¢</u>	73980
<u>1.46</u>	<u>1.57</u>	<u>13¢</u>	73981
<u>1.58</u>	<u>1.69</u>	<u>14¢</u>	73982
<u>1.70</u>	<u>1.81</u>	<u>15¢</u>	73983
<u>1.82</u>	<u>1.93</u>	<u>16¢</u>	73984
<u>1.94</u>	<u>2.06</u>	<u>17¢</u>	73985
<u>2.07</u>	<u>2.18</u>	<u>18¢</u>	73986
<u>2.19</u>	<u>2.30</u>	<u>19¢</u>	73987
<u>2.31</u>	<u>2.42</u>	<u>20¢</u>	73988
<u>2.43</u>	<u>2.54</u>	<u>21¢</u>	73989
<u>2.55</u>	<u>2.66</u>	<u>22¢</u>	73990
<u>2.67</u>	<u>2.78</u>	<u>23¢</u>	73991
<u>2.79</u>	<u>2.90</u>	<u>24¢</u>	73992
<u>2.91</u>	<u>3.03</u>	<u>25¢</u>	73993
<u>3.04</u>	<u>3.15</u>	<u>26¢</u>	73994
<u>3.16</u>	<u>3.27</u>	<u>27¢</u>	73995
<u>3.28</u>	<u>3.39</u>	<u>28¢</u>	73996
<u>3.40</u>	<u>3.51</u>	<u>29¢</u>	73997
<u>3.52</u>	<u>3.63</u>	<u>30¢</u>	73998
<u>3.64</u>	<u>3.75</u>	<u>31¢</u>	73999
<u>3.76</u>	<u>3.87</u>	<u>32¢</u>	74000
<u>3.88</u>	<u>4.00</u>	<u>33¢</u>	74001

If the price exceeds four dollars, the tax is thirty-three 74002
cents on each four dollars. If the price exceeds four dollars or a 74003
multiple thereof by not more than eleven cents, the amount of tax 74004
is thirty-three cents for each four dollars plus one cent. If the 74005
price exceeds four dollars or a multiple thereof by more than 74006
eleven cents but not more than twenty-four cents, the amount of 74007
tax is thirty-three cents for each four dollars plus two cents. If 74008
the price exceeds four dollars or a multiple thereof by more than 74009
twenty-four cents, the amount of tax is thirty-three cents for 74010
each four dollars plus the amount of tax for prices twenty-six 74011
cents through three dollars and ninety-nine cents in accordance 74012
with the schedule above. 74013

(12) When the combined rate of local tax is three per cent: 74014

<u>If the price</u>	<u>But not</u>	<u>The amount</u>	
<u>is at least</u>	<u>more than</u>	<u>of the tax is</u>	
<u>\$.01</u>	<u>\$.15</u>	<u>No tax</u>	74017
<u>.16</u>	<u>.23</u>	<u>2¢</u>	74018
<u>.24</u>	<u>.35</u>	<u>3¢</u>	74019
<u>.36</u>	<u>.47</u>	<u>4¢</u>	74020
<u>.48</u>	<u>.58</u>	<u>5¢</u>	74021
<u>.59</u>	<u>.70</u>	<u>6¢</u>	74022
<u>.71</u>	<u>.82</u>	<u>7¢</u>	74023
<u>.83</u>	<u>.94</u>	<u>8¢</u>	74024
<u>.95</u>	<u>1.05</u>	<u>9¢</u>	74025
<u>1.06</u>	<u>1.17</u>	<u>10¢</u>	74026
<u>1.18</u>	<u>1.29</u>	<u>11¢</u>	74027
<u>1.30</u>	<u>1.41</u>	<u>12¢</u>	74028
<u>1.42</u>	<u>1.52</u>	<u>13¢</u>	74029
<u>1.53</u>	<u>1.64</u>	<u>14¢</u>	74030
<u>1.65</u>	<u>1.76</u>	<u>15¢</u>	74031
<u>1.77</u>	<u>1.88</u>	<u>16¢</u>	74032
<u>1.89</u>	<u>2.00</u>	<u>17¢</u>	74033

If the price exceeds two dollars, the tax is seventeen cents on each two dollars. If the price exceeds two dollars or a multiple thereof by not more than eleven cents, the amount of tax is seventeen cents for each two dollars plus one cent. If the price exceeds two dollars or a multiple thereof by more than eleven cents but not more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus two cents. If the price exceeds two dollars or a multiple thereof by more than twenty-three cents, the amount of tax is seventeen cents for each two dollars plus the amount of tax for prices twenty-four cents through one dollar and ninety-nine cents in accordance with the schedule above.

(D) In lieu of collecting the tax pursuant to the schedules set forth in divisions (A), (B), and (C) of this section, a vendor may compute the tax on each sale as follows:

(1) On sales of fifteen cents or less, no tax shall apply.

(2) On sales in excess of fifteen cents, multiply the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02 and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to six decimal places. If the result is a fractional amount of a cent, the calculated tax shall be increased to the next highest cent and that amount shall be collected by the vendor.

(E) On and after January 1, 2006, a vendor shall compute the tax on each sale by multiplying the price by the aggregate rate of taxes in effect under sections 5739.02 and 5741.02, and sections 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, and 5741.023 of the Revised Code. The computation shall be carried out to three decimal places. If the result is a fractional amount of a cent, the calculated tax shall be rounded to a whole cent using a method

that rounds up to the next cent whenever the third decimal place
is greater than four. A vendor may elect to compute the tax due on
a transaction on an item or an invoice basis.

(F) In auditing a vendor, the tax commissioner shall consider
the method prescribed by this section that was used by the vendor
in determining and collecting the tax due under this chapter on
taxable transactions. If the vendor correctly collects and remits
the tax due under this chapter in accordance with the schedules in
divisions (A), (B), and (C) of this section or in accordance with
the computation prescribed in division (D) or (E) of this section,
the commissioner shall not assess any additional tax on those
transactions.

(G)(1) With respect to a sale of a fractional ownership
program aircraft used primarily in a fractional aircraft ownership
program, including all accessories attached to such aircraft, the
tax shall be calculated pursuant to divisions (A) to (E) of this
section, provided that the tax commissioner shall modify those
calculations so that the maximum tax on each program aircraft is
eight hundred dollars. In the case of a sale of a fractional
interest that is less than one hundred per cent of the program
aircraft, the tax charged on the transaction shall be eight
hundred dollars multiplied by a fraction, the numerator of which
is the percentage of ownership or possession in the aircraft being
purchased in the transaction, and the denominator of which is one
hundred per cent.

(2) Notwithstanding any other provision of law to the
contrary, the tax calculated under division (G)(1) of this section
and paid with respect to the sale of a fractional ownership
program aircraft used primarily in a fractional aircraft ownership
program shall be credited to the general revenue fund.

Sec. 5739.026. (A) A board of county commissioners may levy a

tax of one-fourth or one-half of one per cent on every retail sale 74096
in the county, except sales of watercraft and outboard motors 74097
required to be titled pursuant to Chapter 1548. of the Revised 74098
Code and sales of motor vehicles, and may increase an existing 74099
rate of one-fourth of one per cent to one-half of one per cent, to 74100
pay the expenses of administering the tax and, except as provided 74101
in division (A)(6) of this section, for any one or more of the 74102
following purposes provided that the aggregate levy for all such 74103
purposes does not exceed one-half of one per cent: 74104

(1) To provide additional revenues for the payment of bonds 74105
or notes issued in anticipation of bonds issued by a convention 74106
facilities authority established by the board of county 74107
commissioners under Chapter 351. of the Revised Code and to 74108
provide additional operating revenues for the convention 74109
facilities authority; 74110

(2) To provide additional revenues for a transit authority 74111
operating in the county; 74112

(3) To provide additional revenue for the county's general 74113
fund; 74114

(4) To provide additional revenue for permanent improvements 74115
within the county to be distributed by the community improvements 74116
board in accordance with section 307.283 and to pay principal, 74117
interest, and premium on bonds issued under section 307.284 of the 74118
Revised Code; 74119

(5) To provide additional revenue for the acquisition, 74120
construction, equipping, or repair of any specific permanent 74121
improvement or any class or group of permanent improvements, which 74122
improvement or class or group of improvements shall be enumerated 74123
in the resolution required by division (D) of this section, and to 74124
pay principal, interest, premium, and other costs associated with 74125
the issuance of bonds or notes in anticipation of bonds issued 74126

pursuant to Chapter 133. of the Revised Code for the acquisition, 74127
construction, equipping, or repair of the specific permanent 74128
improvement or class or group of permanent improvements; 74129

(6) To provide revenue for the implementation and operation 74130
of a 9-1-1 system in the county. If the tax is levied or the rate 74131
increased exclusively for such purpose, the tax shall not be 74132
levied or the rate increased for more than five years. At the end 74133
of the last year the tax is levied or the rate increased, any 74134
balance remaining in the special fund established for such purpose 74135
shall remain in that fund and be used exclusively for such purpose 74136
until the fund is completely expended, and, notwithstanding 74137
section 5705.16 of the Revised Code, the board of county 74138
commissioners shall not petition for the transfer of money from 74139
such special fund, and the tax commissioner shall not approve such 74140
a petition. 74141

If the tax is levied or the rate increased for such purpose 74142
for more than five years, the board of county commissioners also 74143
shall levy the tax or increase the rate of the tax for one or more 74144
of the purposes described in divisions (A)(1) to (5) of this 74145
section and shall prescribe the method for allocating the revenues 74146
from the tax each year in the manner required by division (C) of 74147
this section. 74148

(7) To provide additional revenue for the operation or 74149
maintenance of a detention facility, as that term is defined under 74150
division (F) of section 2921.01 of the Revised Code; 74151

(8) To provide revenue to finance the construction or 74152
renovation of a sports facility, but only if the tax is levied for 74153
that purpose in the manner prescribed by section 5739.028 of the 74154
Revised Code. 74155

As used in division (A)(8) of this section: 74156

(a) "Sports facility" means a facility intended to house 74157

major league professional athletic teams. 74158

(b) "Constructing" or "construction" includes providing 74159
fixtures, furnishings, and equipment. 74160

(9) To provide additional revenue for the acquisition of 74161
agricultural easements, as defined in section 5301.67 of the 74162
Revised Code; to pay principal, interest, and premium on bonds 74163
issued under section 133.60 of the Revised Code; and for the 74164
supervision and enforcement of agricultural easements held by the 74165
county. 74166

Pursuant to section 755.171 of the Revised Code, a board of 74167
county commissioners may pledge and contribute revenue from a tax 74168
levied for the purpose of division (A)(5) of this section to the 74169
payment of debt charges on bonds issued under section 755.17 of 74170
the Revised Code. 74171

The rate of tax shall be a multiple of one-fourth of one per 74172
cent, unless a portion of the rate of an existing tax levied under 74173
section 5739.023 of the Revised Code has been reduced, and the 74174
rate of tax levied under this section has been increased, pursuant 74175
to section 5739.028 of the Revised Code, in which case the 74176
aggregate of the rates of tax levied under this section and 74177
section 5739.023 of the Revised Code shall be a multiple of 74178
one-fourth of one per cent. The tax shall be levied and the rate 74179
increased pursuant to a resolution adopted by a majority of the 74180
members of the board. The board shall deliver a certified copy of 74181
the resolution to the tax commissioner, not later than the 74182
sixty-fifth day prior to the date on which the tax is to become 74183
effective, which shall be the first day of a calendar quarter. 74184

Prior to the adoption of any resolution to levy the tax or to 74185
increase the rate of tax exclusively for the purpose set forth in 74186
division (A)(3) of this section, the board of county commissioners 74187
shall conduct two public hearings on the resolution, the second 74188

hearing to be no fewer than three nor more than ten days after the 74189
first. Notice of the date, time, and place of the hearings shall 74190
be given by publication in a newspaper of general circulation in 74191
the county once a week on the same day of the week for two 74192
consecutive weeks, the second publication being no fewer than ten 74193
nor more than thirty days prior to the first hearing. Except as 74194
provided in division (E) of this section, the resolution shall be 74195
subject to a referendum as provided in sections 305.31 to 305.41 74196
of the Revised Code. Unless the resolution is adopted as an 74197
emergency measure, or is to be submitted to the electors of the 74198
county under division (D)(2)(a) of this section, the resolution 74199
shall be adopted at least one hundred twenty days prior to the 74200
date on which the tax or the increased rate of tax is to go into 74201
effect. If the resolution is adopted as an emergency measure 74202
necessary for the immediate preservation of the public peace, 74203
health, or safety, it must receive an affirmative vote of all of 74204
the members of the board of county commissioners and shall state 74205
the reasons for the necessity. 74206

If the tax is for more than one of the purposes set forth in 74207
divisions (A)(1) to (7) and (9) of this section or is exclusively 74208
for one of the purposes set forth in division (A)(1), (2), (4), 74209
(5), (6), (7), or (9) of this section, the resolution shall not go 74210
into effect unless it is approved by a majority of the electors 74211
voting on the question of the tax. 74212

(B) The board of county commissioners shall adopt a 74213
resolution under section 351.02 of the Revised Code creating the 74214
convention facilities authority, or under section 307.283 of the 74215
Revised Code creating the community improvements board, before 74216
adopting a resolution levying a tax for the purpose of a 74217
convention facilities authority under division (A)(1) of this 74218
section or for the purpose of a community improvements board under 74219
division (A)(4) of this section. 74220

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7) and (9) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on

such bonds. 74253

(b) If the additional revenues provided to the county are 74254
pledged by the county for the payment of bonds or notes described 74255
in division (A)(4) or (5) of this section, for as long as such 74256
bonds or notes are outstanding, no reduction of the county's or 74257
the community improvements board's allocation of the tax shall be 74258
made for any year, except to the extent that the reduced county or 74259
community improvements board allocation is sufficient to meet the 74260
debt service requirements for that year on such bonds or notes. 74261

(c) If the additional revenues provided to the transit 74262
authority are pledged by the authority for the payment of revenue 74263
bonds issued under section 306.37 of the Revised Code, for as long 74264
as such bonds are outstanding, no reduction of the authority's 74265
allocation of tax shall be made for any year, except to the extent 74266
that the authority's reduced allocation, when combined with the 74267
authority's other revenues pledged for that purpose, is sufficient 74268
to meet the debt service requirements for that year on such bonds. 74269

(d) If the additional revenues provided to the county are 74270
pledged by the county for the payment of bonds or notes issued 74271
under section 133.60 of the Revised Code, for so long as the bonds 74272
or notes are outstanding, no reduction of the county's allocation 74273
of the tax shall be made for any year, except to the extent that 74274
the reduced county allocation is sufficient to meet the debt 74275
service requirements for that year on the bonds or notes. 74276

(D)(1) The resolution levying the tax or increasing the rate 74277
of tax shall state the rate of the tax or the rate of the 74278
increase; the purpose or purposes for which it is to be levied; 74279
the number of years for which it is to be levied or that it is for 74280
a continuing period of time; the allocation method required by 74281
division (C) of this section; and if required to be submitted to 74282
the electors of the county under division (A) of this section, the 74283

date of the election at which the proposal shall be submitted to 74284
the electors of the county, which shall be not less than 74285
seventy-five days after the certification of a copy of the 74286
resolution to the board of elections and, if the tax is to be 74287
levied exclusively for the purpose set forth in division (A)(3) of 74288
this section, shall not occur in February or August of any year. 74289
Upon certification of the resolution to the board of elections, 74290
the board of county commissioners shall notify the tax 74291
commissioner in writing of the levy question to be submitted to 74292
the electors. If approved by a majority of the electors, the tax 74293
shall become effective on the first day of a calendar quarter next 74294
following the sixty-fifth day following the date the board of 74295
county commissioners and tax commissioner receive from the board 74296
of elections the certification of the results of the election, 74297
except as provided in division (E) of this section. 74298

(2)(a) A resolution specifying that the tax is to be used 74299
exclusively for the purpose set forth in division (A)(3) of this 74300
section that is not adopted as an emergency measure may direct the 74301
board of elections to submit the question of levying the tax or 74302
increasing the rate of the tax to the electors of the county at a 74303
special election held on the date specified by the board of county 74304
commissioners in the resolution, provided that the election occurs 74305
not less than seventy-five days after the resolution is certified 74306
to the board of elections and the election is not held in February 74307
or August of any year. Upon certification of the resolution to the 74308
board of elections, the board of county commissioners shall notify 74309
the tax commissioner in writing of the levy question to be 74310
submitted to the electors. No resolution adopted under division 74311
(D)(2)(a) of this section shall go into effect unless approved by 74312
a majority of those voting upon it and, except as provided in 74313
division (E) of this section, not until the first day of a 74314
calendar quarter following the expiration of sixty-five days from 74315

the date the tax commissioner receives notice from the board of
elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used
exclusively for the purpose set forth in division (A)(3) of this
section that is adopted as an emergency measure shall become
effective as provided in division (A) of this section, but may
direct the board of elections to submit the question of repealing
the tax or increase in the rate of the tax to the electors of the
county at the next general election in the county occurring not
less than seventy-five days after the resolution is certified to
the board of elections. Upon certification of the resolution to
the board of elections, the board of county commissioners shall
notify the tax commissioner in writing of the levy question to be
submitted to the electors. The ballot question shall be the same
as that prescribed in section 5739.022 of the Revised Code. The
board of elections shall notify the board of county commissioners
and the tax commissioner of the result of the election immediately
after the result has been declared. If a majority of the qualified
electors voting on the question of repealing the tax or increase
in the rate of the tax vote for repeal of the tax or repeal of the
increase, the board of county commissioners, on the first day of a
calendar quarter following the expiration of sixty-five days after
the date the board and tax commissioner received notice of the
result of the election, shall, in the case of a repeal of the tax,
cease to levy the tax, or, in the case of a repeal of an increase
in the rate of the tax, cease to levy the increased rate and levy
the tax at the rate at which it was imposed immediately prior to
the increase in rate.

(c) A board of county commissioners, by resolution, may
reduce the rate of a tax levied exclusively for the purpose set
forth in division (A)(3) of this section to a lower rate
authorized by this section. Any such reduction shall be made

effective on the first day of the calendar quarter next following 74348
the sixty-fifth day after the tax commissioner receives a 74349
certified copy of the resolution from the board. 74350

(E) If a vendor that is registered with the central 74351
electronic registration system provided for in section 5740.05 of 74352
the Revised Code makes a sale in this state by printed catalog and 74353
the consumer computed the tax on the sale based on local rates 74354
published in the catalog, any tax levied or repealed or rate 74355
changed under this section shall not apply to such a sale until 74356
the first day of a calendar quarter following the expiration of 74357
one hundred twenty days from the date of notice by the tax 74358
commissioner pursuant to division (G) of this section. 74359

(F) The tax levied pursuant to this section shall be in 74360
addition to the tax levied by section 5739.02 of the Revised Code 74361
and any tax levied pursuant to section 5739.021 or 5739.023 of the 74362
Revised Code. 74363

A county that levies a tax pursuant to this section shall 74364
levy a tax at the same rate pursuant to section 5741.023 of the 74365
Revised Code. 74366

The additional tax levied by the county shall be collected 74367
pursuant to section 5739.025 of the Revised Code. 74368

Any tax levied pursuant to this section is subject to the 74369
exemptions provided in section 5739.02 of the Revised Code and in 74370
addition shall not be applicable to sales not within the taxing 74371
power of a county under the Constitution of the United States or 74372
the Ohio Constitution. 74373

(G) Upon receipt from a board of county commissioners of a 74374
certified copy of a resolution required by division (A) of this 74375
section, or from the board of elections a notice of the results of 74376
an election required by division (D)(1), (2)(a), (b), or (c) of 74377
this section, the tax commissioner shall provide notice of a tax 74378

rate change in a manner that is reasonably accessible to all 74379
affected vendors. The commissioner shall provide this notice at 74380
least sixty days prior to the effective date of the rate change. 74381
The commissioner, by rule, may establish the method by which 74382
notice will be provided. 74383

Sec. 5739.03. (A) Except as provided in section 5739.05 of 74384
the Revised Code, the tax imposed by or pursuant to section 74385
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code shall 74386
be paid by the consumer to the vendor, and each vendor shall 74387
collect from the consumer, as a trustee for the state of Ohio, the 74388
full and exact amount of the tax payable on each taxable sale, in 74389
the manner and at the times provided as follows: 74390

(1) If the price is, at or prior to the provision of the 74391
service or the delivery of possession of the thing sold to the 74392
consumer, paid in currency passed from hand to hand by the 74393
consumer or the consumer's agent to the vendor or the vendor's 74394
agent, the vendor or the vendor's agent shall collect the tax with 74395
and at the same time as the price; 74396

(2) If the price is otherwise paid or to be paid, the vendor 74397
or the vendor's agent shall, at or prior to the provision of the 74398
service or the delivery of possession of the thing sold to the 74399
consumer, charge the tax imposed by or pursuant to section 74400
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code to 74401
the account of the consumer, which amount shall be collected by 74402
the vendor from the consumer in addition to the price. Such sale 74403
shall be reported on and the amount of the tax applicable thereto 74404
shall be remitted with the return for the period in which the sale 74405
is made, and the amount of the tax shall become a legal charge in 74406
favor of the vendor and against the consumer. 74407

(B)(1)(a) If any sale is claimed to be exempt under division 74408
(E) of section 5739.01 of the Revised Code or under section 74409

5739.02 of the Revised Code, with the exception of divisions 74410
(B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the 74411
consumer must provide to the vendor, and the vendor must obtain 74412
from the consumer, a certificate specifying the reason that the 74413
sale is not legally subject to the tax. The certificate shall be 74414
in such form, and shall be provided either in a hard copy form or 74415
electronic form, as ~~prescribed by~~ the tax commissioner prescribes. 74416
~~If the transaction is claimed to be exempt under division (B)(13)~~ 74417
~~of section 5739.02 of the Revised Code, the exemption certificate~~ 74418
~~shall be provided by both the contractor and the contractee. Such~~ 74419
~~contractee shall be deemed to be the consumer of all items~~ 74420
~~purchased under such claim of exemption, if it is subsequently~~ 74421
~~determined that the exemption is not properly claimed. The~~ 74422
~~certificate shall be in such form as the tax commissioner by~~ 74423
~~regulation prescribes.~~ 74424

(b) A vendor that obtains a fully completed exemption 74425
certificate from a consumer is relieved of liability for 74426
collecting and remitting tax on any sale covered by that 74427
certificate. If it is determined the exemption was improperly 74428
claimed, the consumer shall be liable for any tax due on that sale 74429
under section 5739.02, 5739.021, 5739.023, or 5739.026 or Chapter 74430
5741. of the Revised Code. Relief under this division from 74431
liability does not apply to any of the following: 74432

(i) A vendor that fraudulently fails to collect tax; 74433

(ii) A vendor that solicits consumers to participate in the 74434
unlawful claim of an exemption; 74435

(iii) A vendor that accepts an exemption certificate from a 74436
consumer that claims an exemption based on who purchases or who 74437
sells property or a service, when the subject of the transaction 74438
sought to be covered by the exemption certificate is actually 74439
received by the consumer at a location operated by the vendor in 74440
this state, and this state has posted to its web site an exemption 74441

certificate form that clearly and affirmatively indicates that the 74442
claimed exemption is not available in this state; 74443

(iv) A vendor that accepts an exemption certificate from a 74444
consumer who claims a multiple points of use exemption under 74445
division (B) of section 5739.033 of the Revised Code, if the item 74446
purchased is tangible personal property, other than prewritten 74447
computer software. 74448

(2) The vendor shall maintain records, including exemption 74449
certificates, of all sales on which a consumer has claimed an 74450
exemption, and provide them to the tax commissioner on request. 74451

(3) The tax commissioner may establish an identification 74452
system whereby the commissioner issues an identification number to 74453
a consumer that is exempt from payment of the tax. The consumer 74454
must present the number to the vendor, if any sale is claimed to 74455
be exempt as provided in this section. 74456

(4) If no certificate is provided or obtained within ~~the~~ 74457
~~period for filing the return for the period in~~ ninety days after 74458
the date on which such sale is consummated, it shall be presumed 74459
that the tax applies. Failure to have so provided or obtained a 74460
certificate shall not ~~prevent~~ preclude a vendor ~~or consumer,~~ 74461
within one hundred twenty days after the tax commissioner gives 74462
written notice of intent to levy an assessment, from either 74463
establishing that the sale is not subject to the tax ~~within one~~ 74464
~~hundred twenty days of the giving of notice by the commissioner of~~ 74465
~~intention to levy an assessment, in which event the tax shall not~~ 74466
~~apply,~~ or obtaining, in good faith, a fully completed exemption 74467
certificate. 74468

(5) Certificates need not be obtained nor provided where the 74469
identity of the consumer is such that the transaction is never 74470
subject to the tax imposed or where the item of tangible personal 74471
property sold or the service provided is never subject to the tax 74472

imposed, regardless of use, or when the sale is in interstate
commerce. 74473
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(6) If a transaction is claimed to be exempt under division
(B)(13) of section 5739.02 of the Revised Code, the contractor
shall obtain certification of the claimed exemption from the
contractee. This certification shall be in addition to an
exemption certificate provided by the contractor to the vendor. A
contractee that provides a certification under this division shall
be deemed to be the consumer of all items purchased by the
contractor under the claim of exemption, if it is subsequently
determined that the exemption is not properly claimed. The
certification shall be in such form as the tax commissioner
prescribes. 74475
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(C) As used in this division, "contractee" means a person who
seeks to enter or enters into a contract or agreement with a
contractor or vendor for the construction of real property or for
the sale and installation onto real property of tangible personal
property. 74486
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Any contractor or vendor may request from any contractee a
certification of what portion of the property to be transferred
under such contract or agreement is to be incorporated into the
realty and what portion will retain its status as tangible
personal property after installation is completed. The contractor
or vendor shall request the certification by certified mail
delivered to the contractee, return receipt requested. Upon
receipt of such request and prior to entering into the contract or
agreement, the contractee shall provide to the contractor or
vendor a certification sufficiently detailed to enable the
contractor or vendor to ascertain the resulting classification of
all materials purchased or fabricated by the contractor or vendor
and transferred to the contractee. This requirement applies to a
contractee regardless of whether the contractee holds a direct 74491
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payment permit under section 5739.031 of the Revised Code or 74505
provides to the contractor or vendor an exemption certificate as 74506
provided under this section. 74507

For the purposes of the taxes levied by this chapter and 74508
Chapter 5741. of the Revised Code, the contractor or vendor may in 74509
good faith rely on the contractee's certification. Notwithstanding 74510
division (B) of section 5739.01 of the Revised Code, if the tax 74511
commissioner determines that certain property certified by the 74512
contractee as tangible personal property pursuant to this division 74513
is, in fact, real property, the contractee shall be considered to 74514
be the consumer of all materials so incorporated into that real 74515
property and shall be liable for the applicable tax, and the 74516
contractor or vendor shall be excused from any liability on those 74517
materials. 74518

If a contractee fails to provide such certification upon the 74519
request of the contractor or vendor, the contractor or vendor 74520
shall comply with the provisions of this chapter and Chapter 5741. 74521
of the Revised Code without the certification. If the tax 74522
commissioner determines that such compliance has been performed in 74523
good faith and that certain property treated as tangible personal 74524
property by the contractor or vendor is, in fact, real property, 74525
the contractee shall be considered to be the consumer of all 74526
materials so incorporated into that real property and shall be 74527
liable for the applicable tax, and the construction contractor or 74528
vendor shall be excused from any liability on those materials. 74529

This division does not apply to any contract or agreement 74530
where the tax commissioner determines as a fact that a 74531
certification under this division was made solely on the decision 74532
or advice of the contractor or vendor. 74533

(D) Notwithstanding division (B) of section 5739.01 of the 74534
Revised Code, whenever the total rate of tax imposed under this 74535

chapter is increased after the date after a construction contract 74536
is entered into, the contractee shall reimburse the construction 74537
contractor for any additional tax paid on tangible property 74538
consumed or services received pursuant to the contract. 74539

(E) A vendor who files a petition for reassessment contesting 74540
the assessment of tax on sales for which the vendor obtained no 74541
valid exemption certificates and for which the vendor failed to 74542
establish that the sales were properly not subject to the tax 74543
during the one-hundred-twenty-day period allowed under division 74544
(B) of this section, may present to the tax commissioner 74545
additional evidence to prove that the sales were properly subject 74546
to a claim of exception or exemption. The vendor shall file such 74547
evidence within ninety days of the receipt by the vendor of the 74548
notice of assessment, except that, upon application and for 74549
reasonable cause, the period for submitting such evidence shall be 74550
extended thirty days. 74551

The commissioner shall consider such additional evidence in 74552
reaching the final determination on the assessment and petition 74553
for reassessment. 74554

(F) Whenever a vendor refunds to the consumer the full price 74555
of an item of tangible personal property on which the tax imposed 74556
under this chapter has been paid, the vendor shall also refund the 74557
full amount of the tax paid. 74558

Sec. 5739.033. This section applies to sales made on and 74559
after July 1, 2005. Sales made before July 1, 2005, are subject to 74560
section 5739.035 of the Revised Code. On and after January 1, 74561
2005, any vendor may irrevocably elect to comply with this section 74562
for all of the vendor's sales and places of business in this 74563
state. 74564

The amount of tax due pursuant to sections 5739.02, 5739.021, 74565

5739.023, and 5739.026 of the Revised Code is the sum of the taxes 74566
imposed pursuant to those sections at the sourcing location of the 74567
sale as determined under this section or, if applicable, under 74568
division (C) of section 5739.031 or section 5739.034 or 5739.035 74569
of the Revised Code. This section applies only to a vendor's or 74570
seller's obligation to collect and remit sales taxes under section 74571
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code or 74572
use taxes under section 5741.02, 5741.021, 5741.022, or 5741.023 74573
of the Revised Code. This section does not affect the obligation 74574
of a consumer to remit use taxes on the storage, use, or other 74575
consumption of tangible personal property or on the benefit 74576
realized of any service provided, to the jurisdiction of that 74577
storage, use, or consumption, or benefit realized. 74578

(A) Except for sales, other than leases, of titled motor 74579
vehicles, titled watercraft, or titled outboard motors as provided 74580
in section 5741.05 of the Revised Code, or as otherwise provided 74581
in this section and section 5739.034 or 5740.10 of the Revised 74582
Code, all sales shall be sourced as follows: 74583

(1) If the consumer or a donee designated by the consumer 74584
receives tangible personal property or a service at a vendor's 74585
place of business, the sale shall be sourced to that place of 74586
business. 74587

(2) When the tangible personal property or service is not 74588
received at a vendor's place of business, the sale shall be 74589
sourced to the location known to the vendor where the consumer or 74590
the donee designated by the consumer receives the tangible 74591
personal property or service, including the location indicated by 74592
instructions for delivery to the consumer or the consumer's donee. 74593

(3) If divisions (A)(1) and (2) of this section do not apply, 74594
the sale shall be sourced to the location indicated by an address 74595
for the consumer that is available from the vendor's business 74596

records that are maintained in the ordinary course of the vendor's 74597
business, when use of that address does not constitute bad faith. 74598

(4) If divisions (A)(1), (2), and (3) of this section do not 74599
apply, the sale shall be sourced to the location indicated by an 74600
address for the consumer obtained during the consummation of the 74601
sale, including the address associated with the consumer's payment 74602
instrument, if no other address is available, when use of that 74603
address does not constitute bad faith. 74604

(5) If divisions (A)(1), (2), (3), and (4) of this section do 74605
not apply, including in the circumstance where the vendor is 74606
without sufficient information to apply any of those divisions, 74607
the sale shall be sourced to the address from which tangible 74608
personal property was shipped, or from which the service was 74609
provided, disregarding any location that merely provided the 74610
electronic transfer of the property sold or service provided. 74611

(6) As used in division (A) of this section, "receive" means 74612
taking possession of tangible personal property or making first 74613
use of a service. "Receive" does not include possession by a 74614
shipping company on behalf of a consumer. 74615

(B)(1)(a) Notwithstanding divisions (A)(1) to (5) of this 74616
section, a business consumer that is not a holder of a direct 74617
payment permit granted under section 5739.031 of the Revised Code, 74618
that purchases a digital good, computer software ~~delivered~~ 74619
electronically, except computer software received in person by a 74620
business consumer at a vendor's place of business, or a service 74621
~~for use in business~~, and that knows at the time of purchase that 74622
such digital good, software, or service will be concurrently 74623
available for use in more than one taxing jurisdiction shall 74624
deliver to the vendor in conjunction with its purchase a an 74625
exemption certificate claiming multiple points of use exemption 74626
~~form prescribed by the tax commissioner disclosing this fact, or~~ 74627

shall meet the requirements of division (B)(2) of this section. On 74628
receipt of the exemption certificate claiming multiple points of 74629
use ~~exemption form~~, the vendor is relieved of its obligation to 74630
collect, pay, or remit the tax due, and the business consumer must 74631
pay the tax directly to the state. 74632

~~(2)(b)~~ A business consumer that delivers ~~such form the~~ 74633
exemption certificate claiming multiple points of use to a vendor 74634
may use any reasonable, consistent, and uniform method of 74635
apportioning the tax due on the digital good, computer software 74636
~~delivered electronically~~, or service ~~for use in business~~ that is 74637
supported by the consumer's business records as they existed at 74638
the time of the sale. The business consumer shall report and pay 74639
the appropriate tax to each jurisdiction where concurrent use 74640
occurs. The tax due shall be calculated as if the apportioned 74641
amount of the digital good, computer software, or service had been 74642
delivered to each jurisdiction to which the sale is apportioned 74643
under this division. 74644

~~(3)(c)~~ The exemption certificate claiming multiple points of 74645
use ~~exemption form~~ shall remain in effect for all future sales by 74646
the vendor to the business consumer until it is revoked in writing 74647
by the business consumer, except as to the business consumer's 74648
specific apportionment of a subsequent sale under division 74649
(B)~~(2)(1)(b)~~ of this section and the facts existing at the time of 74650
the sale. 74651

(2) When the vendor knows that a digital good, computer 74652
software, or service sold will be concurrently available for use 74653
by the business consumer in more than one jurisdiction, but the 74654
business consumer does not provide an exemption certificate 74655
claiming multiple points of use as required by division (B)(1) of 74656
this section, the vendor may work with the business consumer to 74657
produce the correct apportionment. Governed by the principles of 74658
division (B)(1)(b) of this section, the vendor and business 74659

consumer may use any reasonable, but consistent and uniform, 74660
method of apportionment that is supported by the vendor's and 74661
business consumer's books and records as they exist at the time 74662
the sale is reported for purposes of the taxes levied under this 74663
chapter. If the business consumer certifies to the accuracy of the 74664
apportionment and the vendor accepts the certification, the vendor 74665
shall collect and remit the tax accordingly. In the absence of bad 74666
faith, the vendor is relieved of any further obligation to collect 74667
tax on any transaction where the vendor has collected tax pursuant 74668
to the information certified by the business consumer. 74669

(3) When the vendor knows that the digital good, computer 74670
software, or service will be concurrently available for use in 74671
more than one jurisdiction, and the business consumer does not 74672
have a direct pay permit and does not provide to the vendor an 74673
exemption certificate claiming multiple points of use as required 74674
in division (B)(1) of this section, or certification pursuant to 74675
division (B)(2) of this section, the vendor shall collect and 74676
remit the tax based on division (A) of this section. 74677

(4) Nothing in this section shall limit a person's obligation 74678
for sales or use tax to any state in which a digital good, 74679
computer software, or service is concurrently available for use, 74680
nor limit a person's ability under local, state, or federal law, 74681
to claim a credit for sales or use taxes legally due and paid to 74682
other jurisdictions. 74683

(C) A person who holds a direct payment permit issued under 74684
section 5739.031 of the Revised Code is not required to deliver a 74685
an exemption certificate claiming multiple points of use exemption 74686
form to a vendor. But such permit holder shall comply with 74687
division (B)(2)(1)(b) of this section in apportioning the tax due 74688
on a digital good, computer software delivered electronically, or 74689
a service used for use in business that will be concurrently 74690
available for use in more than one taxing jurisdiction. 74691

(D)(1) Notwithstanding divisions (A)(1) to (5) of this section, the ~~purchaser~~ consumer of direct mail that is not a holder of a direct payment permit shall provide to the vendor in conjunction with the ~~purchase~~ sale either a an exemption certificate claiming direct mail ~~form~~ prescribed by the tax commissioner, or information to show the jurisdictions to which the direct mail is delivered to recipients.

(2) Upon receipt of a ~~direct mail form~~ such exemption certificate, the vendor is relieved of all obligations to collect, pay, or remit the applicable tax and the ~~purchaser~~ consumer is obligated to pay that tax on a direct pay basis. A An exemption certificate claiming direct mail ~~form~~ shall remain in effect for all future sales of direct mail by the vendor to the ~~purchaser~~ consumer until it is revoked in writing.

(3) Upon receipt of information from the ~~purchaser~~ consumer showing the jurisdictions to which the direct mail is delivered to recipients, the vendor shall collect the tax according to the delivery information provided by the ~~purchaser~~ consumer. In the absence of bad faith, the vendor is relieved of any further obligation to collect tax on any transaction where the vendor has collected tax pursuant to the delivery information provided by the ~~purchaser~~ consumer.

(4) If the ~~purchaser~~ consumer of direct mail does not have a direct payment permit and does not provide the vendor with either a an exemption certificate claiming direct mail ~~form~~ or delivery information as required by division (D)(1) of this section, the vendor shall collect the tax according to division (A)(5) of this section. Nothing in division (D)(4) of this section shall limit a ~~purchaser's~~ consumer's obligation to pay sales or use tax to any state to which the direct mail is delivered.

(5) If a ~~purchaser~~ consumer of direct mail provides the

vendor with documentation of direct payment authority, the 74723
~~purchaser~~ consumer shall not be required to provide a an exemption 74724
certificate claiming direct mail ~~form~~ or delivery information to 74725
the vendor. 74726

(E) If the vendor provides lodging to transient guests as 74727
specified in division (B)(2) of section 5739.01 of the Revised 74728
Code, the sale shall be sourced to the location where the lodging 74729
is located. 74730

(F)(1) As used in this division and division (G) of this 74731
section, "transportation equipment" means any of the following: 74732

(a) Locomotives and railcars that are utilized for the 74733
carriage of persons or property in interstate commerce. 74734

(b) Trucks and truck-tractors with a gross vehicle weight 74735
rating of greater than ten thousand pounds, trailers, 74736
semi-trailers, or passenger buses that are registered through the 74737
international registration plan and are operated under authority 74738
of a carrier authorized and certificated by the United States 74739
department of transportation or another federal authority to 74740
engage in the carriage of persons or property in interstate 74741
commerce. 74742

(c) Aircraft that are operated by air carriers authorized and 74743
certificated by the United States department of transportation or 74744
another federal authority to engage in the carriage of persons or 74745
property in interstate or foreign commerce. 74746

(d) Containers designed for use on and component parts 74747
attached to or secured on the items set forth in division 74748
(F)(1)(a), (b), or (c) of this section. 74749

(2) A sale, lease, or rental of transportation equipment 74750
shall be sourced pursuant to division (A) of this section. 74751

(G)(1) A lease or rental of tangible personal property that 74752

does not require recurring periodic payments shall be sourced 74753
pursuant to division (A) of this section. 74754

(2) A lease or rental of tangible personal property that 74755
requires recurring periodic payments shall be sourced as follows: 74756

(a) In the case of a motor vehicle, other than a motor 74757
vehicle that is transportation equipment, or an aircraft, other 74758
than an aircraft that is transportation equipment, such lease or 74759
rental shall be sourced ~~to the primary property location as~~ 74760
follows: 74761

(i) ~~For~~ An accelerated tax payment on a lease or rental taxed 74762
pursuant to division (A)(2) of section 5739.02 of the Revised 74763
Code, shall be sourced to the primary property location ~~is the~~ 74764
~~address of the lessee or renter used for titling the motor vehicle~~ 74765
~~pursuant to section 4505.06 of the Revised Code at the time the~~ 74766
lease or rental is consummated. Any subsequent taxable charges on 74767
the lease or rental shall be sourced to the primary property 74768
location for the period in which the charges are incurred. 74769

(ii) For a lease or rental taxed pursuant to division (A)(3) 74770
of section 5739.02 of the Revised Code, ~~the primary property~~ 74771
~~location for~~ each lease or rental installment is shall be sourced 74772
to the primary property location for the period covered by the 74773
installment. 74774

~~(b) In the case of an aircraft, other than an aircraft that~~ 74775
~~is transportation equipment, such lease or rental shall be sourced~~ 74776
~~to the primary property location as follows:~~ 74777

~~(i) For a lease or rental taxed pursuant to division (A)(2)~~ 74778
~~of section 5739.02 of the Revised Code, the primary property~~ 74779
~~location is the primary property location at the time the lease or~~ 74780
~~rental is consummated.~~ 74781

~~(ii) For a lease or rental taxed pursuant to division (A)(3)~~ 74782

~~of section 5739.02 of the Revised Code, the primary property location for each lease or rental installment is the primary property location for the period covered by the installment.~~

~~(c) In the case of a watercraft or an outboard motor required to be titled in this state pursuant to Chapter 1548. of the Revised Code, such lease or rental shall be sourced to the primary property location as follows:~~

~~(i) For a lease or rental taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, the primary property location is the address of the lessee or renter shown on the title.~~

~~(ii) For a lease or rental taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the primary property location for the initial lease or rental installment is the address of the lessee or renter shown on the title. For each subsequent installment, the primary property location is the primary property location for the period covered by the installment.~~

~~(d)(b) In the case of a lease or rental of all other tangible personal property, other than transportation equipment, such lease or rental shall be sourced as follows:~~

~~(i) For An accelerated tax payment on a lease or rental that is taxed pursuant to division (A)(2) of section 5739.02 of the Revised Code, ~~the lease or rental~~ shall be sourced pursuant to division (A) of this section at the time the lease or rental is consummated. Any subsequent taxable charges on the lease or rental shall be sourced to the primary property location for the period in which the charges are incurred.~~

~~(ii) For a lease or rental that is taxed pursuant to division (A)(3) of section 5739.02 of the Revised Code, the initial lease or rental installment shall be sourced pursuant to division (A) of~~

this section. Each subsequent installment shall be sourced to the 74814
primary property location for the period covered by the 74815
installment. 74816

(3) As used in division (G) of this section, "primary 74817
property location" means an address for tangible personal property 74818
provided by the lessee or renter that is available to the lessor 74819
or owner from its records maintained in the ordinary course of 74820
business, when use of that address does not constitute bad faith. 74821

Sec. 5739.034. (A) As used in this section: 74822

(1) "Air-to-ground radiotelephone service" means a radio 74823
service, as defined in 47 C.F.R. 22.99, in which common carriers 74824
are authorized to offer and provide radio telecommunications 74825
service for hire to subscribers in aircraft. 74826

(2) "Call-by-call basis" means any method of charging for 74827
telecommunications services where the price is measured by 74828
individual calls. 74829

(3) "Customer" means the person or entity that contracts with 74830
a seller of telecommunications service. If the end user of 74831
telecommunications service is not the contracting party, the end 74832
user of the telecommunications service is the customer of the 74833
telecommunications service. "Customer" does not include a reseller 74834
of telecommunications service or of mobile telecommunications 74835
service of a serving carrier under an agreement to serve the 74836
customer outside the home service provider's licensed service 74837
area. 74838

(4) "End user" means the person who utilizes the 74839
telecommunications service. In the case of a person other than an 74840
individual, "end user" means the individual who utilizes the 74841
service on behalf of the person. 74842

(5) "Home service provider" has the same meaning as in the 74843

"Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C. 124(5), as amended. 74844
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(6) "Place of primary use" means the street address 74846
representative of where the customer's use of the 74847
telecommunications service primarily occurs, which must be the 74848
residential street address or the primary business street address 74849
of the customer. In the case of mobile telecommunications 74850
services, "place of primary use" must be within the licensed 74851
service area of the home service provider. 74852

(7) "Post-paid calling service" means the telecommunications 74853
service obtained by making a payment on a call-by-call basis 74854
either through the use of a credit card or payment mechanism such 74855
as a bank card, travel card, credit card, or debit card, or by 74856
charge made to a telephone number that is not associated with the 74857
origination or termination of the telecommunications service. 74858
"Post-paid calling service" includes a telecommunications service, 74859
except a prepaid wireless calling service, that would be a prepaid 74860
calling service, but for the fact that it is not exclusively a 74861
telecommunications service. 74862

(8) "~~Prepaid calling service" means the right to access~~ 74863
~~exclusively a telecommunications service that must be paid for in~~ 74864
~~advance, that enables the origination of calls using an access~~ 74865
~~number or authorization code, whether manually or electronically~~ 74866
~~dialed, and that is sold in predetermined units or dollars of~~ 74867
~~which the number declines with use in a known amount and "prepaid~~ 74868
~~wireless calling service" have the same meanings as in section~~ 74869
5739.01 of the Revised Code. 74870

(9) "Service address" means: 74871

(a) The location of the telecommunications equipment to which 74872
a customer's call is charged and from which the call originates or 74873
terminates, regardless of where the call is billed or paid. 74874

(b) If the location in division (A)(9)(a) of this section is not known, "service address" means the origination point of the signal of the telecommunications service first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) If the locations in divisions (A)(9)(a) and (b) of this section are not known, "service address" means the location of the customer's place of primary use.

(10) "Private communication service" means a telecommunications service that entitles a customer to exclusive or priority use of a communications channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of such channel or channels.

(B) The amount of tax due pursuant to sections 5739.02, 5739.021, 5739.023, and 5739.026 of the Revised Code on sales of telecommunications service, information service, or mobile telecommunications service, is the sum of the taxes imposed pursuant to those sections at the sourcing location of the sale as determined under this section.

(C) Except for the telecommunications services described in division (E) of this section, the sale of telecommunications service sold on a call-by-call basis shall be sourced to each level of taxing jurisdiction where the call originates and terminates in that jurisdiction, or each level of taxing jurisdiction where the call either originates or terminates and in which the service address also is located.

(D) Except for the telecommunications services described in

division (E) of this section, a sale of telecommunications services sold on a basis other than a call-by-call basis shall be sourced to the customer's place of primary use.

(E) The sale of the following telecommunications services shall be sourced to each level of taxing jurisdiction, as follows:

(1) A sale of mobile telecommunications service, other than air-to-ground radiotelephone service and prepaid calling service, shall be sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act.

(2) A sale of post-paid calling service shall be sourced to the origination point of the telecommunications signal as first identified by the service provider's telecommunications system, or information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(3) A sale of ~~mobile telecommunications service that is a~~ prepaid ~~telecommunications~~ calling service or prepaid wireless calling service shall be sourced under division (A) of section 5739.033 of the Revised Code, ~~but~~. But in the case of prepaid wireless calling service, in lieu of sourcing the sale of the service under division (A)(5) of ~~that~~ section 5739.033 of the Revised Code, ~~it may be sourced~~ the service provider may elect to source the sale to the location associated with the mobile telephone number.

(4) A sale of a private communication service shall be sourced as follows:

(a) Service for a separate charge related to a customer channel termination point shall be sourced to each level of jurisdiction in which the customer channel termination point is located;

(b) Service where all customer channel termination points are located entirely within one jurisdiction or level of jurisdiction shall be sourced in the jurisdiction in which the customer channel termination points are located; 74936
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(c) Service for segments of a channel between two customer channel termination points located in different jurisdictions and which segments of a channel are separately charged shall be sourced fifty per cent in each level of jurisdiction in which the customer channel termination points are located; 74940
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(d) Service for segments of a channel located in more than one jurisdiction or level of jurisdiction and which segments are not separately billed shall be sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points. 74945
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Sec. 5739.035. This section only applies to sales that are required to be sitused under this section pursuant to section 5739.033 of the Revised Code. 74951
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(A) Except as otherwise provided in this section, the situs of all sales is the vendor's place of business. 74954
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(1) If the consumer or the consumer's agent takes possession of the tangible personal property at a place of business of the vendor where the purchase contract or agreement was made, the situs of the sale is that place of business. 74956
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(2) If the consumer or the consumer's agent takes possession of the tangible personal property other than at a place of business of the vendor, or takes possession at a warehouse or similar facility of the vendor, the situs of the sale is the vendor's place of business where the purchase contract or agreement was made or the purchase order was received. 74960
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(3) If the vendor provides a service specified in division 74966
(B)(3)(a), (b), (c), (d), (n), (o), (g), (r), or (s), ~~or (t)~~ of 74967
section 5739.01 or makes a sale specified in division (B)(8) of 74968
section 5739.01 of the Revised Code, the situs of the sale is the 74969
vendor's place of business where the service is performed or the 74970
contract or agreement for the service was made or the purchase 74971
order was received. 74972

(B) If the vendor is a transient vendor as specified in 74973
division (B) of section 5739.17 of the Revised Code, the situs of 74974
the sale is the vendor's temporary place of business or, if the 74975
transient vendor is the lessor of titled motor vehicles, titled 74976
watercraft, or titled outboard motors, at the location where the 74977
lessee keeps the leased property. 74978

(C) If the vendor makes sales of tangible personal property 74979
from a stock of goods carried in a motor vehicle, from which the 74980
purchaser makes selection and takes possession, or from which the 74981
vendor sells tangible personal property the quantity of which has 74982
not been determined prior to the time the purchaser takes 74983
possession, the situs of the sale is the location of the motor 74984
vehicle when the sale is made. 74985

(D) If the vendor is a delivery vendor as specified in 74986
division (D) of section 5739.17 of the Revised Code, the situs of 74987
the sale is the place where the tangible personal property is 74988
delivered, where the leased property is used, or where the service 74989
is performed or received. 74990

(E) If the vendor provides a service specified in division 74991
(B)(3)(e), (g), (h), (j), (k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of 74992
section 5739.01 of the Revised Code, the situs of the sale is the 74993
location of the consumer where the service is performed or 74994
received. 74995

(F) If the vendor provides lodging to transient guests as 74996

specified in division (B)(2) of section 5739.01 of the Revised Code, the situs of the sale is the location where the lodging is located. 74997
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(G) If the vendor sells a warranty, maintenance or service contract, or similar agreement as specified in division (B)(7) of section 5739.01 of the Revised Code and the vendor is a delivery vendor, the situs of the sale is the location of the consumer. If the vendor is not a delivery vendor, the situs of the sale is the vendor's place of business where the contract or agreement was made, unless the warranty or contract is a component of the sale of a titled motor vehicle, titled watercraft, or titled outboard motor, in which case the situs of the sale is the county of titling. 75000
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(H) Except as otherwise provided in this division, if the vendor sells a prepaid authorization number or a prepaid telephone calling card, the situs of the sale is the vendor's place of business and shall be taxed at the time of sale. If the vendor sells a prepaid authorization number or prepaid telephone calling card through a telephone call, electronic commerce, or any other form of remote commerce, the situs of the sale is the consumer's shipping address, or, if there is no item shipped, at the consumer's billing address. 75010
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Sec. 5739.09. (A)(1) A board of county commissioners may, by resolution adopted by a majority of the members of the board, levy an excise tax not to exceed three per cent on transactions by which lodging by a hotel is or is to be furnished to transient guests. The board shall establish all regulations necessary to provide for the administration and allocation of the tax. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per 75019
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cent of the amount of tax due, and the rate at which interest 75028
accrues does not exceed the rate per annum prescribed pursuant to 75029
section 5703.47 of the Revised Code. Except as provided in 75030
divisions (A)(2), (3), (4), and (5) of this section, the 75031
regulations shall provide, after deducting the real and actual 75032
costs of administering the tax, for the return to each municipal 75033
corporation or township that does not levy an excise tax on the 75034
transactions, a uniform percentage of the tax collected in the 75035
municipal corporation or in the unincorporated portion of the 75036
township from each transaction, not to exceed thirty-three and 75037
one-third per cent. The remainder of the revenue arising from the 75038
tax shall be deposited in a separate fund and shall be spent 75039
solely to make contributions to the convention and visitors' 75040
bureau or community improvement corporation operating within the 75041
county, including a pledge and contribution of any portion of the 75042
remainder pursuant to an agreement authorized by section 307.695 75043
of the Revised Code. Except as provided in division (A)(2), (3), 75044
(4), or (5) or (H) of this section, on and after May 10, 1994, a 75045
board of county commissioners may not levy an excise tax pursuant 75046
to this division in any municipal corporation or township located 75047
wholly or partly within the county that has in effect an ordinance 75048
or resolution levying an excise tax pursuant to division (B) of 75049
this section. The board of a county that has levied a tax under 75050
division (C) of this section may, by resolution adopted within 75051
ninety days after July 15, 1985, by a majority of the members of 75052
the board, amend the resolution levying a tax under this division 75053
to provide for a portion of that tax to be pledged and contributed 75054
in accordance with an agreement entered into under section 307.695 75055
of the Revised Code. A tax, any revenue from which is pledged 75056
pursuant to such an agreement, shall remain in effect at the rate 75057
at which it is imposed for the duration of the period for which 75058
the revenue from the tax has been so pledged. 75059

(2) A board of county commissioners that levies an excise tax under division (A)(1) of this section on June 30, 1997, at a rate of three per cent, and that has pledged revenue from the tax to an agreement entered into under section 307.695 of the Revised Code, may amend the resolution levying that tax to provide for an increase in the rate of the tax up to five per cent on each transaction; to provide that revenue from the increase in the rate shall be spent solely to make contributions to the convention and visitors' bureau operating within the county to be used specifically for promotion, advertising, and marketing of the region in which the county is located; to provide that the rate in excess of the three per cent levied under division (A)(1) of this section shall remain in effect at the rate at which it is imposed for the duration of the period during which any agreement is in effect that was entered into under section 307.695 of the Revised Code by the board of county commissioners levying a tax under division (A)(1) of this section; and to provide that no portion of that revenue need be returned to townships or municipal corporations as would otherwise be required under division (A)(1) of this section.

(3) A board of county commissioners that levies a tax under division (A)(1) of this section on March 18, 1999, at a rate of three per cent may, by resolution adopted not later than forty-five days after March 18, 1999, amend the resolution levying the tax to provide for all of the following:

(a) That the rate of the tax shall be increased by not more than an additional four per cent on each transaction;

(b) That all of the revenue from the increase in the rate shall be pledged and contributed to a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code on or before November 15, 1998, and used to pay costs of constructing, maintaining, operating, and

promoting a facility in the county, including paying bonds, or 75092
notes issued in anticipation of bonds, as provided by that 75093
chapter; 75094

(c) That no portion of the revenue arising from the increase 75095
in rate need be returned to municipal corporations or townships as 75096
otherwise required under division (A)(1) of this section; 75097

(d) That the increase in rate shall not be subject to 75098
diminution by initiative or referendum or by law while any bonds, 75099
or notes in anticipation of bonds, issued by the authority under 75100
Chapter 351. of the Revised Code to which the revenue is pledged, 75101
remain outstanding in accordance with their terms, unless 75102
provision is made by law or by the board of county commissioners 75103
for an adequate substitute therefor that is satisfactory to the 75104
trustee if a trust agreement secures the bonds. 75105

Division (A)(3) of this section does not apply to the board 75106
of county commissioners of any county in which a convention center 75107
or facility exists or is being constructed on November 15, 1998, 75108
or of any county in which a convention facilities authority levies 75109
a tax pursuant to section 351.021 of the Revised Code on that 75110
date. 75111

As used in division (A)(3) of this section, "cost" and 75112
"facility" have the same meanings as in section 351.01 of the 75113
Revised Code, and "convention center" has the same meaning as in 75114
section 307.695 of the Revised Code. 75115

(4) A board of county commissioners that levies a tax under 75116
division (A)(1) of this section on June 30, 2002, at a rate of 75117
three per cent may, by resolution adopted not later than September 75118
30, 2002, amend the resolution levying the tax to provide for all 75119
of the following: 75120

(a) That the rate of the tax shall be increased by not more 75121
than an additional three and one-half per cent on each 75122

transaction; 75123

(b) That all of the revenue from the increase in rate shall 75124
be pledged and contributed to a convention facilities authority 75125
established by the board of county commissioners under Chapter 75126
351. of the Revised Code on or before May 15, 2002, and be used to 75127
pay costs of constructing, expanding, maintaining, operating, or 75128
promoting a convention center in the county, including paying 75129
bonds, or notes issued in anticipation of bonds, as provided by 75130
that chapter; 75131

(c) That no portion of the revenue arising from the increase 75132
in rate need be returned to municipal corporations or townships as 75133
otherwise required under division (A)(1) of this section; 75134

(d) That the increase in rate shall not be subject to 75135
diminution by initiative or referendum or by law while any bonds, 75136
or notes in anticipation of bonds, issued by the authority under 75137
Chapter 351. of the Revised Code to which the revenue is pledged, 75138
remain outstanding in accordance with their terms, unless 75139
provision is made by law or by the board of county commissioners 75140
for an adequate substitute therefor that is satisfactory to the 75141
trustee if a trust agreement secures the bonds. 75142

As used in division (A)(4) of this section, "cost" has the 75143
same meaning as in section 351.01 of the Revised Code, and 75144
"convention center" has the same meaning as in section 307.695 of 75145
the Revised Code. 75146

(5)(a) As used in division (A)(5) of this section: 75147

(i) "Port authority" means a port authority created under 75148
Chapter 4582. of the Revised Code. 75149

(ii) "Port authority military-use facility" means port 75150
authority facilities on which or adjacent to which is located an 75151
installation of the armed forces of the United States, a reserve 75152

component thereof, or the national guard and at least part of 75153
which is made available for use, for consideration, by the armed 75154
forces of the United States, a reserve component thereof, or the 75155
national guard. 75156

(b) For the purpose of contributing revenue to pay operating 75157
expenses of a port authority that operates a port authority 75158
military-use facility, the board of county commissioners of a 75159
county that created, participated in the creation of, or has 75160
joined such a port authority may do one or both of the following: 75161

(i) Amend a resolution previously adopted under division 75162
(A)(1) of this section to designate some or all of the revenue 75163
from the tax levied under the resolution to be used for that 75164
purpose, notwithstanding that division; 75165

(ii) Amend a resolution previously adopted under division 75166
(A)(1) of this section to increase the rate of the tax by not more 75167
than an additional two per cent and use the revenue from the 75168
increase exclusively for that purpose. 75169

(c) If a board of county commissioners amends a resolution to 75170
increase the rate of a tax as authorized in division (A)(5)(b)(ii) 75171
of this section, the board also may amend the resolution to 75172
specify that the increase in rate of the tax does not apply to 75173
"hotels," as otherwise defined in section 5739.01 of the Revised 75174
Code, having fewer rooms used for the accommodation of guests than 75175
a number of rooms specified by the board. 75176

(B)(1) The legislative authority of a municipal corporation 75177
or the board of trustees of a township that is not wholly or 75178
partly located in a county that has in effect a resolution levying 75179
an excise tax pursuant to division (A)(1) of this section may, by 75180
ordinance or resolution, levy an excise tax not to exceed three 75181
per cent on transactions by which lodging by a hotel is or is to 75182
be furnished to transient guests. The legislative authority of the 75183

municipal corporation or the board of trustees of the township 75184
shall deposit at least fifty per cent of the revenue from the tax 75185
levied pursuant to this division into a separate fund, which shall 75186
be spent solely to make contributions to convention and visitors' 75187
bureaus operating within the county in which the municipal 75188
corporation or township is wholly or partly located, and the 75189
balance of that revenue shall be deposited in the general fund. 75190
The municipal corporation or township shall establish all 75191
regulations necessary to provide for the administration and 75192
allocation of the tax. The regulations may prescribe the time for 75193
payment of the tax, and may provide for the imposition of a 75194
penalty or interest, or both, for late payments, provided that the 75195
penalty does not exceed ten per cent of the amount of tax due, and 75196
the rate at which interest accrues does not exceed the rate per 75197
annum prescribed pursuant to section 5703.47 of the Revised Code. 75198
The levy of a tax under this division is in addition to any tax 75199
imposed on the same transaction by a municipal corporation or a 75200
township as authorized by division (A) of section 5739.08 of the 75201
Revised Code. 75202

(2) The legislative authority of the most populous municipal 75203
corporation located wholly or partly in a county in which the 75204
board of county commissioners has levied a tax under division 75205
(A)(4) of this section may amend, on or before September 30, 2002, 75206
that municipal corporation's ordinance or resolution that levies 75207
an excise tax on transactions by which lodging by a hotel is or is 75208
to be furnished to transient guests, to provide for all of the 75209
following: 75210

(a) That the rate of the tax shall be increased by not more 75211
than an additional one per cent on each transaction; 75212

(b) That all of the revenue from the increase in rate shall 75213
be pledged and contributed to a convention facilities authority 75214
established by the board of county commissioners under Chapter 75215

351. of the Revised Code on or before May 15, 2002, and be used to
pay costs of constructing, expanding, maintaining, operating, or
promoting a convention center in the county, including paying
bonds, or notes issued in anticipation of bonds, as provided by
that chapter;

(c) That the increase in rate shall not be subject to
diminution by initiative or referendum or by law while any bonds,
or notes in anticipation of bonds, issued by the authority under
Chapter 351. of the Revised Code to which the revenue is pledged,
remain outstanding in accordance with their terms, unless
provision is made by law, by the board of county commissioners, or
by the legislative authority, for an adequate substitute therefor
that is satisfactory to the trustee if a trust agreement secures
the bonds.

As used in division (B)(2) of this section, "cost" has the
same meaning as in section 351.01 of the Revised Code, and
"convention center" has the same meaning as in section 307.695 of
the Revised Code.

(C) For the purpose of making the payments authorized by
section 307.695 of the Revised Code to construct and equip a
convention center in the county and to cover the costs of
administering the tax, a board of county commissioners of a county
where a tax imposed under division (A)(1) of this section is in
effect may, by resolution adopted within ~~ninety~~ one hundred eighty
days after July ~~15, 1985~~ 1, 2005, by a majority of the members of
the board, levy an additional excise tax not to exceed three per
cent on transactions by which lodging by a hotel is or is to be
furnished to transient guests. The tax authorized by this division
shall be in addition to any tax that is levied pursuant to
division (A) of this section, but it shall not apply to
transactions subject to a tax levied by a municipal corporation or
township pursuant to the authorization granted by division (A) of

section 5739.08 of the Revised Code. The board shall establish all 75248
regulations necessary to provide for the administration and 75249
allocation of the tax. The regulations may prescribe the time for 75250
payment of the tax, and may provide for the imposition of a 75251
penalty or interest, or both, for late payments, provided that the 75252
penalty does not exceed ten per cent of the amount of tax due, and 75253
the rate at which interest accrues does not exceed the rate per 75254
annum prescribed pursuant to section 5703.47 of the Revised Code. 75255
All revenues arising from the tax shall be expended in accordance 75256
with section 307.695 of the Revised Code. A tax imposed under this 75257
division shall remain in effect at the rate at which it is imposed 75258
for the duration of the period for which the revenue from the tax 75259
has been pledged pursuant to that section. 75260

(D) For the purpose of providing contributions under division 75261
(B)(1) of section 307.671 of the Revised Code to enable the 75262
acquisition, construction, and equipping of a port authority 75263
educational and cultural facility in the county and, to the extent 75264
provided for in the cooperative agreement authorized by that 75265
section, for the purpose of paying debt service charges on bonds, 75266
or notes in anticipation of bonds, described in division (B)(1)(b) 75267
of that section, a board of county commissioners, by resolution 75268
adopted within ninety days after December 22, 1992, by a majority 75269
of the members of the board, may levy an additional excise tax not 75270
to exceed one and one-half per cent on transactions by which 75271
lodging by a hotel is or is to be furnished to transient guests. 75272
The excise tax authorized by this division shall be in addition to 75273
any tax that is levied pursuant to divisions (A), (B), and (C) of 75274
this section, to any excise tax levied pursuant to section 5739.08 75275
of the Revised Code, and to any excise tax levied pursuant to 75276
section 351.021 of the Revised Code. The board of county 75277
commissioners shall establish all regulations necessary to provide 75278
for the administration and allocation of the tax that are not 75279
inconsistent with this section or section 307.671 of the Revised 75280

Code. The regulations may prescribe the time for payment of the tax, and may provide for the imposition of a penalty or interest, or both, for late payments, provided that the penalty does not exceed ten per cent of the amount of tax due, and the rate at which interest accrues does not exceed the rate per annum prescribed pursuant to section 5703.47 of the Revised Code. All revenues arising from the tax shall be expended in accordance with section 307.671 of the Revised Code and division (D) of this section. The levy of a tax imposed under this division may not commence prior to the first day of the month next following the execution of the cooperative agreement authorized by section 307.671 of the Revised Code by all parties to that agreement. The tax shall remain in effect at the rate at which it is imposed for the period of time described in division (C) of section 307.671 of the Revised Code for which the revenue from the tax has been pledged by the county to the corporation pursuant to that section, but, to any extent provided for in the cooperative agreement, for no lesser period than the period of time required for payment of the debt service charges on bonds, or notes in anticipation of bonds, described in division (B)(1)(b) of that section.

(E) For the purpose of paying the costs of acquiring, constructing, equipping, and improving a municipal educational and cultural facility, including debt service charges on bonds provided for in division (B) of section 307.672 of the Revised Code, and for any additional purposes determined by the county in the resolution levying the tax or amendments to the resolution, including subsequent amendments providing for paying costs of acquiring, constructing, renovating, rehabilitating, equipping, and improving a port authority educational and cultural performing arts facility, as defined in section 307.674 of the Revised Code, and including debt service charges on bonds provided for in division (B) of section 307.674 of the Revised Code, the

legislative authority of a county, by resolution adopted within
ninety days after June 30, 1993, by a majority of the members of
the legislative authority, may levy an additional excise tax not
to exceed one and one-half per cent on transactions by which
lodging by a hotel is or is to be furnished to transient guests.
The excise tax authorized by this division shall be in addition to
any tax that is levied pursuant to divisions (A), (B), (C), and
(D) of this section, to any excise tax levied pursuant to section
5739.08 of the Revised Code, and to any excise tax levied pursuant
to section 351.021 of the Revised Code. The legislative authority
of the county shall establish all regulations necessary to provide
for the administration and allocation of the tax. The regulations
may prescribe the time for payment of the tax, and may provide for
the imposition of a penalty or interest, or both, for late
payments, provided that the penalty does not exceed ten per cent
of the amount of tax due, and the rate at which interest accrues
does not exceed the rate per annum prescribed pursuant to section
5703.47 of the Revised Code. All revenues arising from the tax
shall be expended in accordance with section 307.672 of the
Revised Code and this division. The levy of a tax imposed under
this division shall not commence prior to the first day of the
month next following the execution of the cooperative agreement
authorized by section 307.672 of the Revised Code by all parties
to that agreement. The tax shall remain in effect at the rate at
which it is imposed for the period of time determined by the
legislative authority of the county, but not to exceed fifteen
years.

(F) The legislative authority of a county that has levied a
tax under division (E) of this section may, by resolution adopted
within one hundred eighty days after January 4, 2001, by a
majority of the members of the legislative authority, amend the
resolution levying a tax under that division to provide for the

use of the proceeds of that tax, to the extent that it is no
longer needed for its original purpose as determined by the
parties to a cooperative agreement amendment pursuant to division
(D) of section 307.672 of the Revised Code, to pay costs of
acquiring, constructing, renovating, rehabilitating, equipping,
and improving a port authority educational and cultural performing
arts facility, including debt service charges on bonds provided
for in division (B) of section 307.674 of the Revised Code, and to
pay all obligations under any guaranty agreements, reimbursement
agreements, or other credit enhancement agreements described in
division (C) of section 307.674 of the Revised Code. The
resolution may also provide for the extension of the tax at the
same rate for the longer of the period of time determined by the
legislative authority of the county, but not to exceed an
additional twenty-five years, or the period of time required to
pay all debt service charges on bonds provided for in division (B)
of section 307.672 of the Revised Code and on port authority
revenue bonds provided for in division (B) of section 307.674 of
the Revised Code. All revenues arising from the amendment and
extension of the tax shall be expended in accordance with section
307.674 of the Revised Code, this division, and division (E) of
this section.

(G) For purposes of a tax levied by a county, township, or
municipal corporation under this section or section 5739.08 of the
Revised Code, a board of county commissioners, board of township
trustees, or the legislative authority of a municipal corporation
may adopt a resolution or ordinance at any time specifying that
"hotel," as otherwise defined in section 5739.01 of the Revised
Code, includes establishments in which fewer than five rooms are
used for the accommodation of guests. The resolution or ordinance
may apply to a tax imposed pursuant to this section prior to the
adoption of the resolution or ordinance if the resolution or

ordinance so states, but the tax shall not apply to transactions 75377
by which lodging by such an establishment is provided to transient 75378
guests prior to the adoption of the resolution or ordinance. 75379

(H)(1) As used in this division: 75380

(a) "Convention facilities authority" has the same meaning as 75381
in section 351.01 of the Revised Code. 75382

(b) "Convention center" has the same meaning as in section 75383
307.695 of the Revised Code. 75384

(2) Notwithstanding any contrary provision of division (D) of 75385
this section, the legislative authority of a county with a 75386
population of one million or more according to the most recent 75387
federal decennial census that has levied a tax under division (D) 75388
of this section may, by resolution adopted by a majority of the 75389
members of the legislative authority, provide for the extension of 75390
such levy and may provide that the proceeds of that tax, to the 75391
extent that they are no longer needed for their original purpose 75392
as defined by a cooperative agreement entered into under section 75393
307.671 of the Revised Code, shall be deposited into the county 75394
general revenue fund. The resolution shall provide for the 75395
extension of the tax at a rate not to exceed the rate specified in 75396
division (D) of this section for a period of time determined by 75397
the legislative authority of the county, but not to exceed an 75398
additional forty years. 75399

(3) The legislative authority of a county with a population 75400
of one million or more that has levied a tax under division (A)(1) 75401
of this section may, by resolution adopted by a majority of the 75402
members of the legislative authority, increase the rate of the tax 75403
levied by such county under division (A)(1) of this section to a 75404
rate not to exceed five per cent on transactions by which lodging 75405
by a hotel is or is to be furnished to transient guests. 75406
Notwithstanding any contrary provision of division (A)(1) of this 75407

section, the resolution may provide that all collections resulting 75408
from the rate levied in excess of three per cent, after deducting 75409
the real and actual costs of administering the tax, shall be 75410
deposited in the county general fund. 75411

(4) The legislative authority of a county with a population 75412
of one million or more that has levied a tax under division (A)(1) 75413
of this section may, by resolution adopted on or before August 30, 75414
2004, by a majority of the members of the legislative authority, 75415
provide that all or a portion of the proceeds of the tax levied 75416
under division (A)(1) of this section, after deducting the real 75417
and actual costs of administering the tax and the amounts required 75418
to be returned to townships and municipal corporations with 75419
respect to the first three per cent levied under division (A)(1) 75420
of this section, shall be deposited in the county general fund, 75421
provided that such proceeds shall be used to satisfy any pledges 75422
made in connection with an agreement entered into under section 75423
307.695 of the Revised Code. 75424

(5) No amount collected from a tax levied, extended, or 75425
required to be deposited in the county general fund under division 75426
(H) of this section shall be contributed to a convention 75427
facilities authority, corporation, or other entity created after 75428
July 1, 2003, for the principal purpose of constructing, 75429
improving, expanding, equipping, financing, or operating a 75430
convention center unless the mayor of the municipal corporation in 75431
which the convention center is to be operated by that convention 75432
facilities authority, corporation, or other entity has consented 75433
to the creation of that convention facilities authority, 75434
corporation, or entity. Notwithstanding any contrary provision of 75435
section 351.04 of the Revised Code, if a tax is levied by a county 75436
under division (H) of this section, the board of county 75437
commissioners of that county may determine the manner of 75438
selection, the qualifications, the number, and terms of office of 75439

the members of the board of directors of any convention facilities 75440
authority, corporation, or other entity described in division 75441
(H)(5) of this section. 75442

(6)(a) No amount collected from a tax levied, extended, or 75443
required to be deposited in the county general fund under division 75444
(H) of this section may be used for any purpose other than paying 75445
the direct and indirect costs of constructing, improving, 75446
expanding, equipping, financing, or operating a convention center 75447
and for the real and actual costs of administering the tax, 75448
unless, prior to the adoption of the resolution of the legislative 75449
authority of the county authorizing the levy, extension, increase, 75450
or deposit, the county and the mayor of the most populous 75451
municipal corporation in that county have entered into an 75452
agreement as to the use of such amounts, provided that such 75453
agreement has been approved by a majority of the mayors of the 75454
other municipal corporations in that county. The agreement shall 75455
provide that the amounts to be used for purposes other than paying 75456
the convention center or administrative costs described in 75457
division (H)(6)(a) of this section be used only for the direct and 75458
indirect costs of capital improvements, including the financing of 75459
capital improvements. 75460

(b) If the county in which the tax is levied has an 75461
association of mayors and city managers, the approval of that 75462
association of an agreement described in division (H)(6)(a) of 75463
this section shall be considered to be the approval of the 75464
majority of the mayors of the other municipal corporations for 75465
purposes of that division. 75466

(7) Each year, the auditor of state shall conduct an audit of 75467
the uses of any amounts collected from taxes levied, extended, or 75468
deposited under division (H) of this section and shall prepare a 75469
report of the auditor of state's findings. The auditor of state 75470
shall submit the report to the legislative authority of the county 75471

that has levied, extended, or deposited the tax, the speaker of 75472
the house of representatives, the president of the senate, and the 75473
leaders of the minority parties of the house of representatives 75474
and the senate. 75475

Sec. 5739.10. (A) In addition to the tax levied by section 75476
5739.02 of the Revised Code and any tax levied pursuant to section 75477
5739.021, 5739.023, or 5739.026 of the Revised Code, and to secure 75478
the same objectives specified in those sections, there is hereby 75479
levied upon the privilege of engaging in the business of making 75480
retail sales, an excise tax ~~of six per cent on and after July 1,~~ 75481
~~2003, and on and before June 30, 2005, and an excise tax of five~~ 75482
~~per cent on and after July 1, 2005~~ equal to the tax levied by 75483
section 5739.02 of the Revised Code, or, in the case of retail 75484
sales subject to a tax levied pursuant to section 5739.021, 75485
5739.023, or 5739.026 of the Revised Code, a percentage equal to 75486
the aggregate rate of such taxes and the tax levied by section 75487
5739.02 of the Revised Code of the receipts derived from all 75488
retail sales, except those to which the excise tax imposed by 75489
section 5739.02 of the Revised Code is made inapplicable by 75490
division (B) of that section. 75491

(B) For the purpose of this section, no vendor shall be 75492
required to maintain records of sales of food for human 75493
consumption off the premises where sold, and no assessment shall 75494
be made against any vendor for sales of food for human consumption 75495
off the premises where sold, solely because the vendor has no 75496
records of, or has inadequate records of, such sales; provided 75497
that where a vendor does not have adequate records of receipts 75498
from the vendor's sales of food for human consumption on the 75499
premises where sold, the tax commissioner may refuse to accept the 75500
vendor's return and, upon the basis of test checks of the vendor's 75501
business for a representative period, and other information 75502

relating to the sales made by such vendor, determine the 75503
proportion that taxable retail sales bear to all of the vendor's 75504
retail sales. The tax imposed by this section shall be determined 75505
by deducting from the sum representing five and one-half or six 75506
per cent, as applicable under division (A) of this section, or, in 75507
the case of retail sales subject to a tax levied pursuant to 75508
section 5739.021, 5739.023, or 5739.026 of the Revised Code, a 75509
percentage equal to the aggregate rate of such taxes and the tax 75510
levied by section 5739.02 of the Revised Code of the receipts from 75511
such retail sales, the amount of tax paid to the state or to a 75512
clerk of a court of common pleas. The section does not affect any 75513
duty of the vendor under sections 5739.01 to 5739.19 and 5739.26 75514
to 5739.31 of the Revised Code, nor the liability of any consumer 75515
to pay any tax imposed by or pursuant to section 5739.02, 75516
5739.021, 5739.023, or 5739.026 of the Revised Code. 75517

Sec. 5739.12. (A) Each person who has or is required to have 75518
a vendor's license, on or before the twenty-third day of each 75519
month, shall make and file a return for the preceding month, on 75520
forms prescribed by the tax commissioner, and shall pay the tax 75521
shown on the return to be due. The commissioner may require a 75522
vendor that operates from multiple locations or has multiple 75523
vendor's licenses to report all tax liabilities on one 75524
consolidated return. The return shall show the amount of tax due 75525
from the vendor to the state for the period covered by the return 75526
and such other information as the commissioner deems necessary for 75527
the proper administration of this chapter. The commissioner may 75528
extend the time for making and filing returns and paying the tax, 75529
and may require that the return for the last month of any annual 75530
or semiannual period, as determined by the commissioner, be a 75531
reconciliation return detailing the vendor's sales activity for 75532
the preceding annual or semiannual period. The reconciliation 75533
return shall be filed by the last day of the month following the 75534

last month of the annual or semiannual period. The commissioner 75535
may remit all or any part of amounts or penalties that may become 75536
due under this chapter and may adopt rules relating thereto. Such 75537
return shall be filed by mailing it to the tax commissioner, 75538
together with payment of the amount of tax shown to be due thereon 75539
after deduction of any discount provided for under this section. 75540
Remittance shall be made payable to the treasurer of state. The 75541
return shall be considered filed when received by the tax 75542
commissioner, and the payment shall be considered made when 75543
received by the tax commissioner or when credited to an account 75544
designated by the treasurer of state or the tax commissioner. 75545

(B) If the return is filed and the amount of tax shown 75546
thereon to be due is paid on or before the date such return is 75547
required to be filed, the vendor shall be entitled to ~~the~~ 75548
~~following a discount+ of~~ 75549

~~(1) On and after July 1, 2003, and on and before June 30,~~ 75550
~~2005,~~ nine-tenths of one per cent of the amount shown to be due on 75551
the return+ 75552

~~(2) On and after July 1, 2005, three fourths of one per cent~~ 75553
~~of the amount shown to be due on the return.~~ 75554

A vendor that has selected a certified service provider as 75555
its agent shall not be entitled to the discount. Amounts paid to 75556
the clerk of courts pursuant to section 4505.06 of the Revised 75557
Code shall be subject to the applicable discount. The discount 75558
shall be in consideration for prompt payment to the clerk of 75559
courts and for other services performed by the vendor in the 75560
collection of the tax. 75561

(C)(1) Upon application to the commissioner, a vendor who is 75562
required to file monthly returns may be relieved of the 75563
requirement to report and pay the actual tax due, provided that 75564
the vendor agrees to remit to the tax commissioner payment of not 75565

less than an amount determined by the commissioner to be the
average monthly tax liability of the vendor, based upon a review
of the returns or other information pertaining to such vendor for
a period of not less than six months nor more than two years
immediately preceding the filing of the application. Vendors who
agree to the above conditions shall make and file an annual or
semiannual reconciliation return, as prescribed by the
commissioner. The reconciliation return shall be filed by mailing
or delivering it to the tax commissioner, together with payment of
the amount of tax shown to be due thereon after deduction of any
discount provided in this section. Remittance shall be made
payable to the treasurer of state. Failure of a vendor to comply
with any of the above conditions may result in immediate
reinstatement of the requirement of reporting and paying the
actual tax liability on each monthly return, and the commissioner
may at the commissioner's discretion deny the vendor the right to
report and pay based upon the average monthly liability for a
period not to exceed two years. The amount ascertained by the
commissioner to be the average monthly tax liability of a vendor
may be adjusted, based upon a review of the returns or other
information pertaining to the vendor for a period of not less than
six months nor more than two years preceding such adjustment.

(2) The commissioner may authorize vendors whose tax
liability is not such as to merit monthly returns, as ascertained
by the commissioner upon the basis of administrative costs to the
state, to make and file returns at less frequent intervals. When
returns are filed at less frequent intervals in accordance with
such authorization, the vendor shall be allowed the discount
provided in this section in consideration for prompt payment with
the return, provided the return is filed together with payment of
the amount of tax shown to be due thereon, at the time specified
by the commissioner, but a vendor that has selected a certified

service provider as its agent shall not be entitled to the 75598
discount. 75599

(D) Any vendor who fails to file a return or pay the full 75600
amount of the tax shown on the return to be due under this section 75601
and the rules of the commissioner may, for each such return the 75602
vendor fails to file or each such tax the vendor fails to pay in 75603
full as shown on the return within the period prescribed by this 75604
section and the rules of the commissioner, be required to forfeit 75605
and pay into the state treasury an additional charge not exceeding 75606
fifty dollars or ten per cent of the tax required to be paid for 75607
the reporting period, whichever is greater, as revenue arising 75608
from the tax imposed by this chapter, and such sum may be 75609
collected by assessment in the manner provided in section 5739.13 75610
of the Revised Code. The commissioner may remit all or a portion 75611
of the additional charge and may adopt rules relating to the 75612
imposition and remission of the additional charge. 75613

(E) If the amount required to be collected by a vendor from 75614
consumers is in excess of the applicable percentage of the 75615
vendor's receipts from sales that are taxable under section 75616
5739.02 of the Revised Code, or in the case of sales subject to a 75617
tax levied pursuant to section 5739.021, 5739.023, or 5739.026 of 75618
the Revised Code, in excess of the percentage equal to the 75619
aggregate rate of such taxes and the tax levied by section 5739.02 75620
of the Revised Code, such excess shall be remitted along with the 75621
remittance of the amount of tax due under section 5739.10 of the 75622
Revised Code. 75623

(F) The commissioner, if the commissioner deems it necessary 75624
in order to insure the payment of the tax imposed by this chapter, 75625
may require returns and payments to be made for other than monthly 75626
periods. The returns shall be signed by the vendor or the vendor's 75627
authorized agent. 75628

(G) Any vendor required to file a return and pay the tax under this section, whose total payment equals or exceeds the amount shown in division (A) of section 5739.122 of the Revised Code, shall make each payment required by this section in the second ensuing and each succeeding year by electronic funds transfer as prescribed by, and on or before the dates specified in, section 5739.122 of the Revised Code, except as otherwise prescribed by that section. For a vendor that operates from multiple locations or has multiple vendor's licenses, in determining whether the vendor's total payment equals or exceeds the amount shown in division (A) of that section, the vendor's total payment amount shall be the amount of the vendor's total tax liability for the previous calendar year for all of the vendor's locations or licenses.

Sec. 5739.16. (A) ~~No~~ Except as otherwise provided in this section, no assessment shall be made or issued against a vendor or consumer for any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code more than four years after the return date for the period in which the sale or purchase was made, or more than four years after the return for such period is filed, whichever is later. A consumer who provides a fully completed exemption certificate pursuant to division (B) of section 5739.03 of the Revised Code may be assessed any tax imposed by or pursuant to section 5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code that results from denial of the claimed exemption within the later of a period otherwise allowed by this section or one year after the date the certificate was provided. This division does not bar an assessment:

(1) When the tax commissioner has substantial evidence of amounts of taxes collected by a vendor from consumers on retail

sales, which were not returned to the state; 75660

(2) When the vendor assessed failed to file a return as 75661
required by section 5739.12 of the Revised Code; 75662

(3) When the vendor or consumer and the commissioner waive in 75663
writing the time limitation. 75664

(B) No assessment shall be made or issued against a vendor or 75665
consumer for any tax imposed by or pursuant to section 5739.02, 75666
5739.021, 5739.023, 5739.026, or 5739.10 of the Revised Code for 75667
any period during which there was in full force and effect a rule 75668
of the tax commissioner under or by virtue of which the collection 75669
or payment of any such tax was not required. This division does 75670
not bar an assessment when the tax commissioner has substantial 75671
evidence of amounts of taxes collected by a vendor from consumers 75672
on retail sales which were not returned to the state. 75673

(C) No assessment shall be made or issued against a person 75674
for any tax imposed pursuant to section 5739.101 of the Revised 75675
Code more than four years after the return date for the period in 75676
which the tax is imposed on the person's gross receipts, or more 75677
than four years after the return for such period is filed, 75678
whichever is later. This division does not bar an assessment when 75679
the person assessed failed to file a return as required under 75680
section 5739.102 of the Revised Code, or when the person and the 75681
commissioner waive in writing the time limitation. 75682

Sec. 5739.17. (A) No person shall engage in making retail 75683
sales subject to a tax imposed by or pursuant to section 5739.02, 75684
5739.021, 5739.023, or 5739.026 of the Revised Code as a business 75685
without having a license therefor, except as otherwise provided in 75686
divisions (A)(1), (2), and (3) of this section. 75687

(1) In the dissolution of a partnership by death, the 75688
surviving partner may operate under the license of the partnership 75689

for a period of sixty days. 75690

(2) The heirs or legal representatives of deceased persons, 75691
and receivers and trustees in bankruptcy, appointed by any 75692
competent authority, may operate under the license of the person 75693
so succeeded in possession. 75694

(3) Two or more persons who are not partners may operate a 75695
single place of business under one license. In such case neither 75696
the retirement of any such person from business at that place of 75697
business, nor the entrance of any person, under an existing 75698
arrangement, shall affect the license or require the issuance of a 75699
new license, unless the person retiring from the business is the 75700
individual named on the vendor's license. 75701

Except as otherwise provided in this section, each applicant 75702
for a license shall make out and deliver to the county auditor of 75703
each county in which the applicant desires to engage in business, 75704
upon a blank to be furnished by such auditor for that purpose, a 75705
statement showing the name of the applicant, each place of 75706
business in the county where the applicant will make retail sales, 75707
the nature of the business, and any other information the tax 75708
commissioner reasonably prescribes in the form of a statement 75709
prescribed by the commissioner. 75710

At the time of making the application, the applicant shall 75711
pay into the county treasury a license fee in the sum of 75712
twenty-five dollars for each fixed place of business in the county 75713
that will be the situs of retail sales. Upon receipt of the 75714
application and exhibition of the county treasurer's receipt, 75715
showing the payment of the license fee, the county auditor shall 75716
issue to the applicant a license for each fixed place of business 75717
designated in the application, authorizing the applicant to engage 75718
in business at that location. If a vendor's identity changes, the 75719
vendor shall apply for a new license. If a vendor wishes to move 75720

an existing fixed place of business to a new location within the
same county, the vendor shall obtain a new vendor's license or
submit a request to the tax commissioner to transfer the existing
vendor's license to the new location. When the new location has
been verified as being within the same county, the commissioner
shall authorize the transfer and notify the county auditor of the
change of location. If a vendor wishes to move an existing fixed
place of business to another county, the vendor's license shall
not transfer and the vendor shall obtain a new vendor's license
from the county in which the business is to be located. The form
of the license shall be prescribed by the commissioner. The fees
collected shall be credited to the general fund of the county.

The tax commissioner may establish or participate in a
registration system whereby any vendor may obtain a vendor's
license by submitting to the commissioner a vendor's license
application and a license fee of twenty-five dollars for each
fixed place of business at which the vendor intends to make retail
sales. Under this registration system, the commissioner shall
issue a vendor's license to the applicant on behalf of the county
auditor of the county in which the applicant desires to engage in
business, and shall forward a copy of the application and license
fee to that county. All such license fees received by the
commissioner for the issuance of vendor's licenses shall be
deposited into the vendor's license application fund, which is
hereby created in the state treasury. The commissioner shall
certify to the director of budget and management within ten
business days after the close of a month the license fees to be
transmitted to each county from the vendor's license application
fund for vendor's license applications received by the
commissioner during that month. License fees transmitted to a
county for which payment was not received by the commissioner may
be netted against a future distribution to that county, including

distributions made pursuant to section 5739.21 of the Revised 75753
Code. 75754

A vendor that makes retail sales subject to tax under Chapter 75755
5739. of the Revised Code pursuant to a permit issued by the 75756
division of liquor control shall obtain a vendor's license in the 75757
identical name and for the identical address as shown on the 75758
permit. 75759

Except as otherwise provided in this section, if a vendor has 75760
no fixed place of business and sells from a vehicle, each vehicle 75761
intended to be used within a county constitutes a place of 75762
business for the purpose of this section. 75763

(B) As used in this division, "transient vendor" means any 75764
person who makes sales of tangible personal property from vending 75765
machines located on land owned by others, who leases titled motor 75766
vehicles, titled watercraft, or titled outboard motors, who 75767
effectuates leases that are taxed according to division (A)(2) of 75768
section 5739.02 of the Revised Code, or who, in the usual course 75769
of the person's business, transports inventory, stock of goods, or 75770
similar tangible personal property to a temporary place of 75771
business or temporary exhibition, show, fair, flea market, or 75772
similar event in a county in which the person has no fixed place 75773
of business, for the purpose of making retail sales of such 75774
property. A "temporary place of business" means any public or 75775
quasi-public place including, but not limited to, a hotel, rooming 75776
house, storeroom, building, part of a building, tent, vacant lot, 75777
railroad car, or motor vehicle that is temporarily occupied for 75778
the purpose of making retail sales of goods to the public. A place 75779
of business is not temporary if the same person conducted business 75780
at the place continuously for more than six months or occupied the 75781
premises as the person's permanent residence for more than six 75782
months, or if the person intends it to be a fixed place of 75783
business. 75784

Any transient vendor, in lieu of obtaining a vendor's license 75785
under division (A) of this section for counties in which the 75786
transient vendor has no fixed place of business, may apply to the 75787
tax commissioner, on a form prescribed by the commissioner, for a 75788
transient vendor's license. The transient vendor's license 75789
authorizes the transient vendor to make retail sales in any county 75790
in which the transient vendor does not maintain a fixed place of 75791
business. Any holder of a transient vendor's license shall not be 75792
required to obtain a separate vendor's license from the county 75793
auditor in that county. Upon the commissioner's determination that 75794
an applicant is a transient vendor, the applicant shall pay a 75795
license fee in the amount of twenty-five dollars, at which time 75796
the tax commissioner shall issue the license. The tax commissioner 75797
may require a vendor to be licensed as a transient vendor if, in 75798
the opinion of the commissioner, such licensing is necessary for 75799
the efficient administration of the tax. 75800

Any holder of a valid transient vendor's license may make 75801
retail sales at a temporary place of business or temporary 75802
exhibition, show, fair, flea market, or similar event, held 75803
anywhere in the state without complying with any provision of 75804
section 311.37 of the Revised Code. Any holder of a valid vendor's 75805
license may make retail sales as a transient vendor at a temporary 75806
place of business or temporary exhibition, show, fair, flea 75807
market, or similar event held in any county in which the vendor 75808
maintains a fixed place of business for which the vendor holds a 75809
vendor's license without obtaining a transient vendor's license. 75810

(C) As used in this division, "service vendor" means any 75811
person who, in the usual course of the person's business, sells 75812
services described in division (B)(3)(e), (f), (g), (h), (i), (j), 75813
(k), (l), (m), ~~(q)~~(p), or ~~(u)~~(t) of section 5739.01 of the Revised 75814
Code. 75815

Every service vendor shall make application to the tax 75816

commissioner for a service vendor's license. Each applicant shall
pay a license fee in the amount of twenty-five dollars. Upon the
commissioner's determination that an applicant is a service vendor
and payment of the fee, the commissioner shall issue the applicant
a service vendor's license.

Only sales described in division (B)(3)(e), (f), (g), (h),
(i), (j), (k), (l), (m), ~~(p)~~, or ~~(t)~~ of section 5739.01 of
the Revised Code may be made under authority of a service vendor's
license, and that license authorizes sales to be made at any place
in this state. Any service vendor who makes sales of other
services or tangible personal property subject to the sales tax
also shall be licensed under division (A), (B), or (D) of this
section.

(D) As used in this division, "delivery vendor" means any
vendor who engages in one or more of the activities described in
divisions (D)(1) to (4) of this section, and who maintains no
store, showroom, or similar fixed place of business or other
location where merchandise regularly is offered for sale or
displayed or shown in catalogs for selection or pick-up by
consumers, or where consumers bring goods for repair or other
service.

(1) The vendor makes retail sales of tangible personal
property;

(2) The vendor rents or leases, at retail, tangible personal
property, except titled motor vehicles, titled watercraft, or
titled outboard motors;

(3) The vendor provides a service, at retail, described in
division (B)(3)(a), (b), (c), or (d) of section 5739.01 of the
Revised Code; or

(4) The vendor makes retail sales of warranty, maintenance or
service contracts, or similar agreements as described in division

(B)(7) of section 5739.01 of the Revised Code.

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A transient vendor or a seller registered pursuant to section 5741.17 of the Revised Code is not a delivery vendor.

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Delivery vendors shall apply to the tax commissioner, on a form prescribed by the commissioner, for a delivery vendor's license. Each applicant shall pay a license fee of twenty-five dollars for each delivery vendor's license, to be credited to the general revenue fund. Upon the commissioner's determination that the applicant is a delivery vendor, the commissioner shall issue the license. A delivery vendor's license authorizes retail sales to be made throughout the state. All sales of the vendor must be reported under the delivery license. The commissioner may require a vendor to be licensed as a delivery vendor if, in the opinion of the commissioner, such licensing is necessary for the efficient administration of the tax. The commissioner shall not issue a delivery vendor license to a vendor who holds a license issued under division (A) of this section.

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(E) Any transient vendor who is issued a license pursuant to this section shall display the license or a copy of it prominently, in plain view, at every place of business of the transient vendor. Every owner, organizer, or promoter who operates a fair, flea market, show, exhibition, convention, or similar event at which transient vendors are present shall keep a comprehensive record of all such vendors, listing the vendor's name, permanent address, vendor's license number, and the type of goods sold. Such records shall be kept for four years and shall be open to inspection by the tax commissioner.

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Sec. 5739.36. (A) For the purpose of tracking the growth and overall economic impact of the travel and tourism industry in this state, the tax commissioner shall prepare a report summarizing the amount of tax revenue collected during each calendar quarter by

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vendors in the travel and tourism industry from the tax levied 75879
under section 5739.02 of the Revised Code; the taxes levied by 75880
counties under sections 5739.021, 5739.026, and 5739.09 of the 75881
Revised Code; and the tax levied by transit authorities under 75882
section 5739.023 of the Revised Code. 75883

(B) The quarterly reports required under this section shall 75884
summarize sales tax collections associated with the travel and 75885
tourism industry, which includes, but is not limited to: 75886

(1) Sales made by bars and restaurants; 75887

(2) Transactions by which lodging by a hotel, motel, or bed 75888
and breakfast is provided; 75889

(3) Transactions by which campground facilities are provided; 75890

(4) Sales made by truck rental and leasing businesses; 75891

(5) Sales made by passenger car rental and leasing 75892
businesses; 75893

(6) Sales made by utility trailer or recreational vehicle 75894
rental and leasing businesses; 75895

(7) Transactions by which transportation services are 75896
provided; 75897

(8) Sales associated with sporting events; 75898

(9) Sales associated with amusement and theme parks; 75899

(10) Sales associated with museums, concerts, and the 75900
performing arts; 75901

(11) Transactions by which boats or canoes are rented; 75902

(12) Transactions by which scenic and sightseeing tours are 75903
provided; 75904

(13) Transactions by which travel planning services are 75905
provided; 75906

(14) Transactions by which physical fitness facility services 75907
or recreation and sports club services are provided; 75908

(15) Sales associated with zoos and botanical gardens; 75909

(16) Sales associated with historical sites; 75910

(17) Sales associated with nature parks and conservatories; 75911
and 75912

(18) Transactions by which motor vehicle parking services are 75913
provided. 75914

(C) In preparing the quarterly reports, the commissioner 75915
shall place sales associated with the travel and tourism industry 75916
into categories, which shall be similar to those set forth in 75917
division (B) of this section and which shall be based upon 75918
industry codes established under the North American industry 75919
classification system. Each report shall itemize the amount of 75920
revenue collected during the quarter with respect to each category 75921
of sales. For each category of sales, the report shall itemize the 75922
amount of revenue attributable to taxes levied by counties under 75923
sections 5739.021, 5739.026, and 5739.09 of the Revised Code and 75924
the amount attributable to the tax levied by transit authorities 75925
under section 5739.023 of the Revised Code. The report also shall 75926
provide cumulative totals across all categories of sales and 75927
across all taxing jurisdictions. The report shall include a 75928
narrative description of how sales tax collections during the 75929
calendar quarter covered by the report differ from sales tax 75930
collections during the immediately preceding calendar quarter. 75931

(D) Beginning January 1, 2006, and on the first day of each 75932
calendar quarter thereafter, the commissioner shall file the 75933
report required under this section summarizing sales tax 75934
collections for the second preceding calendar quarter. The 75935
commissioner shall file a copy of the report with the governor, 75936
the president of the senate, the speaker of the house of 75937

representatives, and the legislative service commission. A copy of 75938
the commissioner's most recent quarterly report shall be made 75939
available to the public through the department of taxation's 75940
official internet web site. 75941

(E) The commissioner shall adopt rules necessary to 75942
administer this section, including rules establishing: 75943

(1) The types of sales that, in addition to those specified 75944
in division (B) of this section, are sufficiently related to the 75945
travel and tourism industry to warrant inclusion in the 75946
commissioner's quarterly reports; and 75947

(2) Categories of sales under division (C) of this section. 75948

Sec. 5739.99. (A) ~~Whoever violates section 5739.26 or 5739.29~~ 75949
~~of the Revised Code shall be fined not less than twenty five nor~~ 75950
~~more than one hundred dollars for a first offense; for each~~ 75951
~~subsequent~~ is guilty of a minor misdemeanor. If the person 75952
previously has been convicted of any offense such under Title LVII 75953
of the Revised Code, the person shall, if a corporation, be fined 75954
not less than one hundred nor more than five hundred dollars, or 75955
if an individual, or a member of a partnership, firm, or 75956
association, be fined not less than twenty five nor more than one 75957
hundred dollars, or imprisoned not more than sixty days, or both 75958
is guilty of a misdemeanor of the third degree. 75959

(B) ~~Whoever violates division (A) of section 5739.30 of the~~ 75961
~~Revised Code shall be fined not less than one hundred nor more~~ 75962
~~than one thousand dollars, or imprisoned not more than sixty days,~~ 75963
~~or both~~ is guilty of a misdemeanor of the third degree. 75964

(C)(1) ~~Whoever violates division (A)(1) of section 5739.31 of~~ 75965
~~the Revised Code shall be fined not less than twenty five nor more~~ 75966
~~than one hundred dollars~~ is guilty of a minor misdemeanor. If the 75967

~~offender person~~ previously has been convicted once of a ~~violation~~ 75968
~~of division (A)(1) of section 5739.31 of~~ any offense under Title 75969
LVII of the Revised Code, the ~~offender person~~ is guilty of a 75970
misdemeanor of the first degree. If the person previously has been 75971
convicted more than once of any offense under Title LVII of the 75972
Revised Code, the person is guilty of a felony of the ~~fourth~~ fifth 75973
degree. 75974

(2) Whoever violates division (A)(2) of section 5739.31 of 75975
the Revised Code ~~shall be fined not less than one hundred dollars~~ 75976
~~nor more than five hundred dollars, or imprisoned for not more~~ 75977
~~than ten days, or both, for the first offense; for each subsequent~~ 75978
is guilty of a minor misdemeanor. If the person previously has 75979
been convicted once of any offense under Title LVII of the Revised 75980
Code, each such the person shall be fined not less than one 75981
~~thousand dollars nor more than twenty five hundred dollars, or~~ 75982
~~imprisoned not more than thirty days, or both~~ is guilty of a 75983
misdemeanor of the first degree. If the person previously has been 75984
convicted more than once of any offense under Title LVII of the 75985
Revised Code, the person is guilty of a felony of the fourth 75986
degree. The motor vehicles and goods of any person charged with 75987
violating division (A)(2) of section 5739.31 of the Revised Code 75988
may be impounded and held pending the disposition of the charge, 75989
and may be sold at auction by the county sheriff in the manner 75990
prescribed by law to satisfy any fine imposed by this division. 75991

(3) Whoever violates division (B) of section 5739.31 of the 75992
Revised Code is guilty of a misdemeanor of the first degree. If 75993
the person previously has been convicted of any offense under 75994
Title LVII of the Revised Code, the person is guilty of a felony 75995
of the fourth degree. Each day that business is conducted while a 75996
vendor's license is suspended constitutes a separate offense. 75997

(D) Except as otherwise provided in this section, whoever 75998
violates sections 5739.01 to 5739.31 of the Revised Code, or any 75999

lawful rule promulgated by the department of taxation under 76000
authority of such sections, ~~shall be fined not less than~~ 76001
~~twenty five nor more than one hundred dollars~~ is guilty of a minor 76002
misdemeanor. If the person previously has been convicted of any 76003
offense under Title LVII of the Revised Code, the person is guilty 76004
of a misdemeanor of the first degree. 76005

(E) Whoever violates section 5739.12 of the Revised Code by 76006
failing to remit to the state the tax collected under section 76007
5739.02, 5739.021, 5739.023, or 5739.026 of the Revised Code is 76008
guilty of a misdemeanor of the first degree if the amount of 76009
collected tax the offender failed to remit is less than five 76010
hundred dollars and is guilty of a felony of the fourth degree ~~and~~ 76011
~~shall~~ if the amount of collected tax the offender failed to remit 76012
is five hundred dollars or more. In either case, the person may 76013
suffer the loss of the person's vendor's license as required by 76014
section 5739.17 of the Revised Code. A person who suffers the loss 76015
of a vendor's license as the result of a conviction under division 76016
(E) of this section shall not be eligible for a vendor's license 76017
for two years following the conviction. 76018

(F) Whoever violates division (E) of section 5739.17 of the 76019
Revised Code is guilty of failure to display a transient vendor's 76020
license, a minor misdemeanor. A sheriff or police officer in a 76021
municipal corporation may enforce this division. The prosecuting 76022
attorney of a county shall inform the tax commissioner of any 76023
instance when a complaint is brought against a transient vendor 76024
pursuant to this division. 76025

(G) Whoever violates section 5739.103 of the Revised Code 76026
~~shall be fined not less than twenty five nor more than one hundred~~ 76027
~~dollars~~ is guilty of a minor misdemeanor. If the ~~offender~~ person 76028
previously has been convicted once of ~~violating that section~~ any 76029
offense under Title LVII of the Revised Code, the offender person 76030
is guilty of a misdemeanor of the first degree. If the person 76031

previously has been convicted more than once of any offense under 76032
Title LVII of the Revised Code, the person is guilty of a felony 76033
of the ~~fourth~~ fifth degree. 76034

(H) The penalties provided in this section are in addition to 76035
any penalties imposed by the tax commissioner under section 76036
5739.133 of the Revised Code. 76037

Sec. 5741.02. (A)(1) For the use of the general revenue fund 76038
of the state, an excise tax is hereby levied on the storage, use, 76039
or other consumption in this state of tangible personal property 76040
or the benefit realized in this state of any service provided. The 76041
tax shall be collected as provided in section 5739.025 of the 76042
Revised Code, provided that on and after July 1, 2003, and on or 76043
before June 30, 2005, the rate of the tax shall be six per cent. 76044
On and after July 1, 2005, the rate of the tax shall be five and 76045
one-half per cent. 76046

(2) In the case of the lease or rental, with a fixed term of 76047
more than thirty days or an indefinite term with a minimum period 76048
of more than thirty days, of any motor vehicles designed by the 76049
manufacturer to carry a load of not more than one ton, watercraft, 76050
outboard motor, or aircraft, or of any tangible personal property, 76051
other than motor vehicles designed by the manufacturer to carry a 76052
load of more than one ton, to be used by the lessee or renter 76053
primarily for business purposes, the tax shall be collected by the 76054
seller at the time the lease or rental is consummated and shall be 76055
calculated by the seller on the basis of the total amount to be 76056
paid by the lessee or renter under the lease or rental agreement. 76057
If the total amount of the consideration for the lease or rental 76058
includes amounts that are not calculated at the time the lease or 76059
rental is executed, the tax shall be calculated and collected by 76060
the seller at the time such amounts are billed to the lessee or 76061
renter. In the case of an open-end lease or rental, the tax shall 76062

be calculated by the seller on the basis of the total amount to be
paid during the initial fixed term of the lease or rental, and for
each subsequent renewal period as it comes due. As used in this
division, "motor vehicle" has the same meaning as in section
4501.01 of the Revised Code, and "watercraft" includes an outdrive
unit attached to the watercraft.

(3) Except as provided in division (A)(2) of this section, in
the case of a transaction, the price of which consists in whole or
part of the lease or rental of tangible personal property, the tax
shall be measured by the installments of those leases or rentals.

(B) Each consumer, storing, using, or otherwise consuming in
this state tangible personal property or realizing in this state
the benefit of any service provided, shall be liable for the tax,
and such liability shall not be extinguished until the tax has
been paid to this state; provided, that the consumer shall be
relieved from further liability for the tax if the tax has been
paid to a seller in accordance with section 5741.04 of the Revised
Code or prepaid by the seller in accordance with section 5741.06
of the Revised Code.

(C) The tax does not apply to the storage, use, or
consumption in this state of the following described tangible
personal property or services, nor to the storage, use, or
consumption or benefit in this state of tangible personal property
or services purchased under the following described circumstances:

(1) When the sale of property or service in this state is
subject to the excise tax imposed by sections 5739.01 to 5739.31
of the Revised Code, provided said tax has been paid;

(2) Except as provided in division (D) of this section,
tangible personal property or services, the acquisition of which,
if made in Ohio, would be a sale not subject to the tax imposed by
sections 5739.01 to 5739.31 of the Revised Code;

(3) Property or services, the storage, use, or other 76094
consumption of or benefit from which this state is prohibited from 76095
taxing by the Constitution of the United States, laws of the 76096
United States, or the Constitution of this state. This exemption 76097
shall not exempt from the application of the tax imposed by this 76098
section the storage, use, or consumption of tangible personal 76099
property that was purchased in interstate commerce, but that has 76100
come to rest in this state, provided that fuel to be used or 76101
transported in carrying on interstate commerce that is stopped 76102
within this state pending transfer from one conveyance to another 76103
is exempt from the excise tax imposed by this section and section 76104
5739.02 of the Revised Code; 76105

(4) Transient use of tangible personal property in this state 76106
by a nonresident tourist or vacationer, or a non-business use 76107
within this state by a nonresident of this state, if the property 76108
so used was purchased outside this state for use outside this 76109
state and is not required to be registered or licensed under the 76110
laws of this state; 76111

(5) Tangible personal property or services rendered, upon 76112
which taxes have been paid to another jurisdiction to the extent 76113
of the amount of the tax paid to such other jurisdiction. Where 76114
the amount of the tax imposed by this section and imposed pursuant 76115
to section 5741.021, 5741.022, or 5741.023 of the Revised Code 76116
exceeds the amount paid to another jurisdiction, the difference 76117
shall be allocated between the tax imposed by this section and any 76118
tax imposed by a county or a transit authority pursuant to section 76119
5741.021, 5741.022, or 5741.023 of the Revised Code, in proportion 76120
to the respective rates of such taxes. 76121

As used in this subdivision, "taxes paid to another 76122
jurisdiction" means the total amount of retail sales or use tax or 76123
similar tax based upon the sale, purchase, or use of tangible 76124
personal property or services rendered legally, levied by and paid 76125

to another state or political subdivision thereof, or to the District of Columbia, where the payment of such tax does not entitle the taxpayer to any refund or credit for such payment. 76126
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(6) The transfer of a used manufactured home or used mobile home, as defined by section 5739.0210 of the Revised Code, made on or after January 1, 2000; 76129
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(7) Drugs that are or are intended to be distributed free of charge to a practitioner licensed to prescribe, dispense, and administer drugs to a human being in the course of a professional practice and that by law may be dispensed only by or upon the order of such a practitioner. 76132
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(8) Computer equipment and related software leased from a lessor located outside this state and initially received in this state on behalf of the consumer by a third party that will retain possession of such property for not more than ninety days and that will, within that ninety-day period, deliver such property to the consumer at a location outside this state. Division (C)(8) of this section does not provide exemption from taxation for any otherwise taxable charges associated with such property while it is in this state or for any subsequent storage, use, or consumption of such property in this state by or on behalf of the consumer. 76137
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(D) The tax applies to the storage, use, or other consumption in this state of tangible personal property or services, the acquisition of which at the time of sale was excepted under division (E) of section 5739.01 of the Revised Code from the tax imposed by section 5739.02 of the Revised Code, but which has subsequently been temporarily or permanently stored, used, or otherwise consumed in a taxable manner. 76147
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(E)(1)(a) If any transaction is claimed to be exempt under division (E) of section 5739.01 of the Revised Code or under section 5739.02 of the Revised Code, with the exception of 76154
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divisions (B)(1) to (11) or (28) of section 5739.02 of the Revised Code, the consumer shall provide to the seller, and the seller shall obtain from the consumer, a certificate specifying the reason that the transaction is not subject to the tax. The certificate shall be in such form, and shall be provided either in a hard copy form or electronic form, as prescribed by the tax commissioner prescribes. ~~If the transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the exemption certificate shall be provided by both the contractor and contractee. Such contractee shall be deemed to be the consumer of all items purchased under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The certificate shall be in such form as the tax commissioner by rule prescribes. The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request.~~

(2)(b) A seller that obtains a fully completed exemption certificate from a consumer is relieved of liability for collecting and remitting tax on any sale covered by that certificate. If it is determined the exemption was improperly claimed, the consumer shall be liable for any tax due on that sale under this chapter. Relief under this division from liability does not apply to any of the following:

(i) A seller that fraudulently fails to collect tax;

(ii) A seller that solicits consumers to participate in the unlawful claim of an exemption;

(iii) A seller that accepts an exemption certificate from a consumer that claims an exemption based on who purchases or who sells property or a service, when the subject of the transaction sought to be covered by the exemption certificate is actually received by the consumer at a location operated by the seller in

this state, and this state has posted to its web site an exemption certificate form that clearly and affirmatively indicates that the claimed exemption is not available in this state; 76189
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(iv) A seller that accepts an exemption certificate from a consumer who claims a multiple points of use exemption under division (B) of section 5739.033 of the Revised Code, if the item purchased is tangible personal property, other than prewritten computer software. 76192
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(2) The seller shall maintain records, including exemption certificates, of all sales on which a consumer has claimed an exemption, and provide them to the tax commissioner on request. 76197
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(3) If no certificate is provided or obtained within the period for filing the return for the period in ninety days after the date on which the transaction is consummated, it shall be presumed that the tax applies. The failure Failure to have so provided or obtained a certificate shall not preclude a seller or consumer from establishing, within one hundred twenty days of the giving of after the tax commissioner gives written notice by the commissioner of intention intent to levy an assessment, that from either establishing that the transaction is not subject to the tax, or obtaining, in good faith, a fully completed exemption certificate. 76200
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(4) If a transaction is claimed to be exempt under division (B)(13) of section 5739.02 of the Revised Code, the contractor shall obtain certification of the claimed exemption from the contractee. This certification shall be in addition to an exemption certificate provided by the contractor to the seller. A contractee that provides a certification under this division shall be deemed to be the consumer of all items purchased by the contractor under the claim of exemption, if it is subsequently determined that the exemption is not properly claimed. The 76211
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certification shall be in such form as the tax commissioner 76220
prescribes. 76221

(F) A seller who files a petition for reassessment contesting 76222
the assessment of tax on transactions for which the seller 76223
obtained no valid exemption certificates, and for which the seller 76224
failed to establish that the transactions were not subject to the 76225
tax during the one-hundred-twenty-day period allowed under 76226
division (E) of this section, may present to the tax commissioner 76227
additional evidence to prove that the transactions were exempt. 76228
The seller shall file such evidence within ninety days of the 76229
receipt by the seller of the notice of assessment, except that, 76230
upon application and for reasonable cause, the tax commissioner 76231
may extend the period for submitting such evidence thirty days. 76232

(G) For the purpose of the proper administration of sections 76233
5741.01 to 5741.22 of the Revised Code, and to prevent the evasion 76234
of the tax hereby levied, it shall be presumed that any use, 76235
storage, or other consumption of tangible personal property in 76236
this state is subject to the tax until the contrary is 76237
established. 76238

(H) The tax collected by the seller from the consumer under 76239
this chapter is not part of the price, but is a tax collection for 76240
the benefit of the state, and of counties levying an additional 76241
use tax pursuant to section 5741.021 or 5741.023 of the Revised 76242
Code and of transit authorities levying an additional use tax 76243
pursuant to section 5741.022 of the Revised Code. Except for the 76244
discount authorized under section 5741.12 of the Revised Code and 76245
the effects of any rounding pursuant to section 5703.055 of the 76246
Revised Code, no person other than the state or such a county or 76247
transit authority shall derive any benefit from the collection of 76248
such tax. 76249

Sec. 5741.16. ~~Ne~~ (A) Except as provided in division (B) or 76250

(C) of this section, no assessment shall be made or issued against 76251
a seller or consumer for any tax imposed by or pursuant to section 76252
5741.02, 5741.021, 5741.022, or 5741.023 of the Revised Code more 76253
than four years after the return date for the period in which the 76254
sale or purchase was made, or more than four years after the 76255
return for such period was filed, whichever date is later. ~~This~~ 76256

(B) A consumer who provides a fully completed exemption 76257
certificate pursuant to division (B) of section 5739.03 or 76258
division (E) of section 5741.02 of the Revised Code may be 76259
assessed any tax imposed by or pursuant to section 5741.02, 76260
5741.021, 5741.022, or 5741.023 of the Revised Code that results 76261
from denial of the claimed exemption within the later of a period 76262
allowed by division (A) of this section or one year after the date 76263
the certificate was provided. 76264

(C) This section does not bar an assessment: 76265

~~(A)(1)~~ When the tax commissioner has substantial evidence of 76266
amounts of taxes collected by a seller from consumers on 76267
purchases, which were not returned to the state by direct 76268
remittance; 76269

~~(B)(2)~~ When the person assessed failed to file a return as 76270
required by section 5741.12 of the Revised Code; 76271

~~(C)(3)~~ When the seller or consumer and the commissioner 76272
~~waives~~ waive in writing the time limitation. 76273

Sec. 5741.99. (A) Whoever violates section 5741.19 or 5741.21 76274
of the Revised Code ~~shall be fined not less than twenty five nor~~ 76275
~~more than one hundred dollars for a first offense; for each~~ 76276
~~subsequent~~ is guilty of a minor misdemeanor. If the person 76277
previously has been convicted once of any offense such under Title 76278
LVII of the Revised Code, the person shall, if a corporation, be 76279
~~fined not less than one hundred nor more than five hundred~~ 76280

dollars, or if an individual, or a member of a partnership, firm, 76281
or association, be fined not less than twenty five nor more than 76282
one hundred dollars, or imprisoned not more than sixty days, or 76283
~~both~~ is guilty of a misdemeanor of the first degree. If the person 76284
previously has been convicted more than once of any offense under 76285
Title LVII of the Revised Code, the person is guilty of a felony 76286
of the fourth degree. 76287

(B) Whoever violates section 5741.22 of the Revised Code 76288
~~shall be fined not more than five hundred dollars~~ is guilty of a 76289
misdemeanor of the third degree. 76290

(C) Whoever violates any provision of sections 5741.01 to 76291
5741.22, ~~inclusive,~~ of the Revised Code, or any lawful rule or 76292
regulation promulgated by the department of taxation under 76293
authority of said sections, for the violation of which no penalty 76294
is provided elsewhere, ~~shall be fined not less than twenty five~~ 76295
~~nor more than one hundred dollars~~ is guilty of a minor 76296
misdemeanor. If the person previously has been convicted of any 76297
offense under Title LVII of the Revised Code, the person is guilty 76298
of a misdemeanor of the first degree. 76299

Sec. 5743.01. As used in this chapter: 76300

(A) "Person" includes individuals, firms, partnerships, 76301
associations, joint-stock companies, corporations, combinations of 76302
individuals of any form, and the state and any of its political 76303
subdivisions. 76304

(B) "Wholesale dealer" includes only those persons: 76305

(1) Who bring in or cause to be brought into this state 76306
unstamped cigarettes purchased directly from the manufacturer, 76307
producer, or importer of cigarettes for sale in this state but 76308
does not include persons who bring in or cause to be brought into 76309
this state cigarettes with respect to which no evidence of tax 76310

payment is required thereon as provided in section 5743.04 of the Revised Code; or

(2) Who are engaged in the business of selling cigarettes or tobacco products to others for the purpose of resale.

"Wholesale dealer" does not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. 5713 if that person sells cigarettes in this state only to wholesale dealers holding valid and current licenses under section 5743.15 of the Revised Code or to an export warehouse proprietor or another manufacturer.

(C) "Retail dealer" includes:

(1) In reference to dealers in cigarettes, every person other than a wholesale dealer engaged in the business of selling cigarettes in this state, ~~irrespective~~ regardless of whether the person is located in this state or elsewhere, and regardless of quantity, amount, or number of sales;

(2) In reference to dealers in tobacco products, any person in this state engaged in the business of selling tobacco products to ultimate consumers in this state, regardless of quantity, amount, or number of sales.

(D) "Sale" includes exchange, barter, gift, offer for sale, and distribution, and ~~excludes~~ includes transactions in interstate or foreign commerce.

(E) "Cigarettes" includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper, reconstituted cigarette tobacco, homogenized cigarette tobacco, cigarette tobacco sheet, or any similar materials other than cigar tobacco.

(F) "Package" means the individual package, box, or other container in or from which retail sales of cigarettes are normally made or intended to be made.

(G) "Stamp" includes an impression made by a metering device as provided for in section 5743.04 of the Revised Code.

(H) "Storage" includes any keeping or retention of cigarettes or tobacco products for use or consumption in this state.

(I) "Use" includes the exercise of any right or power incidental to the ownership of cigarettes or tobacco products.

(J) "Tobacco product" means any product made from tobacco, other than cigarettes, that is made for smoking or chewing, or both, and snuff.

(K) "Wholesale price" means the invoice price, including all federal excise taxes, at which the manufacturer of the tobacco product sells the tobacco product to unaffiliated distributors, excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice. If the taxpayer buys from other than a manufacturer, "wholesale price" means the invoice price, including all federal excise taxes and excluding any discounts based on the method of payment of the invoice or on time of payment of the invoice.

(L) "Distributor" means:

(1) Any manufacturer who sells, barter, exchanges, or distributes tobacco products to a retail dealer in the state, except when selling to a retail dealer that has filed with the manufacturer a signed statement agreeing to pay and be liable for the tax imposed by section 5743.51 of the Revised Code;

(2) Any wholesale dealer located in the state who receives tobacco products from a manufacturer, or who receives tobacco products on which the tax imposed by this chapter has not been

paid; 76371

(3) Any wholesale dealer located outside the state who sells, 76372
barters, exchanges, or distributes tobacco products to a wholesale 76373
or retail dealer in the state; or 76374

(4) Any retail dealer who receives tobacco products on which 76375
the tax has not or will not be paid by another distributor, 76376
including a retail dealer that has filed a signed statement with a 76377
manufacturer in which the retail dealer agrees to pay and be 76378
liable for the tax that would otherwise be imposed on the 76379
manufacturer by section 5743.51 of the Revised Code. 76380

(M) "Taxpayer" means any person liable for the tax imposed by 76381
section 5743.51, 5743.62, or 5743.63 of the Revised Code. 76382

(N) "Seller" means any person located outside this state 76383
engaged in the business of selling tobacco products to consumers 76384
for storage, use, or other consumption in this state. 76385

(O) "Manufacturer" means any person who manufactures and 76386
sells cigarettes or tobacco products. 76387

(P) "Importer" means any person that imports is authorized, 76388
under a valid permit issued under Section 5713 of the Internal 76389
Revenue Code, to import finished cigarettes into the United 76390
States, either directly or indirectly. 76391

Sec. 5743.02. To provide revenues for the general revenue 76392
fund, an excise tax on sales of cigarettes is hereby levied at the 76393
rate of ~~twenty-seven and one-half~~ sixty-two and one-half mills on 76394
each cigarette. 76395

Only one sale of the same article shall be used in computing 76396
the amount of tax due. 76397

The treasurer of state shall place to the credit of the tax 76398
refund fund created by section 5703.052 of the Revised Code, out 76399

of receipts from the tax levied by this section, amounts equal to 76400
the refunds certified by the tax commissioner pursuant to section 76401
5743.05 of the Revised Code. The balance of taxes collected under 76402
such section, after the credits to the tax refund fund, shall be 76403
paid into the general revenue fund. 76404

Sec. 5743.03. (A) Except as provided in section 5743.04 of 76405
the Revised Code, the taxes imposed under sections 5743.02, 76406
5743.024, and 5743.026 of the Revised Code shall be paid by the 76407
purchase of stamps. A stamp shall be affixed to each package of an 76408
aggregate denomination not less than the amount of the tax upon 76409
the contents thereof. The stamp, so affixed, shall be prima-facie 76410
evidence of payment of the tax. ~~Except~~ 76411

Except as is provided in the rules prescribed by the tax 76412
commissioner under authority of sections 5743.01 to 5743.20 of the 76413
Revised Code, and unless ~~such~~ tax stamps have been previously 76414
affixed, they shall be so affixed by each wholesale dealer, and 76415
canceled by writing or stamping across the face thereof the number 76416
assigned to such wholesale dealer by the tax commissioner for that 76417
purpose, prior to the delivery of any cigarettes to any person in 76418
this state, or in the case of a tax levied pursuant to section 76419
5743.024 or 5743.026 of the Revised Code, prior to the delivery of 76420
cigarettes to any person in the county in which the tax is levied. 76421

(B) Except as provided in the rules prescribed by the 76422
commissioner under authority of sections 5743.01 to 5743.20 of the 76423
Revised Code, ~~and unless such stamps have been previously affixed,~~ 76424
each retail dealer ~~shall,~~ within twenty-four hours after the 76425
receipt of any cigarettes at the retail dealer's place of business 76426
~~and prior to the delivery thereof, shall inspect the cigarettes to~~ 76427
ensure that tax stamps are affixed. The inspection shall be 76428
completed before the cigarettes are delivered to any person in 76429
this state, or, in the case of a tax levied pursuant to section 76430

5743.024 or 5743.026 of the Revised Code ~~prior to the delivery~~ 76431
~~thereof, before the cigarettes are delivered~~ to any person in the 76432
county in which the tax is levied, ~~so affix such stamps and cancel~~ 76433
~~same by writing or stamping across the face thereof the number~~ 76434
~~assigned to such retail dealer by the commissioner for that~~ 76435
~~purpose.~~ 76436

(C) Whenever any cigarettes are found in the place of 76437
business of any retail dealer without proper tax stamps affixed 76438
thereto and canceled, it is presumed that such cigarettes are kept 76439
therein in violation of sections 5743.01 to 5743.20 of the Revised 76440
Code. 76441

(D) Each wholesale dealer ~~and each retail dealer~~ who 76442
purchases cigarettes without proper tax stamps affixed thereto 76443
shall, on or before the thirty-first day of the month following 76444
the close of each semiannual period, which period shall end on the 76445
thirtieth day of June and the thirty-first day of December of each 76446
year, make and file a return of the preceding semiannual period, 76447
on such form as is prescribed by the tax commissioner, showing the 76448
dealer's entire purchases and sales of cigarettes and stamps or 76449
impressions for such semiannual period and accurate inventories as 76450
of the beginning and end of each semiannual period of cigarettes, 76451
stamped or unstamped; cigarette tax stamps affixed or unaffixed 76452
and unused meter impressions; and such other information as the 76453
commissioner finds necessary to the proper administration of 76454
sections 5743.01 to 5743.20 of the Revised Code. The commissioner 76455
may extend the time for making and filing returns and may remit 76456
all or any part of amounts of penalties that may become due under 76457
sections 5743.01 to 5743.20 of the Revised Code. The wholesale ~~or~~ 76458
~~retail~~ dealer shall deliver the return together with a remittance 76459
of the tax deficiency reported thereon to the treasurer of state. 76460
The treasurer of state shall stamp or otherwise mark on the return 76461
the date it was received and shall also show thereon by stamp or 76462

otherwise a payment or nonpayment of the deficiency shown by the 76463
return. Thereafter, the treasurer of state shall immediately 76464
transmit all returns filed under this section to the commissioner. 76465

(E) Any wholesale ~~or retail~~ dealer who fails to file a return 76466
under this section and the rules of the commissioner, other than a 76467
report required pursuant to division (F) of this section, may be 76468
required, for each day the dealer so fails, to forfeit and pay 76469
into the state treasury the sum of one dollar as revenue arising 76470
from the tax imposed by sections 5743.01 to 5743.20 of the Revised 76471
Code and such sum may be collected by assessment in the manner 76472
provided in section 5743.081 of the Revised Code. If the 76473
commissioner finds it necessary in order to insure the payment of 76474
the tax imposed by sections 5743.01 to 5743.20 of the Revised 76475
Code, the commissioner may require returns and payments to be made 76476
other than semiannually. The returns shall be signed by the 76477
wholesale ~~or retail~~ dealer or an authorized agent thereof. 76478

(F) Each person required to file a tax return under section 76479
5743.03, 5743.52, or 5743.62 of the Revised Code shall report to 76480
the commissioner the quantity of all cigarettes and roll-your-own 76481
cigarette tobacco sold in Ohio for each brand not covered by the 76482
tobacco master settlement agreement for which the person is liable 76483
for the taxes levied under section 5743.02, 5743.51, or 5743.62 of 76484
the Revised Code. 76485

As used in this division, "tobacco master settlement 76486
agreement" has the same meaning as in section 183.01 of the 76487
Revised Code. 76488

(G) The report required by division (F) of this section shall 76489
be made on a form prescribed by the commissioner and shall be 76490
filed not later than the last day of each month for the previous 76491
month, except that if the commissioner determines that the 76492
quantity reported by a person does not warrant monthly reporting, 76493
the commissioner may authorize reporting at less frequent 76494

intervals. The commissioner may assess a penalty of not more than
two hundred fifty dollars for each month or portion thereof that a
person fails to timely file a required report, and such sum may be
collected by assessment in the manner provided in section 5743.081
of the Revised Code. All money collected under this division shall
be considered as revenue arising from the taxes imposed by
sections 5743.01 to 5743.20 of the Revised Code.

Sec. 5743.031. (A) A wholesale dealer may affix stamps only
to packages of cigarettes that the dealer received directly from a
manufacturer or importer of cigarettes that possesses a valid and
current license under section 5743.15 of the Revised Code, or to
packages of cigarettes that the dealer received from another
wholesale dealer that possesses a valid and current license under
section 5743.15 of the Revised Code, provided that the tax
commissioner has authorized the sale of the cigarettes between
those wholesale dealers and that the wholesale dealer that sells
the cigarettes received them directly from a manufacturer or
importer of cigarettes that possesses a valid and current license
under section 5743.15 of the Revised Code.

(B) Only a wholesale dealer that possesses a valid and
current license under section 5743.15 of the Revised Code may
purchase or obtain tax stamps. A wholesale dealer may not sell or
provide such stamps to any other wholesale dealer or any other
person.

(C) Any person shipping unstamped packages of cigarettes into
this state to a person other than a wholesale dealer licensed
under section 5743.15 of the Revised Code shall, before such
shipment, file notice of the shipment with the tax commissioner.
Any person that transports unstamped packages of cigarettes into
or within this state shall carry in the vehicle used to convey the
shipment invoices or equivalent documentation of the shipment for

all cigarettes in the shipment. The invoices or other 76526
documentation shall show the true name and address of the 76527
consignor or seller, the true name and address of the consignee or 76528
purchaser, and the quantity of the cigarettes being transported. 76529
This division does not apply to any common or contract carrier 76530
transporting cigarettes through this state to another location 76531
under a proper bill of lading or freight bill that states the 76532
quantity, source, and destination of the cigarettes. 76533

Sec. 5743.05. All stamps provided for by section 5743.03 of 76534
the Revised Code, when procured by the tax commissioner, shall be 76535
immediately delivered to the treasurer of state, who shall execute 76536
a receipt therefor showing the number and aggregate face value of 76537
each denomination received by the treasurer of state and any other 76538
information that the commissioner requires to enforce the 76539
collection and distribution of all taxes imposed under section 76540
5743.024 or 5743.026 of the Revised Code, and deliver the receipt 76541
to the commissioner. The treasurer of state shall sell the stamps 76542
and, on the fifth day of each month, make a report showing all 76543
sales made during the preceding month, with the names of 76544
purchasers, the number of each denomination, the aggregate face 76545
value purchased by each, and any other information as the 76546
commissioner requires to enforce the collection and distribution 76547
of all taxes imposed under section 5743.024 of the Revised Code, 76548
and deliver it to the commissioner. The treasurer of state shall 76549
be accountable for all stamps received and unsold. The stamps 76550
shall be sold and accounted for at their face value, except the 76551
commissioner shall, by rule certified to the treasurer of state, 76552
authorize the sale of stamps and meter impressions to wholesale or 76553
retail dealers in this state, or to wholesale dealers outside this 76554
state, at a discount of not less than one and eight-tenths per 76555
cent or more than ten per cent of their face value, as a 76556
commission for affixing and canceling the stamps or meter 76557

impressions. 76558

The commissioner, by rule certified to the treasurer of 76559
state, shall authorize the delivery of stamps and meter 76560
impressions to wholesale ~~and retail~~ dealers in this state and to 76561
wholesale dealers outside this state on credit. If such a dealer 76562
has not been in good credit standing with this state for five 76563
consecutive years preceding the purchase, the tax commissioner 76564
shall require the dealer to file with the commissioner a bond to 76565
the state in the amount and in the form prescribed by the 76566
commissioner, with surety to the satisfaction of the commissioner, 76567
conditioned on payment to the treasurer of state within thirty 76568
days for stamps or meter impressions delivered within that time. 76569
If such a dealer has been in good credit standing with this state 76570
for five consecutive years preceding the purchase, the tax 76571
commissioner shall not require that the dealer file such a bond 76572
but shall require payment for the stamps and meter impressions 76573
within thirty days after purchase of the stamps and meter 76574
impressions. Stamps and meter impressions sold to a dealer not 76575
required to file a bond shall be sold at face value. The maximum 76576
amount that may be sold on credit to a dealer not required to file 76577
a bond shall equal one hundred ten per cent of the dealer's 76578
average monthly purchases over the preceding calendar year. The 76579
maximum amount shall be adjusted to reflect any changes in the tax 76580
rate and may be adjusted, upon application to the tax commissioner 76581
by the dealer, to reflect changes in the business operations of 76582
the dealer. The maximum amount shall be applicable to the period 76583
of July through April. Payment by a dealer not required to file a 76584
bond shall be remitted by electronic funds transfer as prescribed 76585
by section 5743.051 of the Revised Code. If a dealer not required 76586
to file a bond fails to make the payment in full within the 76587
thirty-day period, the treasurer of state shall not thereafter 76588
sell stamps or meter impressions to that dealer until the dealer 76589
pays the outstanding amount, including penalty and interest on 76590

that amount as prescribed in this chapter, and the commissioner 76591
thereafter may require the dealer to file a bond until the dealer 76592
is restored to good standing. The commissioner shall limit 76593
delivery of stamps and meter impressions on credit to the period 76594
running from the first day of July of the fiscal year until the 76595
first day of the following May. Any discount allowed as a 76596
commission for affixing and canceling stamps or meter impressions 76597
shall be allowed with respect to sales of stamps and meter 76598
impressions on credit. 76599

The treasurer of state shall redeem and pay for any 76600
destroyed, unused, or spoiled tax stamps and any unused meter 76601
impressions at their net value, and shall refund to wholesale 76602
dealers the net amount of state and county taxes paid erroneously 76603
or paid on cigarettes that have been sold in interstate or foreign 76604
commerce or that have become unsalable, and the net amount of 76605
county taxes that were paid on cigarettes that have been sold at 76606
retail or for retail sale outside a taxing county. 76607

An application for a refund of tax shall be filed with the 76608
tax commissioner, on the form prescribed by the commissioner for 76609
that purpose, within three years from the date the tax stamps are 76610
destroyed or spoiled, from the date of the erroneous payment, or 76611
from the date that cigarettes on which taxes have been paid have 76612
been sold in interstate or foreign commerce or have become 76613
unsalable. 76614

On the filing of the application, the commissioner shall 76615
determine the amount of refund to which the applicant is entitled, 76616
payable from receipts of the state tax, and, if applicable, 76617
payable from receipts of a county tax. If the amount is less than 76618
that claimed, the commissioner shall certify the amount to the 76619
director of budget and management and treasurer of state for 76620
payment from the tax refund fund created by section 5703.052 of 76621
the Revised Code. If the amount is less than that claimed, the 76622

commissioner shall proceed in accordance with section 5703.70 of 76623
the Revised Code. 76624

If a refund is granted for payment of an illegal or erroneous 76625
assessment issued by the department, the refund shall include 76626
interest on the amount of the refund from the date of the 76627
overpayment. The interest shall be computed at the rate per annum 76628
prescribed by section 5703.47 of the Revised Code. 76629

Sec. 5743.071. ~~Each wholesale dealer and each retail dealer~~ 76630
Every person shall maintain complete and accurate records of all 76631
purchases and sales of cigarettes, and shall procure and retain 76632
all invoices, bills of lading, and other documents relating to the 76633
purchases and sales of cigarettes, except that no retail dealer 76634
shall be required to issue or maintain invoices relating to ~~his~~ 76635
the retail dealer's sales of cigarettes. The invoices or documents 76636
shall be maintained for each place of business and shall show the 76637
name and address of the other party to the purchase or sale and 76638
shall show the quantity of the cigarettes so sold or purchased. 76639

The records and documents shall be open during business hours 76640
to the inspection of the tax commissioner, and shall be preserved 76641
for a period of three years, unless the commissioner, in writing, 76642
consents to their destruction within that period, or by order 76643
requires that they be kept for a longer period. With the tax 76644
commissioner's consent, a person with multiple places of business 76645
may keep centralized records but shall transmit duplicates of the 76646
invoices or documents to each place of business within seventy-two 76647
hours after the tax commissioner or the tax commissioner's 76648
designee requests access to the records. 76649

Sec. 5743.072. Each manufacturer and each importer shipping 76650
cigarettes into or within this state shall file a monthly report 76651
with the tax commissioner in accordance with rules adopted by the 76652

tax commissioner under Chapter 119. of the Revised Code.

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Sec. 5743.08. Whenever the tax commissioner discovers any
cigarettes which are being shipped, or which have been shipped, or
transported in violation of section 2927.023 of the Revised Code,
or discovers cigarettes, subject to the taxes levied under section
5743.02, 5743.024, or 5743.026 of the Revised Code, and upon which
the taxes have not been paid or that are held for sale or
distribution in violation of any other provision of this chapter,
the commissioner may seize and take possession of such cigarettes,
which shall thereupon be forfeited to the state, and the
commissioner ~~may,~~ within a reasonable time thereafter sell or
destroy the forfeited cigarettes. ~~From the proceeds of the sale,~~
~~the tax commissioner shall pay the costs incurred in such~~
~~proceedings, and any proceeds remaining after the costs are paid~~
~~shall be considered as revenue arising from the tax; provided that~~
~~the seizure and sale shall not be deemed to~~ If the commissioner
sells cigarettes under this section, the commissioner shall use
proceeds from the sale to pay the costs incurred in the
proceedings. Any proceeds remaining after all costs have been paid
shall be considered revenue arising from the taxes levied under
this chapter. Seizure and sale shall not be deemed to relieve any
person from the fine or imprisonment provided for violation of
sections 5743.01 to 5743.20 of the Revised Code. ~~The~~ A sale shall
be made where it is most convenient and economical. The tax
commissioner may order the destruction of the forfeited cigarettes
if the quantity or quality of the cigarettes is not sufficient to
warrant their sale.

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Sec. 5743.10. No ~~retail dealer~~ person shall have in ~~his~~ the
person's possession ~~packages~~ packs of cigarettes not bearing the
stamps required to be affixed thereto as required by Chapter 5743.

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of the Revised Code. 76683

Sec. 5743.111. No person shall possess ~~packages~~ packs of 76684
cigarettes not bearing the stamps required by Chapter 5743. of the 76685
Revised Code, or bearing stamps that have been affixed in 76686
violation of section 5743.21 of the Revised Code, when the 76687
~~wholesale value~~ total number of the cigarettes exceeds ~~sixty~~ 76688
~~dollars~~ one thousand two hundred. 76689

Sec. 5743.112. (A) No person shall prepare for shipment, 76690
ship, transport, deliver, prepare for distribution, or distribute 76691
cigarettes, or otherwise engage or participate in the wholesale or 76692
retail business of trafficking in cigarettes, with the intent to 76693
avoid payment of the tax imposed by this chapter, when the 76694
~~wholesale value~~ total number of ~~such~~ cigarettes in the aggregate 76695
exceeds ~~sixty dollars~~ one thousand two hundred during any 76696
twelve-month period. 76697

(B) Any vending machine containing cigarettes which do not 76698
have affixed the stamps or impressions provided for by sections 76699
5743.03 and 5743.04 of the Revised Code shall be seized and 76700
forfeited to the state in accordance with section 2933.43 of the 76701
Revised Code. Forfeiture shall not affect the rights of a holder 76702
of a valid lien. 76703

(C) A vehicle that is seized as contraband under section 76704
2933.43 of the Revised Code because of its use in violation of 76705
this chapter is subject to the procedures set forth in section 76706
2933.43 of the Revised Code. 76707

Sec. 5743.14. (A) The tax commissioner ~~may inspect any place~~ 76708
~~where cigarettes subject to the tax levied under section 5743.02,~~ 76709
~~5743.024, or 5743.026 of the Revised Code are sold or stored.~~ 76710

~~(B) or an agent of the tax commissioner may enter and inspect~~ 76711

the facilities and records of a person selling cigarettes or other tobacco products. Such entrance and inspection requires a properly issued search warrant if conducted outside the normal business hours of the person, but does not require a search warrant if conducted during the normal business hours of the person. No person shall prevent or hinder the tax commissioner or an agent of the tax commissioner from making a full inspection of any place where cigarettes subject to the tax levied under section 5743.02, 5743.024, or 5743.026 of the Revised Code are sold or stored, or prevent or hinder the full inspection of invoices, books, records, or papers required to be kept by sections 5743.01 to 5743.20 of the Revised Code carrying out the authority granted under this division.

(B) If a peace officer as defined in section 2935.01 of the Revised Code knows or has reasonable cause to believe that a motor vehicle is transporting cigarettes or other tobacco products in violation of this chapter or section 2927.023 of the Revised Code, the peace officer may stop the vehicle and inspect the vehicle to determine the presence of such cigarettes or other tobacco products.

Sec. 5743.15. (A) No person shall engage in this state in the wholesale or retail business of trafficking in cigarettes ~~within this state~~ or in the business of a manufacturer or importer of cigarettes without having a license to ~~do so~~ conduct each such activity issued by a county auditor under division (B) of this section or the tax commissioner under division (E) of this section, except that on dissolution of a partnership by death, the surviving partner may operate under the license of the partnership until expiration of the license, and the heirs or legal representatives of deceased persons, and receivers and trustees in bankruptcy appointed by any competent authority, may operate under the license of the person succeeded in possession by such heir,

representative, receiver, or trustee in bankruptcy. 76744

(B) Each applicant for a license to engage in the wholesale 76745
or retail business of trafficking in cigarettes under this 76746
section, annually, on or before the fourth Monday of May, shall 76747
make and deliver to the county auditor of the county in which ~~he~~ 76748
the applicant desires to engage in the wholesale or retail 76749
business of trafficking in cigarettes, upon a blank furnished by 76750
such auditor for that purpose, a statement showing the name of the 76751
applicant, each place in the county where the applicant's business 76752
is conducted, the nature of the business, and any other 76753
information the tax commissioner requires in the form of statement 76754
prescribed by ~~him~~ the commissioner. If the applicant is a firm, 76755
partnership, or association other than a corporation, the 76756
application shall state the name and address of each of its 76757
members. If the applicant is a corporation, the application shall 76758
state the name and address of each of its officers. At the time of 76759
making the application required by this section, every person 76760
desiring to engage in the wholesale business of trafficking in 76761
cigarettes shall pay into the county treasury a license tax in the 76762
sum of two hundred dollars, or if desiring to engage in the retail 76763
business of trafficking in cigarettes, a license tax in the sum of 76764
thirty dollars for each of the first five places where ~~he~~ the 76765
person proposes to carry on such business and twenty-five dollars 76766
for each additional place. Each place of business shall be deemed 76767
such space, under lease or license to, or under the control of, or 76768
under the supervision of the applicant, as is contained in one or 76769
more contiguous, adjacent, or adjoining buildings constituting an 76770
industrial plant or a place of business operated by, or under the 76771
control of, one person, or under one roof and connected by doors, 76772
halls, stairways, or elevators, which space may contain any number 76773
of points at which cigarettes are offered for sale, provided that 76774
each additional point at which cigarettes are offered for sale 76775
shall be listed in the application. 76776

Upon receipt of the application ~~required by this section~~ and 76777
exhibition of the county treasurer's receipt showing the payment 76778
of the tax, the county auditor shall issue to the applicant a 76779
license for each place of business designated in the application, 76780
authorizing the applicant to engage in such business at such place 76781
for one year commencing on the fourth Monday of May. Companies 76782
operating club or dining cars or other cars upon which cigarettes 76783
are sold shall obtain licenses at railroad terminals within the 76784
state, under such rules as are prescribed by the commissioner. The 76785
form of the license shall be prescribed by the commissioner. A 76786
duplicate license may be obtained from the county auditor upon 76787
payment of a fifty cent fee if the original license is lost, 76788
destroyed, or defaced. When an application is filed after the 76789
fourth Monday of May, the license tax required to be paid shall be 76790
proportioned in amount to the remainder of the license year, 76791
except that it shall not be less than one fifth of the whole 76792
amount in any one year. 76793

The holder of a wholesale or retail dealer's cigarette 76794
license may transfer the license to a place of business within the 76795
same county other than that designated on the license or may 76796
assign the license to another person for use in the same county on 76797
condition that the licensee or assignee, whichever is applicable, 76798
make application to the county auditor therefor, upon forms 76799
approved by the commissioner and the payment of a fee of one 76800
dollar into the county treasury. 76801

~~(B)~~(C)(1) The wholesale cigarette license tax revenue 76802
collected under this section shall be distributed as follows: 76803

(a) Thirty-seven and one-half per cent shall be paid upon the 76804
warrant of the county auditor into the treasury of the municipal 76805
corporation or township in which the place of business for which 76806
the tax revenue was received is located; 76807

(b) Fifteen per cent shall be credited to the general fund of the county; 76808
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(c) Forty-seven and one-half per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section. 76810
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(2) The revenue collected from the thirty dollar tax imposed upon the first five places of business of a person engaged in the retail business of trafficking in cigarettes shall be distributed as follows: 76813
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(a) Sixty-two and one-half per cent shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the places of business for which the tax revenue was received are located; 76817
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(b) Twenty-two and one-half per cent shall be credited to the general fund of the county; 76821
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(c) Fifteen per cent shall be paid into the cigarette tax enforcement fund created by division (C) of this section. 76823
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(3) The remainder of the revenues and fines collected under this section and the penal laws relating to cigarettes shall be distributed as follows: 76825
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(a) Three-fourths shall be paid upon the warrant of the county auditor into the treasury of the municipal corporation or township in which the place of business, on account of which the revenues and fines were received, is located; 76828
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(b) One-fourth shall be credited to the general fund of the county. 76832
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~~(C)~~(D) There is hereby created within the state treasury the cigarette tax enforcement fund for the purpose of providing funds to assist in paying the costs of enforcing sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code. 76834
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The portion of cigarette license tax revenues received by a county auditor during the annual application period that ends before the fourth Monday in May which is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirtieth day of June each year. The portion of license tax money received by each county auditor after the fourth Monday in May which is required to be deposited in the cigarette tax enforcement fund shall be sent to the treasurer of state by the thirty-first day of December.

(E)(1) Every person who desires to engage in the business of a manufacturer or importer of cigarettes shall, annually, on or before the fourth Monday of May, make and deliver to the tax commissioner, upon a blank furnished by the commissioner for that purpose, a statement showing the name of the applicant, the nature of the applicant's business, and any other information required by the commissioner. If the applicant is a firm, partnership, or association other than a corporation, the applicant shall state the name and address of each of its members. If the applicant is a corporation, the applicant shall state the name and address of each of its officers.

Upon receipt of the application, the commissioner shall issue to the applicant a license authorizing the applicant to engage in the business of manufacturer or importer, whichever the case may be, for one year commencing on the fourth Monday of May.

(2) The issuing of a license under division (E) of this section to a manufacturer does not excuse a manufacturer from the certification process required under section 1346.05 of the Revised Code. A license issued under division (E) of this section to a manufacturer who is not listed on the directory required under section 1346.05 of the Revised Code shall cease to be valid and shall be revoked by the commissioner as provided in section 5743.18 of the Revised Code.

(3) The tax commissioner may adopt rules necessary to 76870
administer division (E) of this section. 76871

Sec. 5743.16. On or before the first Monday of June, 76872
annually, each county auditor shall certify to the tax 76873
commissioner a list showing the names of all persons licensed in 76874
~~his~~ the auditor's county to engage in the business of trafficking 76875
in cigarettes, and such other information as to each, available 76876
from the records in the office of the auditor, as the commissioner 76877
prescribes. As such licenses are issued during the year, the 76878
auditor shall certify like lists and additions thereto to the 76879
commissioner. The commissioner shall keep an alphabetical index of 76880
such licenses certified to ~~him~~ the commissioner, and shall update 76881
the index of valid license holders on a regular basis. 76882

Sec. 5743.18. Upon notice and hearing in accordance with 76883
sections 119.01 to 119.13 of the Revised Code, the tax 76884
commissioner may revoke any manufacturer, importer, wholesale, or 76885
retail cigarette license for violation of sections 5743.01 to 76886
5743.21 of the Revised Code. A In the case of a wholesale or 76887
retail cigarette license, a certified copy of the order revoking 76888
such license shall be transmitted to the county auditor of the 76889
county in which the license was issued. In the case of a license 76890
issued to a manufacturer, the commissioner shall immediately 76891
revoke any such license upon the manufacturer's removal from the 76892
directory under section 1346.05 of the Revised Code. 76893

Sec. 5743.19. No person shall engage in business as a 76894
manufacturer or importer, or in the wholesale or retail business 76895
of trafficking in cigarettes, without having a license therefor, 76896
as required by section 5743.15 of the Revised Code. 76897

Sec. 5743.20. No person shall sell any cigarettes both as a 76898

retail dealer and as a wholesale dealer at the same place of 76899
business. ~~No wholesale dealer shall sell cigarettes to any person~~ 76900
~~in this state other than to a licensed retail dealer; and no~~ No 76901
person other than a licensed wholesale dealer shall sell 76902
cigarettes to a licensed retail dealer. No retail dealer shall 76903
purchase cigarettes from any person other than a licensed 76904
wholesale dealer. 76905

Subject to section 5743.031 of the Revised Code, a licensed 76906
wholesale dealer may not sell cigarettes to any person in this 76907
state other than a licensed retail dealer, except a licensed 76908
wholesale dealer may sell cigarettes to another licensed wholesale 76909
dealer if the tax commissioner has authorized the sale of the 76910
cigarettes between those wholesale dealers and the wholesale 76911
dealer that sells the cigarettes received them directly from a 76912
licensed manufacturer or licensed importer. 76913

The tax commissioner shall adopt rules governing sales of 76914
cigarettes between licensed wholesale dealers, including rules 76915
establishing criteria for authorizing such sales. 76916

No manufacturer or importer shall sell cigarettes to any 76917
person in this state other than to a licensed wholesale dealer or 76918
licensed importer. No importer shall purchase cigarettes from any 76919
person other than a licensed manufacturer or licensed importer. 76920

A retail dealer may purchase tobacco products only from a 76921
licensed distributor. A licensed distributor may sell tobacco 76922
products only to a retail dealer, except a licensed distributor 76923
may sell tobacco products to another licensed distributor if the 76924
tax commissioner has authorized the sale of the tobacco products 76925
between those distributors and the distributor that sells the 76926
tobacco products received them directly from a manufacturer or 76927
importer of tobacco products 76928

The tax commissioner may adopt rules governing sales of 76929

tobacco products between licensed distributors, including rules 76930
establishing criteria for authorizing such sales. 76931

The identities of licensed distributors are subject to public 76932
disclosure. The tax commissioner shall maintain an alphabetical 76933
list of all such distributors, shall post the list on a web site 76934
accessible to the public through the internet, and shall 76935
periodically update the web site posting. 76936

As used in this section, "licensed" means the manufacturer, 76937
importer, wholesale dealer, retail dealer, or distributor holds a 76938
current and valid license issued under section 5743.15 or 5743.61 76939
of the Revised Code. 76940

Sec. 5743.32. To provide revenue for the general revenue fund 76941
of the state, an excise tax is hereby levied on the use, 76942
consumption, or storage for consumption of cigarettes by consumers 76943
in this state at the rate of ~~twenty seven and one half~~ sixty-two 76944
and one-half mills on each cigarette. The tax shall not apply if 76945
the tax levied by section 5743.02 of the Revised Code has been 76946
paid. 76947

The money received into the state treasury from the excise 76948
tax levied by this section shall be credited to the general 76949
revenue fund. 76950

Sec. 5743.33. Every person who has acquired cigarettes for 76951
use, storage, or other consumption subject to the tax levied under 76952
section 5743.32, 5743.323, or 5743.324 of the Revised Code, shall, 76953
on or before the fifteenth day of the month following receipt of 76954
such cigarettes, file with the tax commissioner a return showing 76955
the amount of cigarettes acquired, together with remittance of the 76956
tax thereon. No such person shall transport within this state, 76957
~~cigarettes that have a wholesale value in excess of sixty dollars~~ 76958
more than one thousand two hundred cigarettes, unless that person 76959

has obtained consent to transport the cigarettes from the 76960
department of taxation prior to such transportation. Such consent 76961
shall not be required if the applicable taxes levied under 76962
sections 5743.02, 5743.024, and 5743.026 of the Revised Code have 76963
been paid. Application for the consent shall be in the form 76964
prescribed by the tax commissioner. 76965

Every person transporting such cigarettes shall possess the 76966
consent while transporting or possessing the cigarettes within 76967
this state and shall produce the consent upon request of any law 76968
enforcement officer or authorized agent of the tax commissioner. 76969

Any person transporting such cigarettes without the consent 76970
required by this section, shall be subject to the provisions of 76971
this chapter, including the applicable taxes imposed by sections 76972
5743.02, 5743.024, and 5743.026 of the Revised Code. 76973

Sec. 5743.71. If a person seeks to obtain cigarettes that are 76974
legal for sale in this state under section 1346.05 of the Revised 76975
Code or other tobacco products, and such cigarettes or other 76976
tobacco products are not reasonably available to that person at a 76977
retail location in this state, the person may apply to the tax 76978
commissioner for consent for consumer shipment. The consent for 76979
consumer shipment must be obtained prior to the purchase of the 76980
cigarettes or other tobacco products. 76981

The consent for consumer shipment shall be filed with the 76982
commissioner on a form prescribed by the commissioner showing 76983
purchase of the cigarettes or other tobacco products as consented 76984
to, and shall be accompanied by the purchaser's proof of age and 76985
any other information required by the commissioner. 76986

Sec. 5743.99. (A) Whoever violates section 5743.10, 5743.11, 76987
or 5743.12 or division (C) of section 5743.54 of the Revised Code 76988
is guilty of a misdemeanor of the first degree. If the offender 76989

~~person previously~~ has been ~~previously~~ convicted of ~~an~~ any offense 76990
under ~~this division, violation Title LVII of the Revised Code, the~~ 76991
person is guilty of a felony of the fourth degree. 76992

(B) Whoever violates section 5743.111, 5743.112, 5743.13, 76993
5743.14, 5743.59, or 5743.60 of the Revised Code is guilty of a 76994
felony of the fourth degree. If the ~~offender~~ person previously has 76995
been ~~previously~~ convicted of ~~an~~ any offense under ~~this division,~~ 76996
~~violation Title LVII of the Revised Code, the person~~ is guilty of 76997
a felony of the second degree. 76998

(C) Whoever violates section 5743.19 of the Revised Code is 76999
guilty of a misdemeanor of the fourth degree. If the person 77000
previously has been convicted once of any offense under Title LVII 77001
of the Revised Code, the person is guilty of a misdemeanor of the 77002
first degree. If the person previously has been convicted more 77003
than once of any offense under Title LVII of the Revised Code, the 77004
person is guilty of a felony of the fourth degree. 77005

(D) Whoever violates section 5743.41 or 5743.42 of the 77006
Revised Code is guilty of a misdemeanor of the fourth degree. If 77007
the ~~offender~~ person previously has been ~~previously~~ convicted of ~~an~~ 77008
any offense under ~~this division, violation Title LVII of the~~ 77009
Revised Code, the person is guilty of a misdemeanor of the third 77010
degree. 77011

~~(D)~~(E) Whoever violates section 5743.21 of the Revised Code 77012
is guilty of a misdemeanor of the first degree. If the ~~offender~~ 77013
person previously has been ~~previously~~ convicted of ~~an~~ any offense 77014
under ~~this division, violation Title LVII of the Revised Code, the~~ 77015
person is guilty of a felony of the fifth degree. 77016

~~(E)~~(F) Whoever violates division (F) of section 5743.03 of 77017
the Revised Code is guilty of a misdemeanor of the fourth degree. 77018

~~(F)~~(G) Whoever violates any provision of this chapter, or any 77019

rule promulgated by the tax commissioner under authority of this 77020
chapter, for the violation of which no penalty is provided 77021
elsewhere, is guilty of a minor misdemeanor. If the person 77022
previously has been convicted of any offense under Title LVII of 77023
the Revised Code, the person is guilty of a misdemeanor of the 77024
fourth first degree. 77025

~~(G)~~(H) In addition to any other penalty imposed upon a person 77026
convicted of a violation of section 5743.112 or 5743.60 of the 77027
Revised Code who was the operator of a motor vehicle used in the 77028
violation, the court shall suspend for not less than thirty days 77029
or more than three years the offender's driver's license, 77030
commercial driver's license, temporary instruction permit, 77031
probationary license, or nonresident operating privilege. The 77032
court shall send a copy of its suspension order and determination 77033
to the registrar of motor vehicles, and the registrar, pursuant to 77034
the order and determination, shall impose a suspension of the same 77035
duration. No judge shall suspend the first thirty days of 77036
suspension of an offender's license, permit, or privilege required 77037
by this division. 77038

Sec. 5747.01. Except as otherwise expressly provided or 77039
clearly appearing from the context, any term used in this chapter 77040
that is not otherwise defined in this section has the same meaning 77041
as when used in a comparable context in the laws of the United 77042
States relating to federal income taxes or if not used in a 77043
comparable context in those laws, has the same meaning as in 77044
section 5733.40 of the Revised Code. Any reference in this chapter 77045
to the Internal Revenue Code includes other laws of the United 77046
States relating to federal income taxes. 77047

As used in this chapter: 77048

(A) "Adjusted gross income" or "Ohio adjusted gross income" 77049
means federal adjusted gross income, as defined and used in the 77050

Internal Revenue Code, adjusted as provided in this section: 77051

(1) Add interest or dividends on obligations or securities of 77052
any state or of any political subdivision or authority of any 77053
state, other than this state and its subdivisions and authorities. 77054

(2) Add interest or dividends on obligations of any 77055
authority, commission, instrumentality, territory, or possession 77056
of the United States to the extent that the interest or dividends 77057
are exempt from federal income taxes but not from state income 77058
taxes. 77059

(3) Deduct interest or dividends on obligations of the United 77060
States and its territories and possessions or of any authority, 77061
commission, or instrumentality of the United States to the extent 77062
that the interest or dividends are included in federal adjusted 77063
gross income but exempt from state income taxes under the laws of 77064
the United States. 77065

(4) Deduct disability and survivor's benefits to the extent 77066
included in federal adjusted gross income. 77067

(5) Deduct benefits under Title II of the Social Security Act 77068
and tier 1 railroad retirement benefits to the extent included in 77069
federal adjusted gross income under section 86 of the Internal 77070
Revenue Code. 77071

(6) In the case of a taxpayer who is a beneficiary of a trust 77072
that makes an accumulation distribution as defined in section 665 77073
of the Internal Revenue Code, add, for the beneficiary's taxable 77074
years beginning before 2002 ~~or after 2004~~, the portion, if any, of 77075
such distribution that does not exceed the undistributed net 77076
income of the trust for the three taxable years preceding the 77077
taxable year in which the distribution is made to the extent that 77078
the portion was not included in the trust's taxable income for any 77079
of the trust's taxable years beginning in 2002, ~~2003~~, or 2004 77080
thereafter. "Undistributed net income of a trust" means the 77081

taxable income of the trust increased by (a)(i) the additions to 77082
adjusted gross income required under division (A) of this section 77083
and (ii) the personal exemptions allowed to the trust pursuant to 77084
section 642(b) of the Internal Revenue Code, and decreased by 77085
(b)(i) the deductions to adjusted gross income required under 77086
division (A) of this section, (ii) the amount of federal income 77087
taxes attributable to such income, and (iii) the amount of taxable 77088
income that has been included in the adjusted gross income of a 77089
beneficiary by reason of a prior accumulation distribution. Any 77090
undistributed net income included in the adjusted gross income of 77091
a beneficiary shall reduce the undistributed net income of the 77092
trust commencing with the earliest years of the accumulation 77093
period. 77094

(7) Deduct the amount of wages and salaries, if any, not 77095
otherwise allowable as a deduction but that would have been 77096
allowable as a deduction in computing federal adjusted gross 77097
income for the taxable year, had the targeted jobs credit allowed 77098
and determined under sections 38, 51, and 52 of the Internal 77099
Revenue Code not been in effect. 77100

(8) Deduct any interest or interest equivalent on public 77101
obligations and purchase obligations to the extent that the 77102
interest or interest equivalent is included in federal adjusted 77103
gross income. 77104

(9) Add any loss or deduct any gain resulting from the sale, 77105
exchange, or other disposition of public obligations to the extent 77106
that the loss has been deducted or the gain has been included in 77107
computing federal adjusted gross income. 77108

(10) Deduct or add amounts, as provided under section 5747.70 77109
of the Revised Code, related to contributions to variable college 77110
savings program accounts made or tuition ~~credits~~ units purchased 77111
pursuant to Chapter 3334. of the Revised Code. 77112

(11)(a) Deduct, to the extent not otherwise allowable as a 77113
deduction or exclusion in computing federal or Ohio adjusted gross 77114
income for the taxable year, the amount the taxpayer paid during 77115
the taxable year for medical care insurance and qualified 77116
long-term care insurance for the taxpayer, the taxpayer's spouse, 77117
and dependents. No deduction for medical care insurance under 77118
division (A)(11) of this section shall be allowed either to any 77119
taxpayer who is eligible to participate in any subsidized health 77120
plan maintained by any employer of the taxpayer or of the 77121
taxpayer's spouse, or to any taxpayer who is entitled to, or on 77122
application would be entitled to, benefits under part A of Title 77123
XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 77124
301, as amended. For the purposes of division (A)(11)(a) of this 77125
section, "subsidized health plan" means a health plan for which 77126
the employer pays any portion of the plan's cost. The deduction 77127
allowed under division (A)(11)(a) of this section shall be the net 77128
of any related premium refunds, related premium reimbursements, or 77129
related insurance premium dividends received during the taxable 77130
year. 77131

(b) Deduct, to the extent not otherwise deducted or excluded 77132
in computing federal or Ohio adjusted gross income during the 77133
taxable year, the amount the taxpayer paid during the taxable 77134
year, not compensated for by any insurance or otherwise, for 77135
medical care of the taxpayer, the taxpayer's spouse, and 77136
dependents, to the extent the expenses exceed seven and one-half 77137
per cent of the taxpayer's federal adjusted gross income. 77138

(c) For purposes of division (A)(11) of this section, 77139
"medical care" has the meaning given in section 213 of the 77140
Internal Revenue Code, subject to the special rules, limitations, 77141
and exclusions set forth therein, and "qualified long-term care" 77142
has the same meaning given in section 7702(B)(b) of the Internal 77143
Revenue Code. 77144

(12)(a) Deduct any amount included in federal adjusted gross 77145
income solely because the amount represents a reimbursement or 77146
refund of expenses that in any year the taxpayer had deducted as 77147
an itemized deduction pursuant to section 63 of the Internal 77148
Revenue Code and applicable United States department of the 77149
treasury regulations. The deduction otherwise allowed under 77150
division (A)(12)(a) of this section shall be reduced to the extent 77151
the reimbursement is attributable to an amount the taxpayer 77152
deducted under this section in any taxable year. 77153

(b) Add any amount not otherwise included in Ohio adjusted 77154
gross income for any taxable year to the extent that the amount is 77155
attributable to the recovery during the taxable year of any amount 77156
deducted or excluded in computing federal or Ohio adjusted gross 77157
income in any taxable year. 77158

(13) Deduct any portion of the deduction described in section 77159
1341(a)(2) of the Internal Revenue Code, for repaying previously 77160
reported income received under a claim of right, that meets both 77161
of the following requirements: 77162

(a) It is allowable for repayment of an item that was 77163
included in the taxpayer's adjusted gross income for a prior 77164
taxable year and did not qualify for a credit under division (A) 77165
or (B) of section 5747.05 of the Revised Code for that year; 77166

(b) It does not otherwise reduce the taxpayer's adjusted 77167
gross income for the current or any other taxable year. 77168

(14) Deduct an amount equal to the deposits made to, and net 77169
investment earnings of, a medical savings account during the 77170
taxable year, in accordance with section 3924.66 of the Revised 77171
Code. The deduction allowed by division (A)(14) of this section 77172
does not apply to medical savings account deposits and earnings 77173
otherwise deducted or excluded for the current or any other 77174
taxable year from the taxpayer's federal adjusted gross income. 77175

(15)(a) Add an amount equal to the funds withdrawn from a 77176
medical savings account during the taxable year, and the net 77177
investment earnings on those funds, when the funds withdrawn were 77178
used for any purpose other than to reimburse an account holder 77179
for, or to pay, eligible medical expenses, in accordance with 77180
section 3924.66 of the Revised Code; 77181

(b) Add the amounts distributed from a medical savings 77182
account under division (A)(2) of section 3924.68 of the Revised 77183
Code during the taxable year. 77184

(16) Add any amount claimed as a credit under section 77185
5747.059 of the Revised Code to the extent that such amount 77186
satisfies either of the following: 77187

(a) The amount was deducted or excluded from the computation 77188
of the taxpayer's federal adjusted gross income as required to be 77189
reported for the taxpayer's taxable year under the Internal 77190
Revenue Code; 77191

(b) The amount resulted in a reduction of the taxpayer's 77192
federal adjusted gross income as required to be reported for any 77193
of the taxpayer's taxable years under the Internal Revenue Code. 77194

(17) Deduct the amount contributed by the taxpayer to an 77195
individual development account program established by a county 77196
department of job and family services pursuant to sections 329.11 77197
to 329.14 of the Revised Code for the purpose of matching funds 77198
deposited by program participants. On request of the tax 77199
commissioner, the taxpayer shall provide any information that, in 77200
the tax commissioner's opinion, is necessary to establish the 77201
amount deducted under division (A)(17) of this section. 77202

(18) Beginning in taxable year 2001 but not for any taxable 77203
year beginning after December 31, 2005, if the taxpayer is married 77204
and files a joint return and the combined federal adjusted gross 77205
income of the taxpayer and the taxpayer's spouse for the taxable 77206

year does not exceed one hundred thousand dollars, or if the 77207
taxpayer is single and has a federal adjusted gross income for the 77208
taxable year not exceeding fifty thousand dollars, deduct amounts 77209
paid during the taxable year for qualified tuition and fees paid 77210
to an eligible institution for the taxpayer, the taxpayer's 77211
spouse, or any dependent of the taxpayer, who is a resident of 77212
this state and is enrolled in or attending a program that 77213
culminates in a degree or diploma at an eligible institution. The 77214
deduction may be claimed only to the extent that qualified tuition 77215
and fees are not otherwise deducted or excluded for any taxable 77216
year from federal or Ohio adjusted gross income. The deduction may 77217
not be claimed for educational expenses for which the taxpayer 77218
claims a credit under section 5747.27 of the Revised Code. 77219

(19) Add any reimbursement received during the taxable year 77220
of any amount the taxpayer deducted under division (A)(18) of this 77221
section in any previous taxable year to the extent the amount is 77222
not otherwise included in Ohio adjusted gross income. 77223

(20)(a)(i) Add five-sixths of the amount of depreciation 77224
expense allowed by subsection (k) of section 168 of the Internal 77225
Revenue Code, including the taxpayer's proportionate or 77226
distributive share of the amount of depreciation expense allowed 77227
by that subsection to a pass-through entity in which the taxpayer 77228
has a direct or indirect ownership interest. 77229

(ii) Add five-sixths of the amount of qualifying section 179 77230
depreciation expense, including a person's proportionate or 77231
distributive share of the amount of qualifying section 179 77232
depreciation expense allowed to any pass-through entity in which 77233
the person has a direct or indirect ownership. For the purposes of 77234
this division, "qualifying section 179 depreciation expense" means 77235
the difference between (I) the amount of depreciation expense 77236
directly or indirectly allowed to the taxpayer under section 179 77237
of the Internal Revenue Code, and (II) the amount of depreciation 77238

expense directly or indirectly allowed to the taxpayer under 77239
section 179 of the Internal Revenue Code as that section existed 77240
on December 31, 2002. 77241

The tax commissioner, under procedures established by the 77242
commissioner, may waive the add-backs related to a pass-through 77243
entity if the taxpayer owns, directly or indirectly, less than 77244
five per cent of the pass-through entity. 77245

(b) Nothing in division (A)(20) of this section shall be 77246
construed to adjust or modify the adjusted basis of any asset. 77247

(c) To the extent the add-back required under division 77248
(A)(20)(a) of this section is attributable to property generating 77249
nonbusiness income or loss allocated under section 5747.20 of the 77250
Revised Code, the add-back shall be situated to the same location 77251
as the nonbusiness income or loss generated by the property for 77252
the purpose of determining the credit under division (A) of 77253
section 5747.05 of the Revised Code. Otherwise, the add-back shall 77254
be apportioned, subject to one or more of the four alternative 77255
methods of apportionment enumerated in section 5747.21 of the 77256
Revised Code. 77257

(d) For the purposes of division (A) of this section, net 77258
operating loss carryback and carryforward shall not include 77259
five-sixths of the allowance of any net operating loss deduction 77260
carryback or carryforward to the taxable year to the extent such 77261
loss resulted from depreciation allowed by section 168(k) of the 77262
Internal Revenue Code and by the qualifying section 179 77263
depreciation expense amount. 77264

(21)(a) If the taxpayer was required to add an amount under 77265
division (A)(20)(a) of this section for a taxable year, deduct 77266
one-fifth of the amount so added for each of the five succeeding 77267
taxable years. 77268

(b) If the amount deducted under division (A)(21)(a) of this 77269

section is attributable to an add-back allocated under division 77270
(A)(20)(c) of this section, the amount deducted shall be situated 77271
to the same location. Otherwise, the add-back shall be apportioned 77272
using the apportionment factors for the taxable year in which the 77273
deduction is taken, subject to one or more of the four alternative 77274
methods of apportionment enumerated in section 5747.21 of the 77275
Revised Code. 77276

(c) No deduction is available under division (A)(21)(a) of 77277
this section with regard to any depreciation allowed by section 77278
168(k) of the Internal Revenue Code and by the qualifying section 77279
179 depreciation expense amount to the extent that such 77280
depreciation resulted in or increased a federal net operating loss 77281
carryback or carryforward to a taxable year to which division 77282
(A)(20)(d) of this section does not apply. 77283

(B) "Business income" means income, including gain or loss, 77284
arising from transactions, activities, and sources in the regular 77285
course of a trade or business and includes income, gain, or loss 77286
from real property, tangible property, and intangible property if 77287
the acquisition, rental, management, and disposition of the 77288
property constitute integral parts of the regular course of a 77289
trade or business operation. "Business income" includes income, 77290
including gain or loss, from a partial or complete liquidation of 77291
a business, including, but not limited to, gain or loss from the 77292
sale or other disposition of goodwill. 77293

(C) "Nonbusiness income" means all income other than business 77294
income and may include, but is not limited to, compensation, rents 77295
and royalties from real or tangible personal property, capital 77296
gains, interest, dividends and distributions, patent or copyright 77297
royalties, or lottery winnings, prizes, and awards. 77298

(D) "Compensation" means any form of remuneration paid to an 77299
employee for personal services. 77300

(E) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

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

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002, ~~2003~~, or ~~2004~~ thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code and any election under section 5747.25 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if

the trust is described in division (I)(3)(e)(i) or (ii) of this section; 77331
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(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year; 77333
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(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section. 77339
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(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code. 77349
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(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code. 77352
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(d) For the purposes of division (I)(3)(a) of this section, 77362
the extent to which a trust consists directly or indirectly, in 77363
whole or in part, of assets, net of any related liabilities, that 77364
were transferred directly or indirectly, in whole or part, to the 77365
trust by any of the sources enumerated in that division shall be 77366
ascertained by multiplying the fair market value of the trust's 77367
assets, net of related liabilities, by the qualifying ratio, which 77368
shall be computed as follows: 77369

(i) The first time the trust receives assets, the numerator 77370
of the qualifying ratio is the fair market value of those assets 77371
at that time, net of any related liabilities, from sources 77372
enumerated in division (I)(3)(a) of this section. The denominator 77373
of the qualifying ratio is the fair market value of all the 77374
trust's assets at that time, net of any related liabilities. 77375

(ii) Each subsequent time the trust receives assets, a 77376
revised qualifying ratio shall be computed. The numerator of the 77377
revised qualifying ratio is the sum of (1) the fair market value 77378
of the trust's assets immediately prior to the subsequent 77379
transfer, net of any related liabilities, multiplied by the 77380
qualifying ratio last computed without regard to the subsequent 77381
transfer, and (2) the fair market value of the subsequently 77382
transferred assets at the time transferred, net of any related 77383
liabilities, from sources enumerated in division (I)(3)(a) of this 77384
section. The denominator of the revised qualifying ratio is the 77385
fair market value of all the trust's assets immediately after the 77386
subsequent transfer, net of any related liabilities. 77387

(iii) Whether a transfer to the trust is by or from any of 77388
the sources enumerated in division (I)(3)(a) of this section shall 77389
be ascertained without regard to the domicile of the trust's 77390
beneficiaries. 77391

(e) For the purposes of division (I)(3)(a)(i) of this 77392

section: 77393

(i) A trust is described in division (I)(3)(e)(i) of this 77394
section if the trust is a testamentary trust and the testator of 77395
that testamentary trust was domiciled in this state at the time of 77396
the testator's death for purposes of the taxes levied under 77397
Chapter 5731. of the Revised Code. 77398

(ii) A trust is described in division (I)(3)(e)(ii) of this 77399
section if the transfer is a qualifying transfer described in any 77400
of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an 77401
irrevocable inter vivos trust, and at least one of the trust's 77402
qualifying beneficiaries is domiciled in this state for purposes 77403
of this chapter during all or some portion of the trust's current 77404
taxable year. 77405

(f) For the purposes of division (I)(3)(e)(ii) of this 77406
section, a "qualifying transfer" is a transfer of assets, net of 77407
any related liabilities, directly or indirectly to a trust, if the 77408
transfer is described in any of the following: 77409

(i) The transfer is made to a trust, created by the decedent 77410
before the decedent's death and while the decedent was domiciled 77411
in this state for the purposes of this chapter, and, prior to the 77412
death of the decedent, the trust became irrevocable while the 77413
decedent was domiciled in this state for the purposes of this 77414
chapter. 77415

(ii) The transfer is made to a trust to which the decedent, 77416
prior to the decedent's death, had directly or indirectly 77417
transferred assets, net of any related liabilities, while the 77418
decedent was domiciled in this state for the purposes of this 77419
chapter, and prior to the death of the decedent the trust became 77420
irrevocable while the decedent was domiciled in this state for the 77421
purposes of this chapter. 77422

(iii) The transfer is made on account of a contractual 77423

relationship existing directly or indirectly between the 77424
transferor and either the decedent or the estate of the decedent 77425
at any time prior to the date of the decedent's death, and the 77426
decedent was domiciled in this state at the time of death for 77427
purposes of the taxes levied under Chapter 5731. of the Revised 77428
Code. 77429

(iv) The transfer is made to a trust on account of a 77430
contractual relationship existing directly or indirectly between 77431
the transferor and another person who at the time of the 77432
decedent's death was domiciled in this state for purposes of this 77433
chapter. 77434

(v) The transfer is made to a trust on account of the will of 77435
a testator. 77436

(vi) The transfer is made to a trust created by or caused to 77437
be created by a court, and the trust was directly or indirectly 77438
created in connection with or as a result of the death of an 77439
individual who, for purposes of the taxes levied under Chapter 77440
5731. of the Revised Code, was domiciled in this state at the time 77441
of the individual's death. 77442

(g) The tax commissioner may adopt rules to ascertain the 77443
part of a trust residing in this state. 77444

(J) "Nonresident" means an individual or estate that is not a 77445
resident. An individual who is a resident for only part of a 77446
taxable year is a nonresident for the remainder of that taxable 77447
year. 77448

(K) "Pass-through entity" has the same meaning as in section 77449
5733.04 of the Revised Code. 77450

(L) "Return" means the notifications and reports required to 77451
be filed pursuant to this chapter for the purpose of reporting the 77452
tax due and includes declarations of estimated tax when so 77453

required. 77454

(M) "Taxable year" means the calendar year or the taxpayer's 77455
fiscal year ending during the calendar year, or fractional part 77456
thereof, upon which the adjusted gross income is calculated 77457
pursuant to this chapter. 77458

(N) "Taxpayer" means any person subject to the tax imposed by 77459
section 5747.02 of the Revised Code or any pass-through entity 77460
that makes the election under division (D) of section 5747.08 of 77461
the Revised Code. 77462

(O) "Dependents" means dependents as defined in the Internal 77463
Revenue Code and as claimed in the taxpayer's federal income tax 77464
return for the taxable year or which the taxpayer would have been 77465
permitted to claim had the taxpayer filed a federal income tax 77466
return. 77467

(P) "Principal county of employment" means, in the case of a 77468
nonresident, the county within the state in which a taxpayer 77469
performs services for an employer or, if those services are 77470
performed in more than one county, the county in which the major 77471
portion of the services are performed. 77472

(Q) As used in sections 5747.50 to 5747.55 of the Revised 77473
Code: 77474

(1) "Subdivision" means any county, municipal corporation, 77475
park district, or township. 77476

(2) "Essential local government purposes" includes all 77477
functions that any subdivision is required by general law to 77478
exercise, including like functions that are exercised under a 77479
charter adopted pursuant to the Ohio Constitution. 77480

(R) "Overpayment" means any amount already paid that exceeds 77481
the figure determined to be the correct amount of the tax. 77482

(S) "Taxable income" or "Ohio taxable income" applies only to 77483

estates and trusts, and means federal taxable income, as defined 77484
and used in the Internal Revenue Code, adjusted as follows: 77485

(1) Add interest or dividends, net of ordinary, necessary, 77486
and reasonable expenses not deducted in computing federal taxable 77487
income, on obligations or securities of any state or of any 77488
political subdivision or authority of any state, other than this 77489
state and its subdivisions and authorities, but only to the extent 77490
that such net amount is not otherwise includible in Ohio taxable 77491
income and is described in either division (S)(1)(a) or (b) of 77492
this section: 77493

(a) The net amount is not attributable to the S portion of an 77494
electing small business trust and has not been distributed to 77495
beneficiaries for the taxable year; 77496

(b) The net amount is attributable to the S portion of an 77497
electing small business trust for the taxable year. 77498

(2) Add interest or dividends, net of ordinary, necessary, 77499
and reasonable expenses not deducted in computing federal taxable 77500
income, on obligations of any authority, commission, 77501
instrumentality, territory, or possession of the United States to 77502
the extent that the interest or dividends are exempt from federal 77503
income taxes but not from state income taxes, but only to the 77504
extent that such net amount is not otherwise includible in Ohio 77505
taxable income and is described in either division (S)(1)(a) or 77506
(b) of this section; 77507

(3) Add the amount of personal exemption allowed to the 77508
estate pursuant to section 642(b) of the Internal Revenue Code; 77509

(4) Deduct interest or dividends, net of related expenses 77510
deducted in computing federal taxable income, on obligations of 77511
the United States and its territories and possessions or of any 77512
authority, commission, or instrumentality of the United States to 77513
the extent that the interest or dividends are exempt from state 77514

taxes under the laws of the United States, but only to the extent 77515
that such amount is included in federal taxable income and is 77516
described in either division (S)(1)(a) or (b) of this section; 77517

(5) Deduct the amount of wages and salaries, if any, not 77518
otherwise allowable as a deduction but that would have been 77519
allowable as a deduction in computing federal taxable income for 77520
the taxable year, had the targeted jobs credit allowed under 77521
sections 38, 51, and 52 of the Internal Revenue Code not been in 77522
effect, but only to the extent such amount relates either to 77523
income included in federal taxable income for the taxable year or 77524
to income of the S portion of an electing small business trust for 77525
the taxable year; 77526

(6) Deduct any interest or interest equivalent, net of 77527
related expenses deducted in computing federal taxable income, on 77528
public obligations and purchase obligations, but only to the 77529
extent that such net amount relates either to income included in 77530
federal taxable income for the taxable year or to income of the S 77531
portion of an electing small business trust for the taxable year; 77532

(7) Add any loss or deduct any gain resulting from sale, 77533
exchange, or other disposition of public obligations to the extent 77534
that such loss has been deducted or such gain has been included in 77535
computing either federal taxable income or income of the S portion 77536
of an electing small business trust for the taxable year; 77537

(8) Except in the case of the final return of an estate, add 77538
any amount deducted by the taxpayer on both its Ohio estate tax 77539
return pursuant to section 5731.14 of the Revised Code, and on its 77540
federal income tax return in determining federal taxable income; 77541

(9)(a) Deduct any amount included in federal taxable income 77542
solely because the amount represents a reimbursement or refund of 77543
expenses that in a previous year the decedent had deducted as an 77544
itemized deduction pursuant to section 63 of the Internal Revenue 77545

Code and applicable treasury regulations. The deduction otherwise
allowed under division (S)(9)(a) of this section shall be reduced
to the extent the reimbursement is attributable to an amount the
taxpayer or decedent deducted under this section in any taxable
year.

(b) Add any amount not otherwise included in Ohio taxable
income for any taxable year to the extent that the amount is
attributable to the recovery during the taxable year of any amount
deducted or excluded in computing federal or Ohio taxable income
in any taxable year, but only to the extent such amount has not
been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section
1341(a)(2) of the Internal Revenue Code, for repaying previously
reported income received under a claim of right, that meets both
of the following requirements:

(a) It is allowable for repayment of an item that was
included in the taxpayer's taxable income or the decedent's
adjusted gross income for a prior taxable year and did not qualify
for a credit under division (A) or (B) of section 5747.05 of the
Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable
income or the decedent's adjusted gross income for the current or
any other taxable year.

(11) Add any amount claimed as a credit under section
5747.059 of the Revised Code to the extent that the amount
satisfies either of the following:

(a) The amount was deducted or excluded from the computation
of the taxpayer's federal taxable income as required to be
reported for the taxpayer's taxable year under the Internal
Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's 77576
federal taxable income as required to be reported for any of the 77577
taxpayer's taxable years under the Internal Revenue Code. 77578

(12) Deduct any amount, net of related expenses deducted in 77579
computing federal taxable income, that a trust is required to 77580
report as farm income on its federal income tax return, but only 77581
if the assets of the trust include at least ten acres of land 77582
satisfying the definition of "land devoted exclusively to 77583
agricultural use" under section 5713.30 of the Revised Code, 77584
regardless of whether the land is valued for tax purposes as such 77585
land under sections 5713.30 to 5713.38 of the Revised Code. If the 77586
trust is a pass-through entity investor, section 5747.231 of the 77587
Revised Code applies in ascertaining if the trust is eligible to 77588
claim the deduction provided by division (S)(12) of this section 77589
in connection with the pass-through entity's farm income. 77590

Except for farm income attributable to the S portion of an 77591
electing small business trust, the deduction provided by division 77592
(S)(12) of this section is allowed only to the extent that the 77593
trust has not distributed such farm income. Division (S)(12) of 77594
this section applies only to taxable years of a trust beginning in 77595
2002,~~2003~~, or ~~2004~~ thereafter. 77596

(13) Add the net amount of income described in section 641(c) 77597
of the Internal Revenue Code to the extent that amount is not 77598
included in federal taxable income. 77599

(14) Add or deduct the amount the taxpayer would be required 77600
to add or deduct under division (A)(20) or (21) of this section if 77601
the taxpayer's Ohio taxable income were computed in the same 77602
manner as an individual's Ohio adjusted gross income is computed 77603
under this section. In the case of a trust, division (S)(14) of 77604
this section applies only to any of the trust's taxable years 77605
beginning in 2002,~~2003~~, or ~~2004~~ thereafter. 77606

(T) "School district income" and "school district income tax" 77607
have the same meanings as in section 5748.01 of the Revised Code. 77608

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) 77609
of this section, "public obligations," "purchase obligations," and 77610
"interest or interest equivalent" have the same meanings as in 77611
section 5709.76 of the Revised Code. 77612

(V) "Limited liability company" means any limited liability 77613
company formed under Chapter 1705. of the Revised Code or under 77614
the laws of any other state. 77615

(W) "Pass-through entity investor" means any person who, 77616
during any portion of a taxable year of a pass-through entity, is 77617
a partner, member, shareholder, or equity investor in that 77618
pass-through entity. 77619

(X) "Banking day" has the same meaning as in section 1304.01 77620
of the Revised Code. 77621

(Y) "Month" means a calendar month. 77622

(Z) "Quarter" means the first three months, the second three 77623
months, the third three months, or the last three months of the 77624
taxpayer's taxable year. 77625

(AA)(1) "Eligible institution" means a state university or 77626
state institution of higher education as defined in section 77627
3345.011 of the Revised Code, or a private, nonprofit college, 77628
university, or other post-secondary institution located in this 77629
state that possesses a certificate of authorization issued by the 77630
Ohio board of regents pursuant to Chapter 1713. of the Revised 77631
Code or a certificate of registration issued by the state board of 77632
career colleges and schools under Chapter 3332. of the Revised 77633
Code. 77634

(2) "Qualified tuition and fees" means tuition and fees 77635
imposed by an eligible institution as a condition of enrollment or 77636

attendance, not exceeding two thousand five hundred dollars in 77637
each of the individual's first two years of post-secondary 77638
education. If the individual is a part-time student, "qualified 77639
tuition and fees" includes tuition and fees paid for the academic 77640
equivalent of the first two years of post-secondary education 77641
during a maximum of five taxable years, not exceeding a total of 77642
five thousand dollars. "Qualified tuition and fees" does not 77643
include: 77644

(a) Expenses for any course or activity involving sports, 77645
games, or hobbies unless the course or activity is part of the 77646
individual's degree or diploma program; 77647

(b) The cost of books, room and board, student activity fees, 77648
athletic fees, insurance expenses, or other expenses unrelated to 77649
the individual's academic course of instruction; 77650

(c) Tuition, fees, or other expenses paid or reimbursed 77651
through an employer, scholarship, grant in aid, or other 77652
educational benefit program. 77653

(BB)(1) "Modified business income" means the business income 77654
included in a trust's Ohio taxable income after such taxable 77655
income is first reduced by the qualifying trust amount, if any. 77656

(2) "Qualifying trust amount" of a trust means capital gains 77657
and losses from the sale, exchange, or other disposition of equity 77658
or ownership interests in, or debt obligations of, a qualifying 77659
investee to the extent included in the trust's Ohio taxable 77660
income, but only if the following requirements are satisfied: 77661

(a) The book value of the qualifying investee's physical 77662
assets in this state and everywhere, as of the last day of the 77663
qualifying investee's fiscal or calendar year ending immediately 77664
prior to the date on which the trust recognizes the gain or loss, 77665
is available to the trust. 77666

(b) The requirements of section 5747.011 of the Revised Code 77667
are satisfied for the trust's taxable year in which the trust 77668
recognizes the gain or loss. 77669

Any gain or loss that is not a qualifying trust amount is 77670
modified business income, qualifying investment income, or 77671
modified nonbusiness income, as the case may be. 77672

(3) "Modified nonbusiness income" means a trust's Ohio 77673
taxable income other than modified business income, other than the 77674
qualifying trust amount, and other than qualifying investment 77675
income, as defined in section 5747.012 of the Revised Code, to the 77676
extent such qualifying investment income is not otherwise part of 77677
modified business income. 77678

(4) "Modified Ohio taxable income" applies only to trusts, 77679
and means the sum of the amounts described in divisions (BB)(4)(a) 77680
to (c) of this section: 77681

(a) The fraction, calculated under section 5747.013, and 77682
applying section 5747.231 of the Revised Code, multiplied by the 77683
sum of the following amounts: 77684

(i) The trust's modified business income; 77685

(ii) The trust's qualifying investment income, as defined in 77686
section 5747.012 of the Revised Code, but only to the extent the 77687
qualifying investment income does not otherwise constitute 77688
modified business income and does not otherwise constitute a 77689
qualifying trust amount. 77690

(b) The qualifying trust amount multiplied by a fraction, the 77691
numerator of which is the sum of the book value of the qualifying 77692
investee's physical assets in this state on the last day of the 77693
qualifying investee's fiscal or calendar year ending immediately 77694
prior to the day on which the trust recognizes the qualifying 77695
trust amount, and the denominator of which is the sum of the book 77696

value of the qualifying investee's total physical assets 77697
everywhere on the last day of the qualifying investee's fiscal or 77698
calendar year ending immediately prior to the day on which the 77699
trust recognizes the qualifying trust amount. If, for a taxable 77700
year, the trust recognizes a qualifying trust amount with respect 77701
to more than one qualifying investee, the amount described in 77702
division (BB)(4)(b) of this section shall equal the sum of the 77703
products so computed for each such qualifying investee. 77704

(c)(i) With respect to a trust or portion of a trust that is 77705
a resident as ascertained in accordance with division (I)(3)(d) of 77706
this section, its modified nonbusiness income. 77707

(ii) With respect to a trust or portion of a trust that is 77708
not a resident as ascertained in accordance with division 77709
(I)(3)(d) of this section, the amount of its modified nonbusiness 77710
income satisfying the descriptions in divisions (B)(2) to (5) of 77711
section 5747.20 of the Revised Code. 77712

If the allocation and apportionment of a trust's income under 77713
divisions (BB)(4)(a) and (c) of this section do not fairly 77714
represent the modified Ohio taxable income of the trust in this 77715
state, the alternative methods described in division (C) of 77716
section 5747.21 of the Revised Code may be applied in the manner 77717
and to the same extent provided in that section. 77718

(5)(a) Except as set forth in division (BB)(5)(b) of this 77719
section, "qualifying investee" means a person in which a trust has 77720
an equity or ownership interest, or a person or unit of government 77721
the debt obligations of either of which are owned by a trust. For 77722
the purposes of division (BB)(2)(a) of this section and for the 77723
purpose of computing the fraction described in division (BB)(4)(b) 77724
of this section, all of the following apply: 77725

(i) If the qualifying investee is a member of a qualifying 77726
controlled group on the last day of the qualifying investee's 77727

fiscal or calendar year ending immediately prior to the date on 77728
which the trust recognizes the gain or loss, then "qualifying 77729
investee" includes all persons in the qualifying controlled group 77730
on such last day. 77731

(ii) If the qualifying investee, or if the qualifying 77732
investee and any members of the qualifying controlled group of 77733
which the qualifying investee is a member on the last day of the 77734
qualifying investee's fiscal or calendar year ending immediately 77735
prior to the date on which the trust recognizes the gain or loss, 77736
separately or cumulatively own, directly or indirectly, on the 77737
last day of the qualifying investee's fiscal or calendar year 77738
ending immediately prior to the date on which the trust recognizes 77739
the qualifying trust amount, more than fifty per cent of the 77740
equity of a pass-through entity, then the qualifying investee and 77741
the other members are deemed to own the proportionate share of the 77742
pass-through entity's physical assets which the pass-through 77743
entity directly or indirectly owns on the last day of the 77744
pass-through entity's calendar or fiscal year ending within or 77745
with the last day of the qualifying investee's fiscal or calendar 77746
year ending immediately prior to the date on which the trust 77747
recognizes the qualifying trust amount. 77748

(iii) For the purposes of division (BB)(5)(a)(iii) of this 77749
section, "upper level pass-through entity" means a pass-through 77750
entity directly or indirectly owning any equity of another 77751
pass-through entity, and "lower level pass-through entity" means 77752
that other pass-through entity. 77753

An upper level pass-through entity, whether or not it is also 77754
a qualifying investee, is deemed to own, on the last day of the 77755
upper level pass-through entity's calendar or fiscal year, the 77756
proportionate share of the lower level pass-through entity's 77757
physical assets that the lower level pass-through entity directly 77758
or indirectly owns on the last day of the lower level pass-through 77759

entity's calendar or fiscal year ending within or with the last 77760
day of the upper level pass-through entity's fiscal or calendar 77761
year. If the upper level pass-through entity directly and 77762
indirectly owns less than fifty per cent of the equity of the 77763
lower level pass-through entity on each day of the upper level 77764
pass-through entity's calendar or fiscal year in which or with 77765
which ends the calendar or fiscal year of the lower level 77766
pass-through entity and if, based upon clear and convincing 77767
evidence, complete information about the location and cost of the 77768
physical assets of the lower pass-through entity is not available 77769
to the upper level pass-through entity, then solely for purposes 77770
of ascertaining if a gain or loss constitutes a qualifying trust 77771
amount, the upper level pass-through entity shall be deemed as 77772
owning no equity of the lower level pass-through entity for each 77773
day during the upper level pass-through entity's calendar or 77774
fiscal year in which or with which ends the lower level 77775
pass-through entity's calendar or fiscal year. Nothing in division 77776
(BB)(5)(a)(iii) of this section shall be construed to provide for 77777
any deduction or exclusion in computing any trust's Ohio taxable 77778
income. 77779

(b) With respect to a trust that is not a resident for the 77780
taxable year and with respect to a part of a trust that is not a 77781
resident for the taxable year, "qualifying investee" for that 77782
taxable year does not include a C corporation if both of the 77783
following apply: 77784

(i) During the taxable year the trust or part of the trust 77785
recognizes a gain or loss from the sale, exchange, or other 77786
disposition of equity or ownership interests in, or debt 77787
obligations of, the C corporation. 77788

(ii) Such gain or loss constitutes nonbusiness income. 77789

(6) "Available" means information is such that a person is 77790

able to learn of the information by the due date plus extensions,
if any, for filing the return for the taxable year in which the
trust recognizes the gain or loss.

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(CC) "Qualifying controlled group" has the same meaning as in
section 5733.04 of the Revised Code.

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(DD) "Related member" has the same meaning as in section
5733.042 of the Revised Code.

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~~(EE) Any term used in this chapter that is not otherwise
defined in this section and that is not used in a comparable
context in the Internal Revenue Code and other statutes of the
United States relating to federal income taxes has the same
meaning as in section 5733.40 of the Revised Code (1) For the
purposes of division (EE) of this section:~~

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(a) "Qualifying person" means any person other than a
qualifying corporation.

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(b) "Qualifying corporation" means any person classified for
federal income tax purposes as an association taxable as a
corporation, except either of the following:

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(i) A corporation that has made an election under subchapter
S, chapter one, subtitle A, of the Internal Revenue Code for its
taxable year ending within, or on the last day of, the investor's
taxable year;

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(ii) A subsidiary that is wholly owned by any corporation
that has made an election under subchapter S, chapter one,
subtitle A of the Internal Revenue Code for its taxable year
ending within, or on the last day of, the investor's taxable year.

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(2) For the purposes of this chapter, unless expressly stated
otherwise, no qualifying person indirectly owns any asset directly
or indirectly owned by any qualifying corporation.

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Sec. 5747.012. This section applies for the purposes of 77820
divisions (BB)(3) and (BB)(4)(a)(ii) of section 5747.01 of the 77821
Revised Code. 77822

(A) As used in this section: 77823

(1)(a) Except as set forth in division (A)(1)(b) of this 77824
section, "qualifying investment income" means the portion of a 77825
qualifying investment pass-through entity's net income 77826
attributable to transaction fees in connection with the 77827
acquisition, ownership, or disposition of intangible property; 77828
loan fees; financing fees; consent fees; waiver fees; application 77829
fees; net management fees; dividend income; interest income; net 77830
capital gains from the sale or exchange or other disposition of 77831
intangible property; and all types and classifications of income 77832
attributable to distributive shares of income from other 77833
pass-through entities. 77834

(b)(i) Notwithstanding division (A)(1)(a) of this section, 77835
"qualifying investment income" does not include any part of the 77836
qualifying investment pass-through entity's net capital gain 77837
which, after the application of section 5747.231 of the Revised 77838
Code with respect to a trust, would also constitute a qualifying 77839
trust amount. 77840

(ii) Notwithstanding division (A)(1)(a) of this section, 77841
"qualifying investment income" does not include any part of the 77842
qualifying investment pass-through entity's net income 77843
attributable to the portion of a distributive share of income 77844
directly or indirectly from another pass-through entity to the 77845
extent such portion constitutes the other pass-through entity's 77846
net capital gain which, after the application of section 5747.231 77847
of the Revised Code with respect to a trust, would also constitute 77848
a qualifying trust amount. 77849

(2) "Qualifying investment pass-through entity" means an investment pass-through entity, as defined in section 5733.401 of the Revised Code, subject to the following qualifications:

(a) "Forty per cent" shall be substituted for "ninety per cent" wherever "ninety per cent" appears in section 5733.401 of the Revised Code.

(b) The pass-through entity must have been formed or organized as an entity prior to June 5, 2002, and must exist as a pass-through entity for all of the taxable year of the trust.

(c) The qualifying section 5747.012 trust or related persons to the qualifying section 5747.012 trust must directly or indirectly own at least five per cent of the equity of the investment pass-through entity each day of the entity's fiscal or calendar year ending within or with the last day of the qualifying section 5747.012 trust's taxable year;

(d) During the investment pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying section 5747.012 trust's taxable year, related persons of or to the qualifying section 5747.012 trust must, on each day of the investment pass-through entity's year, own directly, or own through equity investments in other pass-through entities, more than sixty per cent of the equity of the investment pass-through entity.

(B) "Qualifying section 5747.012 trust" means a trust satisfying one of the following:

(1) The trust was created prior to, and was irrevocable on, June 5, 2002; or

(2) If the trust was created after June 4, 2002, or if the trust became irrevocable after June 4, 2002, then at least eighty per cent of the assets transferred to the trust must have been

previously owned by related persons to the trust or by a trust 77880
created prior to June 5, 2002, under which the creator did not 77881
retain the power to change beneficiaries, amend the trust, or 77882
revoke the trust. For purposes of division (B)(2) of this section, 77883
the power to substitute property of equal value shall not be 77884
considered to be a power to change beneficiaries, amend the trust, 77885
or revoke the trust. 77886

(C) For the purposes of this section, "related persons" means 77887
the family of a qualifying individual beneficiary, as defined in 77888
division (A)(5) of section 5747.011 of the Revised Code. For the 77889
purposes of this division, "family" has the same meaning as in 77890
division (A)(6) of section 5747.011 of the Revised Code. 77891

(D) For the purposes of applying divisions (A)(2)(c), 77892
(A)(2)(d), and (B)(2) of this section, the related persons or the 77893
qualifying section 5747.012 trust, as the case may be, shall be 77894
deemed to own the equity of the investment pass-through entity 77895
after the application of division (B) of section 5747.011 of the 77896
Revised Code. 77897

(E) "Irrevocable" has the same meaning as in division 77898
(I)(3)(b) of section 5747.01 of the Revised Code. 77899

(F) Nothing in this section requires any item of income, 77900
gain, or loss not satisfying the definition of qualifying 77901
investment income to be treated as modified nonbusiness income. 77902
Any item of income, gain, or loss that is not qualifying 77903
investment income is modified business income, modified 77904
nonbusiness income, or a qualifying trust amount, as the case may 77905
be. 77906

Sec. 5747.02. (A) For the purpose of providing revenue for 77907
the support of schools and local government functions, to provide 77908
relief to property taxpayers, to provide revenue for the general 77909

revenue fund, and to meet the expenses of administering the tax 77910
levied by this chapter, there is hereby levied on every 77911
individual, trust, and estate residing in or earning or receiving 77912
income in this state, on every individual, trust, and estate 77913
earning or receiving lottery winnings, prizes, or awards pursuant 77914
to Chapter 3770. of the Revised Code, and on every individual, 77915
trust, and estate otherwise having nexus with or in this state 77916
under the Constitution of the United States, an annual tax 77917
measured in the case of individuals by Ohio adjusted gross income 77918
less an exemption for the taxpayer, the taxpayer's spouse, and 77919
each dependent as provided in section 5747.025 of the Revised 77920
Code; measured in the case of trusts by modified Ohio taxable 77921
income under division (D) of this section; and measured in the 77922
case of estates by Ohio taxable income. The tax imposed by this 77923
section on the balance thus obtained is hereby levied as follows: 77924

(1) For taxable years beginning in 2004: 77925

OHIO ADJUSTED GROSS INCOME LESS 77926

EXEMPTIONS (INDIVIDUALS)

OR 77927

MODIFIED OHIO 77928

TAXABLE INCOME (TRUSTS) 77929

OR 77930

OHIO TAXABLE INCOME (ESTATES) TAX 77931

\$5,000 or less .743% 77932

More than \$5,000 but not more \$37.15 plus 1.486% of the amount 77933
than \$10,000 in excess of \$5,000

More than \$10,000 but not more \$111.45 plus 2.972% of the 77934
than \$15,000 amount in excess of \$10,000

More than \$15,000 but not more \$260.05 plus 3.715% of the 77935
than \$20,000 amount in excess of \$15,000

More than \$20,000 but not more \$445.80 plus 4.457% of the 77936
than \$40,000 amount in excess of \$20,000

More than \$40,000 but not more \$1,337.20 plus 5.201% of the 77937

than \$80,000	amount in excess of \$40,000	
More than \$80,000 but not more than \$100,000	\$3,417.60 plus 5.943% of the amount in excess of \$80,000	77938
More than \$100,000 but not more than \$200,000	\$4,606.20 plus 6.9% of the amount in excess of \$100,000	77939
More than \$200,000	\$11,506.20 plus 7.5% of the amount in excess of \$200,000	77940
<u>(2) For taxable years beginning in 2005:</u>		77941
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		77942
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		77943
<u>MODIFIED OHIO</u>		77944
<u>TAXABLE INCOME (TRUSTS)</u>		77945
<u>OR</u>		77946
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	77947
<u>\$5,000 or less</u>	<u>.712%</u>	77948
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$35.60 plus 1.424% of the amount in excess of \$5,000</u>	77949
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$106.80 plus 2.847% of the amount in excess of \$10,000</u>	77950
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$249.15 plus 3.559% of the amount in excess of \$15,000</u>	77951
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$427.10 plus 4.27% of the amount in excess of \$20,000</u>	77952
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,281.10 plus 4.983% of the amount in excess of \$40,000</u>	77953
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$3,274.30 plus 5.693% of the amount in excess of \$80,000</u>	77954
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,412.90 plus 6.61% of the amount in excess of \$100,000</u>	77955
<u>More than \$200,000</u>	<u>\$11,022.90 plus 7.185% of the amount in excess of \$200,000</u>	77956

<u>(3) For taxable years beginning in 2006:</u>		77957
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		77958
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		77959
<u>MODIFIED OHIO</u>		77960
<u>TAXABLE INCOME (TRUSTS)</u>		77961
<u>OR</u>		77962
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	77963
<u>\$5,000 or less</u>	<u>.681%</u>	77964
<u>More than \$5,000 but not more</u>	<u>\$34.05 plus 1.361% of the amount</u>	77965
<u>than \$10,000</u>	<u>in excess of \$5,000</u>	
<u>More than \$10,000 but not more</u>	<u>\$102.10 plus 2.722% of the</u>	77966
<u>than \$15,000</u>	<u>amount in excess of \$10,000</u>	
<u>More than \$15,000 but not more</u>	<u>\$238.20 plus 3.403% of the</u>	77967
<u>than \$20,000</u>	<u>amount in excess of \$15,000</u>	
<u>More than \$20,000 but not more</u>	<u>\$408.35 plus 4.083% of the</u>	77968
<u>than \$40,000</u>	<u>amount in excess of \$20,000</u>	
<u>More than \$40,000 but not more</u>	<u>\$1,224.95 plus 4.764% of the</u>	77969
<u>than \$80,000</u>	<u>amount in excess of \$40,000</u>	
<u>More than \$80,000 but not more</u>	<u>\$3,130.55 plus 5.444% of the</u>	77970
<u>than \$100,000</u>	<u>amount in excess of \$80,000</u>	
<u>More than \$100,000 but not more</u>	<u>\$4,219.35 plus 6.32% of the</u>	77971
<u>than \$200,000</u>	<u>amount in excess of \$100,000</u>	
<u>More than \$200,000</u>	<u>\$10,539.35 plus 6.87% of the</u>	77972
	<u>amount in excess of \$200,000</u>	
<u>(4) For taxable years beginning in 2007:</u>		77973
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		77974
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		77975
<u>MODIFIED OHIO</u>		77976
<u>TAXABLE INCOME (TRUSTS)</u>		77977
<u>OR</u>		77978

<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	77979
<u>\$5,000 or less</u>	<u>.649%</u>	77980
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$32.45 plus 1.299% of the amount in excess of \$5,000</u>	77981
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$97.40 plus 2.598% of the amount in excess of \$10,000</u>	77982
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$227.30 plus 3.247% of the amount in excess of \$15,000</u>	77983
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$389.65 plus 3.895% of the amount in excess of \$20,000</u>	77984
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,168.65 plus 4.546% of the amount in excess of \$40,000</u>	77985
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,987.05 plus 5.194% of the amount in excess of \$80,000</u>	77986
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$4,025.85 plus 6.031% of the amount in excess of \$100,000</u>	77987
<u>More than \$200,000</u>	<u>\$10,056.85 plus 6.555% of the amount in excess of \$200,000</u>	77988
<u>(5) For taxable years beginning in 2008:</u>		77989
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		77990
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		77991
<u>MODIFIED OHIO</u>		77992
<u>TAXABLE INCOME (TRUSTS)</u>		77993
<u>OR</u>		77994
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	77995
<u>\$5,000 or less</u>	<u>.618%</u>	77996
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$30.90 plus 1.236% of the amount in excess of \$5,000</u>	77997
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$92.70 plus 2.473% of the amount in excess of \$10,000</u>	77998
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$216.35 plus 3.091% of the amount in excess of \$15,000</u>	77999

<u>More than \$20,000 but not more than \$40,000</u>	<u>\$370.90 plus 3.708% of the amount in excess of \$20,000</u>	78000
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,112.50 plus 4.327% of the amount in excess of \$40,000</u>	78001
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,843.30 plus 4.945% of the amount in excess of \$80,000</u>	78002
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,832.30 plus 5.741% of the amount in excess of \$100,000</u>	78003
<u>More than \$200,000</u>	<u>\$9,573.30 plus 6.24% of the amount in excess of \$200,000</u>	78004
<u>(6) For taxable years beginning in 2009 or thereafter:</u>		78005
<u>OHIO ADJUSTED GROSS INCOME LESS</u>		78006
<u>EXEMPTIONS (INDIVIDUALS)</u>		
<u>OR</u>		78007
<u>MODIFIED OHIO</u>		78008
<u>TAXABLE INCOME (TRUSTS)</u>		78009
<u>OR</u>		78010
<u>OHIO TAXABLE INCOME (ESTATES)</u>	<u>TAX</u>	78011
<u>\$5,000 or less</u>	<u>.587%</u>	78012
<u>More than \$5,000 but not more than \$10,000</u>	<u>\$29.35 plus 1.174% of the amount in excess of \$5,000</u>	78013
<u>More than \$10,000 but not more than \$15,000</u>	<u>\$88.05 plus 2.348% of the amount in excess of \$10,000</u>	78014
<u>More than \$15,000 but not more than \$20,000</u>	<u>\$205.45 plus 2.935% of the amount in excess of \$15,000</u>	78015
<u>More than \$20,000 but not more than \$40,000</u>	<u>\$352.20 plus 3.521% of the amount in excess of \$20,000</u>	78016
<u>More than \$40,000 but not more than \$80,000</u>	<u>\$1,056.40 plus 4.109% of the amount in excess of \$40,000</u>	78017
<u>More than \$80,000 but not more than \$100,000</u>	<u>\$2,700.00 plus 4.695% of the amount in excess of \$80,000</u>	78018
<u>More than \$100,000 but not more than \$200,000</u>	<u>\$3,639.00 plus 5.451% of the amount in excess of \$100,000</u>	78019

(D) This division applies only to taxable years of a trust 78051
beginning in 2002,~~2003~~, or 2004 thereafter. 78052

(1) The tax imposed by this section on a trust shall be 78053
computed by multiplying the Ohio modified taxable income of the 78054
trust by the rates prescribed by division (A) of this section. 78055

(2) A credit is allowed against the tax computed under 78056
division (D) of this section equal to the lesser of (1) the tax 78057
paid to another state or the District of Columbia on the trust's 78058
modified nonbusiness income, other than the portion of the trust's 78059
nonbusiness income that is qualifying investment income as defined 78060
in section 5747.012 of the Revised Code, or (2) the effective tax 78061
rate, based on modified Ohio taxable income, multiplied by the 78062
trust's modified nonbusiness income other than the portion of 78063
trust's nonbusiness income that is qualifying investment income. 78064
The credit applies before any other applicable credits. 78065

(3) The credits enumerated in divisions (A)(1) to (13) of 78066
section 5747.98 of the Revised Code do not apply to a trust 78067
subject to this division. Any credits enumerated in other 78068
divisions of section 5747.98 of the Revised Code apply to a trust 78069
subject to this division. To the extent that the trust distributes 78070
income for the taxable year for which a credit is available to the 78071
trust, the credit shall be shared by the trust and its 78072
beneficiaries. The tax commissioner and the trust shall be guided 78073
by applicable regulations of the United States treasury regarding 78074
the sharing of credits. 78075

(E) For the purposes of this section, "trust" means any trust 78076
described in Subchapter J of Chapter 1 of the Internal Revenue 78077
Code, excluding trusts that are not irrevocable as defined in 78078
division (I)(3)(b) of section 5747.01 of the Revised Code and that 78079
have no modified Ohio taxable income for the taxable year, 78080
charitable remainder trusts, qualified funeral trusts and preneed 78081

funeral contract trusts established pursuant to section 1111.19 of 78082
the Revised Code that are not qualified funeral trusts, endowment 78083
and perpetual care trusts, qualified settlement trusts and funds, 78084
designated settlement trusts and funds, and trusts exempted from 78085
taxation under section 501(a) of the Internal Revenue Code. 78086

Sec. 5747.05. As used in this section, "income tax" includes 78087
both a tax on net income and a tax measured by net income. 78088

The following credits shall be allowed against the income tax 78089
imposed by section 5747.02 of the Revised Code on individuals and 78090
estates: 78091

(A)(1) The amount of tax otherwise due under section 5747.02 78092
of the Revised Code on such portion of the adjusted gross income 78093
of any nonresident taxpayer that is not allocable to this state 78094
pursuant to sections 5747.20 to 5747.23 of the Revised Code; 78095

(2) The credit provided under this division shall not exceed 78096
the portion of the total tax due under section 5747.02 of the 78097
Revised Code that the amount of the nonresident taxpayer's 78098
adjusted gross income not allocated to this state pursuant to 78099
sections 5747.20 to 5747.23 of the Revised Code bears to the total 78100
adjusted gross income of the nonresident taxpayer derived from all 78101
sources everywhere. 78102

(3) The tax commissioner may enter into an agreement with the 78103
taxing authorities of any state or of the District of Columbia 78104
that imposes an income tax to provide that compensation paid in 78105
this state to a nonresident taxpayer shall not be subject to the 78106
tax levied in section 5747.02 of the Revised Code so long as 78107
compensation paid in such other state or in the District of 78108
Columbia to a resident taxpayer shall likewise not be subject to 78109
the income tax of such other state or of the District of Columbia. 78110

(B) The lesser of division (B)(1) or (2) of this section: 78111

(1) The amount of tax otherwise due under section 5747.02 of the Revised Code on such portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(1) of this section shall not exceed the portion of the total tax due under section 5747.02 of the Revised Code that the amount of the resident taxpayer's adjusted gross income subjected to an income tax in the other state or in the District of Columbia bears to the total adjusted gross income of the resident taxpayer derived from all sources everywhere.

(2) The amount of income tax liability to another state or the District of Columbia on the portion of the adjusted gross income of a resident taxpayer that in another state or in the District of Columbia is subjected to an income tax. The credit provided under division (B)(2) of this section shall not exceed the amount of tax otherwise due under section 5747.02 of the Revised Code.

(3) If the credit provided under division (B) of this section is affected by a change in either the portion of adjusted gross income of a resident taxpayer subjected to an income tax in another state or the District of Columbia or the amount of income tax liability that has been paid to another state or the District of Columbia, the taxpayer shall report the change to the tax commissioner within sixty days of the change in such form as the commissioner requires.

(a) In the case of an underpayment, the report shall be accompanied by payment of any additional tax due as a result of the reduction in credit together with interest on the additional tax and is a return subject to assessment under section 5747.13 of the Revised Code solely for the purpose of assessing any additional tax due under this division, together with any applicable penalty and interest. It shall not reopen the

computation of the taxpayer's tax liability under this chapter 78144
from a previously filed return no longer subject to assessment 78145
except to the extent that such liability is affected by an 78146
adjustment to the credit allowed by division (B) of this section. 78147

(b) In the case of an overpayment, an application for refund 78148
may be filed under this division within the sixty day period 78149
prescribed for filing the report even if it is beyond the period 78150
prescribed in section 5747.11 of the Revised Code if it otherwise 78151
conforms to the requirements of such section. An application filed 78152
under this division shall only claim refund of overpayments 78153
resulting from an adjustment to the credit allowed by division (B) 78154
of this section unless it is also filed within the time prescribed 78155
in section 5747.11 of the Revised Code. It shall not reopen the 78156
computation of the taxpayer's tax liability except to the extent 78157
that such liability is affected by an adjustment to the credit 78158
allowed by division (B) of this section. 78159

(4) No credit shall be allowed under division (B) of this 78160
section to the extent that for any taxable year the taxpayer has 78161
directly or indirectly deducted, or was required to directly or 78162
indirectly deduct, the amount of income tax liability to another 78163
state or the District of Columbia in computing federal adjusted 78164
gross income. 78165

(C) For a taxpayer sixty-five years of age or older during 78166
the taxable year, a credit for such year equal to fifty dollars 78167
for each return required to be filed under section 5747.08 of the 78168
Revised Code. 78169

(D) A taxpayer sixty-five years of age or older during the 78170
taxable year who has received a lump-sum distribution from a 78171
pension, retirement, or profit-sharing plan in the taxable year 78172
may elect to receive a credit under this division in lieu of the 78173
credit to which the taxpayer is entitled under division (C) of 78174

this section. A taxpayer making such election shall receive a credit for the taxable year equal to fifty dollars times the taxpayer's expected remaining life as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to the credit authorized under division (C) of this section in subsequent taxable years except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one-half the credit authorized under such division in subsequent taxable years but may not make another election under this division.

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(E) A taxpayer who is not sixty-five years of age or older during the taxable year who has received a lump-sum distribution from a pension, retirement, or profit-sharing plan in a taxable year ending on or before July 31, 1991, may elect to take a credit against the tax otherwise due under this chapter for such year equal to fifty dollars times the expected remaining life of a taxpayer sixty-five years of age as shown by annuity tables issued under the provisions of the Internal Revenue Code and in effect for the calendar year which includes the last day of the taxable year. A taxpayer making an election under this division is not entitled to a credit under division (C) or (D) of this section in any subsequent year except that if such election was made prior to July 1, 1983, the taxpayer is entitled to one-half the credit authorized under division (C) of this section in subsequent years but may not make another election under this division. No taxpayer may make an election under this division for a taxable year ending on or after August 1, 1991.

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(F) A taxpayer making an election under either division (D) or (E) of this section may make only one such election in the taxpayer's lifetime.

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(G)(1) On a joint return filed by a husband and wife, each of whom had adjusted gross income of at least five hundred dollars, exclusive of interest, dividends and distributions, royalties, rent, and capital gains, a credit equal to the percentage shown in the table contained in this division of the amount of tax due after allowing for any other credit that precedes the credit under this division in the order required under section 5747.98 of the Revised Code.

(2) The credit to which a taxpayer is entitled under this division in any taxable year is the percentage shown in column B that corresponds with the taxpayer's adjusted gross income, less exemptions for the taxable year:

A.	B.	
IF THE ADJUSTED GROSS INCOME, LESS EXEMPTIONS, FOR THE TAX YEAR IS:	THE CREDIT FOR THE TAXABLE YEAR IS:	
\$25,000 or less	20%	78221
More than \$25,000 but not more than \$50,000	15%	78222
More than \$50,000 but not more than \$75,000	10%	78223
More than \$75,000	5%	78224

(3) The credit allowed under this division shall not exceed six hundred fifty dollars in any taxable year.

(H) No claim for credit under this section shall be allowed unless the claimant furnishes such supporting information as the tax commissioner prescribes by rules. Each credit under this section shall be claimed in the order required under section 5747.98 of the Revised Code.

(I) An individual who is a resident for part of a taxable year and a nonresident for the remainder of the taxable year is

allowed the credits under divisions (A) and (B) of this section in 78234
accordance with rules prescribed by the tax commissioner. In no 78235
event shall the same income be subject to both credits. 78236

(J) The credit allowed under division (A) of this section 78237
shall be calculated based upon the amount of tax due under section 78238
5747.02 of the Revised Code after subtracting any other credits 78239
that precede the credit under that division in the order required 78240
under section 5747.98 of the Revised Code. The credit allowed 78241
under division (B) of this section shall be calculated based upon 78242
the amount of tax due under section 5747.02 of the Revised Code 78243
after subtracting any other credits that precede the credit under 78244
that division in the order required under section 5747.98 of the 78245
Revised Code. 78246

(K) No credit shall be allowed under division (B) of this 78247
section unless the taxpayer furnishes such proof as the tax 78248
commissioner shall require that the income tax liability has been 78249
paid to another state or the District of Columbia. 78250

(L) No credit shall be allowed under division (B) of this 78251
section for compensation that is not subject to the income tax of 78252
another state or the District of Columbia as the result of an 78253
agreement entered into by the tax commissioner under division 78254
(A)(3) of this section. 78255

Sec. 5747.056. For taxable years beginning in 2005 or 78256
thereafter, a credit shall be allowed against the tax imposed by 78257
section 5747.02 of the Revised Code for an individual whose Ohio 78258
adjusted gross income less exemptions is ten thousand dollars or 78259
less. For taxable years beginning in 2005, the credit shall equal 78260
one hundred seven dollars. For taxable years beginning in 2006, 78261
the credit shall equal one hundred two dollars. For taxable years 78262
beginning in 2007, the credit shall equal ninety-eight dollars. 78263
For taxable years beginning in 2008, the credit shall equal 78264

ninety-three dollars. For taxable years beginning in 2009 or 78265
thereafter, the credit shall equal eighty-eight dollars. The 78266
credit shall be claimed in the order required under section 78267
5747.98 of the Revised Code. 78268

Sec. 5747.08. An annual return with respect to the tax 78269
imposed by section 5747.02 of the Revised Code and each tax 78270
imposed under Chapter 5748. of the Revised Code shall be made by 78271
every taxpayer for any taxable year for which the taxpayer is 78272
liable for the tax imposed by that section or under that chapter, 78273
unless the total credits allowed under divisions (E), (F), and (G) 78274
of section 5747.05 of the Revised Code for the year are equal to 78275
or exceed the tax imposed by section 5747.02 of the Revised Code, 78276
in which case no return shall be required unless the taxpayer is 78277
liable for a tax imposed pursuant to Chapter 5748. of the Revised 78278
Code. 78279

(A) If an individual is deceased, any return or notice 78280
required of that individual under this chapter shall be made and 78281
filed by that decedent's executor, administrator, or other person 78282
charged with the property of that decedent. 78283

(B) If an individual is unable to make a return or notice 78284
required by this chapter, the return or notice required of that 78285
individual shall be made and filed by the individual's duly 78286
authorized agent, guardian, conservator, fiduciary, or other 78287
person charged with the care of the person or property of that 78288
individual. 78289

(C) Returns or notices required of an estate or a trust shall 78290
be made and filed by the fiduciary of the estate or trust. 78291

(D)(1)(a) Except as otherwise provided in division (D)(1)(b) 78292
of this section, any pass-through entity may file a single return 78293
on behalf of one or more of the entity's investors other than an 78294

investor that is a person subject to the tax imposed under section 78295
5733.06 of the Revised Code. The single return shall set forth the 78296
name, address, and social security number or other identifying 78297
number of each of those pass-through entity investors and shall 78298
indicate the distributive share of each of those pass-through 78299
entity investor's income taxable in this state in accordance with 78300
sections 5747.20 to 5747.231 of the Revised Code. Such 78301
pass-through entity investors for whom the pass-through entity 78302
elects to file a single return are not entitled to the exemption 78303
or credit provided for by sections 5747.02 and 5747.022 of the 78304
Revised Code; shall calculate the tax before business credits at 78305
the highest rate of tax set forth in section 5747.02 of the 78306
Revised Code for the taxable year for which the return is filed; 78307
and are entitled to only their distributive share of the business 78308
credits as defined in division (D)(2) of this section. A single 78309
check drawn by the pass-through entity shall accompany the return 78310
in full payment of the tax due, as shown on the single return, for 78311
such investors, other than investors who are persons subject to 78312
the tax imposed under section 5733.06 of the Revised Code. 78313

(b)(i) A pass-through entity shall not include in such a 78314
single return any investor that is a trust to the extent that any 78315
direct or indirect current, future, or contingent beneficiary of 78316
the trust is a person subject to the tax imposed under section 78317
5733.06 of the Revised Code. 78318

(ii) A pass-through entity shall not include in such a single 78319
return any investor that is itself a pass-through entity to the 78320
extent that any direct or indirect investor in the second 78321
pass-through entity is a person subject to the tax imposed under 78322
section 5733.06 of the Revised Code. 78323

(c) Nothing in division (D) of this section precludes the tax 78324
commissioner from requiring such investors to file the return and 78325
make the payment of taxes and related interest, penalty, and 78326

interest penalty required by this section or section 5747.02, 78327
5747.09, or 5747.15 of the Revised Code. Nothing in division (D) 78328
of this section shall be construed to provide to such an investor 78329
or pass-through entity any additional deduction or credit, other 78330
than the credit provided by division (J) of this section, solely 78331
on account of the entity's filing a return in accordance with this 78332
section. Such a pass-through entity also shall make the filing and 78333
payment of estimated taxes on behalf of the pass-through entity 78334
investors other than an investor that is a person subject to the 78335
tax imposed under section 5733.06 of the Revised Code. 78336

(2) For the purposes of this section, "business credits" 78337
means the credits listed in section 5747.98 of the Revised Code 78338
excluding the following credits: 78339

(a) The retirement credit under division (B) of section 78340
5747.055 of the Revised Code; 78341

(b) The senior citizen credit under division (C) of section 78342
5747.05 of the Revised Code; 78343

(c) The lump sum distribution credit under division (D) of 78344
section 5747.05 of the Revised Code; 78345

(d) The dependent care credit under section 5747.054 of the 78346
Revised Code; 78347

(e) The lump sum retirement income credit under division (C) 78348
of section 5747.055 of the Revised Code; 78349

(f) The lump sum retirement income credit under division (D) 78350
of section 5747.055 of the Revised Code; 78351

(g) The lump sum retirement income credit under division (E) 78352
of section 5747.055 of the Revised Code; 78353

(h) The credit for displaced workers who pay for job training 78354
under section 5747.27 of the Revised Code; 78355

(i) The twenty-dollar personal exemption credit under section 78356

5747.022 of the Revised Code;	78357
(j) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	78358 78359
(k) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	78360 78361
(l) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	78362 78363
<u>(m) The low-income credit under section 5747.056 of the Revised Code.</u>	78364 78365
(3) The election provided for under division (D) of this section applies only to the taxable year for which the election is made by the pass-through entity. Unless the tax commissioner provides otherwise, this election, once made, is binding and irrevocable for the taxable year for which the election is made. Nothing in this division shall be construed to provide for any deduction or credit that would not be allowable if a nonresident pass-through entity investor were to file an annual return.	78366 78367 78368 78369 78370 78371 78372 78373
(4) If a pass-through entity makes the election provided for under division (D) of this section, the pass-through entity shall be liable for any additional taxes, interest, interest penalty, or penalties imposed by this chapter if the commissioner finds that the single return does not reflect the correct tax due by the pass-through entity investors covered by that return. Nothing in this division shall be construed to limit or alter the liability, if any, imposed on pass-through entity investors for unpaid or underpaid taxes, interest, interest penalty, or penalties as a result of the pass-through entity's making the election provided for under division (D) of this section. For the purposes of division (D) of this section, "correct tax due" means the tax that would have been paid by the pass-through entity had the single return been filed in a manner reflecting the commissioner's	78374 78375 78376 78377 78378 78379 78380 78381 78382 78383 78384 78385 78386 78387

findings. Nothing in division (D) of this section shall be
construed to make or hold a pass-through entity liable for tax
attributable to a pass-through entity investor's income from a
source other than the pass-through entity electing to file the
single return.

(E) If a husband and wife file a joint federal income tax
return for a taxable year, they shall file a joint return under
this section for that taxable year, and their liabilities are
joint and several, but, if the federal income tax liability of
either spouse is determined on a separate federal income tax
return, they shall file separate returns under this section.

If either spouse is not required to file a federal income tax
return and either or both are required to file a return pursuant
to this chapter, they may elect to file separate or joint returns,
and, pursuant to that election, their liabilities are separate or
joint and several. If a husband and wife file separate returns
pursuant to this chapter, each must claim the taxpayer's own
exemption, but not both, as authorized under section 5747.02 of
the Revised Code on the taxpayer's own return.

(F) Each return or notice required to be filed under this
section shall contain the signature of the taxpayer or the
taxpayer's duly authorized agent and of the person who prepared
the return for the taxpayer, and shall include the taxpayer's
social security number. Each return shall be verified by a
declaration under the penalties of perjury. The tax commissioner
shall prescribe the form that the signature and declaration shall
take.

(G) Each return or notice required to be filed under this
section shall be made and filed as required by section 5747.04 of
the Revised Code, on or before the fifteenth day of April of each
year, on forms that the tax commissioner shall prescribe, together

with remittance made payable to the treasurer of state in the 78419
combined amount of the state and all school district income taxes 78420
shown to be due on the form, unless the combined amount shown to 78421
be due is one dollar or less, in which case that amount need not 78422
be remitted. 78423

Upon good cause shown, the commissioner may extend the period 78424
for filing any notice or return required to be filed under this 78425
section and may adopt rules relating to extensions. If the 78426
extension results in an extension of time for the payment of any 78427
state or school district income tax liability with respect to 78428
which the return is filed, the taxpayer shall pay at the time the 78429
tax liability is paid an amount of interest computed at the rate 78430
per annum prescribed by section 5703.47 of the Revised Code on 78431
that liability from the time that payment is due without extension 78432
to the time of actual payment. Except as provided in section 78433
5747.132 of the Revised Code, in addition to all other interest 78434
charges and penalties, all taxes imposed under this chapter or 78435
Chapter 5748. of the Revised Code and remaining unpaid after they 78436
become due, except combined amounts due of one dollar or less, 78437
bear interest at the rate per annum prescribed by section 5703.47 78438
of the Revised Code until paid or until the day an assessment is 78439
issued under section 5747.13 of the Revised Code, whichever occurs 78440
first. 78441

If the commissioner considers it necessary in order to ensure 78442
the payment of the tax imposed by section 5747.02 of the Revised 78443
Code or any tax imposed under Chapter 5748. of the Revised Code, 78444
the commissioner may require returns and payments to be made 78445
otherwise than as provided in this section. 78446

(H) If any report, claim, statement, or other document 78447
required to be filed, or any payment required to be made, within a 78448
prescribed period or on or before a prescribed date under this 78449
chapter is delivered after that period or that date by United 78450

States mail to the agency, officer, or office with which the
report, claim, statement, or other document is required to be
filed, or to which the payment is required to be made, the date of
the postmark stamped on the cover in which the report, claim,
statement, or other document, or payment is mailed shall be deemed
to be the date of delivery or the date of payment.

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If a payment is required to be made by electronic funds
transfer pursuant to section 5747.072 of the Revised Code, the
payment is considered to be made when the payment is received by
the treasurer of state or credited to an account designated by the
treasurer of state for the receipt of tax payments.

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"The date of the postmark" means, in the event there is more
than one date on the cover, the earliest date imprinted on the
cover by the United States postal service.

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(I) The amounts withheld by the employer pursuant to section
5747.06 of the Revised Code shall be allowed to the recipient of
the compensation as credits against payment of the appropriate
taxes imposed on the recipient by section 5747.02 and under
Chapter 5748. of the Revised Code.

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(J) If, in accordance with division (D) of this section, a
pass-through entity elects to file a single return and if any
investor is required to file the return and make the payment of
taxes required by this chapter on account of the investor's other
income that is not included in a single return filed by a
pass-through entity, the investor is entitled to a refundable
credit equal to the investor's proportionate share of the tax paid
by the pass-through entity on behalf of the investor. The investor
shall claim the credit for the investor's taxable year in which or
with which ends the taxable year of the pass-through entity.
Nothing in this chapter shall be construed to allow any credit
provided in this chapter to be claimed more than once. For the

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purposes of computing any interest, penalty, or interest penalty, 78482
the investor shall be deemed to have paid the refundable credit 78483
provided by this division on the day that the pass-through entity 78484
paid the estimated tax or the tax giving rise to the credit. 78485

Sec. 5747.212. (A) This section applies solely for the 78486
purpose of computing the credit allowed under division (A) of 78487
section 5747.05 of the Revised Code, computing income taxable in 78488
this state under division (D) of section 5747.08 of the Revised 78489
Code, and computing the credit allowed under section 5747.057 of 78490
the Revised Code. 78491

(B) A ~~pass-through entity investor that owns taxpayer,~~ 78492
directly or indirectly, owning at any time during the three-year 78493
period ending on the last day of the taxpayer's taxable year at 78494
least twenty per cent of the ~~pass-through~~ equity voting rights of 78495
a section 5747.212 entity at any time during the current taxable 78496
year or either of the two preceding taxable years shall apportion 78497
any income, including gain or loss, realized from ~~the~~ each sale, 78498
exchange, or other disposition of a debt or equity interest in ~~the~~ 78499
that entity as prescribed in this section. For such purposes, in 78500
lieu of using the method prescribed by sections 5747.20 and 78501
5747.21 of the Revised Code, the investor shall apportion the 78502
income using the average of the ~~pass-through~~ section 5747.212 78503
entity's apportionment fractions otherwise applicable under 78504
section 5733.05, 5733.056, or 5747.21 of the Revised Code for the 78505
current and two preceding taxable years. If the ~~pass-through~~ 78506
section 5747.212 entity was not in business for one or more of 78507
those years, each year that the entity was not in business shall 78508
be excluded in determining the average. 78509

(C) For the purposes of this section: 78510

(1) A "section 5747.212 entity" is any qualifying person if, 78511
on at least one day of the three-year period ending on the last 78512

<u>day of the taxpayer's taxable year, any of the following apply:</u>	78513
<u>(a) The qualifying person is a pass-through entity;</u>	78514
<u>(b) Five or fewer persons directly or indirectly own all the equity interests, with voting rights, of the qualifying person;</u>	78515
<u>(c) One person directly or indirectly owns at least fifty per cent of the qualifying person's equity interests with voting rights.</u>	78517
<u>(2) A "qualifying person" is any person other than an individual, estate, or trust.</u>	78519
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78520
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78521
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78522
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78523
<u>(3) "Estate" and "trust" do not include any person classified for federal income tax purposes as an association taxable as a corporation.</u>	78524
Sec. 5747.331. (A) As used in this section:	78525
(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.	78526
(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.	78527
(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.	78528
(1) "Borrower" means any person that receives a loan from the director of development under section 166.21 of the Revised Code, regardless of whether the borrower is subject to the tax imposed by section 5747.02 of the Revised Code.	78529
(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	78530
(2) "Related member" has the same meaning as in section 5733.042 of the Revised Code.	78531
(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.	78532
(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.	78533
(3) "Qualified research and development loan payments" has the same meaning as in division (D) of section 166.21 of the Revised Code.	78534
(B) Beginning in <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78535
(B) Beginning in <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78536
(B) Beginning in <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78537
(B) Beginning in <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78538
(B) Beginning in <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78539
(B) Beginning in <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78540
(B) Beginning in <u>with</u> taxable year 2003 <u>and ending with taxable years beginning in 2007</u> , a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code equal to a borrower's qualified research and development loan payments made during the calendar year that includes the last day of the taxable year for which the credit is claimed. The amount of the credit for a taxable year shall not exceed one hundred fifty	78541

thousand dollars. No taxpayer is entitled to claim a credit under 78542
this section unless it has obtained a certificate issued by the 78543
director of development under division (D) of section 166.21 of 78544
the Revised Code. The credit shall be claimed in the order 78545
required under section 5747.98 of the Revised Code. The credit, to 78546
the extent it exceeds the taxpayer's tax liability for the taxable 78547
year after allowance for any other credits that precede the credit 78548
under this section in that order, shall be carried forward to the 78549
next succeeding taxable year or years until fully used. Any credit 78550
not fully utilized by the taxable year beginning in 2007 may be 78551
carried forward and applied against the tax levied by Chapter 78552
5751. of the Revised Code to the extent allowed by section 5751.52 78553
of the Revised Code. 78554

(C) A borrower entitled to a credit under this section may 78555
assign the credit, or a portion thereof, to any of the following: 78556

(1) A related member of that borrower; 78557

(2) The owner or lessee of the eligible research and 78558
development project; 78559

(3) A related member of the owner or lessee of the eligible 78560
research and development project. 78561

A borrower making an assignment under this division shall 78562
provide written notice of the assignment to the tax commissioner 78563
and the director of development, in such form as the tax 78564
commissioner prescribes, before the credit that was assigned is 78565
used. The assignor may not claim the credit to the extent it was 78566
assigned to an assignee. The assignee may claim the credit only to 78567
the extent the assignor has not claimed it. 78568

(D) If any taxpayer is a shareholder in an S corporation, a 78569
partner in a partnership, or a member in a limited liability 78570
company treated as a partnership for federal income tax purposes, 78571
the taxpayer shall be allowed the taxpayer's distributive or 78572

proportionate share of the credit available through the S 78573
corporation, partnership, or limited liability company. 78574

(E) The aggregate credit against the taxes imposed by 78575
sections 5733.06, 5733.065, 5733.066, and 5747.02 of the Revised 78576
Code that may be claimed under this section and section 5733.352 78577
of the Revised Code by a borrower as a result of qualified 78578
research and development loan payments attributable during a 78579
calendar year to any one loan shall not exceed one hundred fifty 78580
thousand dollars. 78581

Sec. 5747.70. (A) In computing Ohio adjusted gross income, a 78582
deduction from federal adjusted gross income is allowed to a 78583
contributor for the amount contributed during the taxable year to 78584
a variable college savings program account and to a purchaser of 78585
tuition ~~credits~~ units under the Ohio college savings program 78586
created by Chapter 3334. of the Revised Code to the extent that 78587
the amounts of such contributions and purchases were not deducted 78588
in determining the contributor's or purchaser's federal adjusted 78589
gross income for the taxable year. The combined amount of 78590
contributions and purchases deducted in any taxable year by a 78591
taxpayer or the taxpayer and the taxpayer's spouse, regardless of 78592
whether the taxpayer and the taxpayer's spouse file separate 78593
returns or a joint return, is limited to two thousand dollars for 78594
each beneficiary for whom contributions or purchases are made. If 78595
the combined annual contributions and purchases for a beneficiary 78596
exceed two thousand dollars, the excess may be carried forward and 78597
deducted in future taxable years until the contributions and 78598
purchases have been fully deducted. 78599

(B) In computing Ohio adjusted gross income, a deduction from 78600
federal adjusted gross income is allowed for: 78601

(1) Income related to tuition ~~credits~~ units and contributions 78602
that as of the end of the taxable year have not been refunded 78603

pursuant to the termination of a tuition payment contract or 78604
variable college savings program account under section 3334.10 of 78605
the Revised Code, to the extent that such income is included in 78606
federal adjusted gross income. 78607

(2) The excess of the total purchase price of tuition ~~credits~~ 78608
units refunded during the taxable year pursuant to the termination 78609
of a tuition payment contract under section 3334.10 of the Revised 78610
Code over the amount of the refund, to the extent the amount of 78611
the excess was not deducted in determining federal adjusted gross 78612
income. Division (B)(2) of this section applies only to ~~credits~~ 78613
units for which no deduction was allowable under division (A) of 78614
this section. 78615

(C) In computing Ohio adjusted gross income, there shall be 78616
added to federal adjusted gross income the amount of loss related 78617
to tuition ~~credits~~ units and contributions that as of the end of 78618
the taxable year have not been refunded pursuant to the 78619
termination of a tuition payment contract or variable college 78620
savings program account under section 3334.10 of the Revised Code, 78621
to the extent that such loss was deducted in determining federal 78622
adjusted gross income. 78623

(D) For taxable years in which distributions or refunds are 78624
made under a tuition payment or variable college savings program 78625
contract for any reason other than payment of tuition or other 78626
higher education expenses, or the beneficiary's death, disability, 78627
or receipt of a scholarship as described in section 3334.10 of the 78628
Revised Code: 78629

(1) If the distribution or refund is paid to the purchaser or 78630
contributor or beneficiary, any portion of the distribution or 78631
refund not included in the recipient's federal adjusted gross 78632
income shall be added to the recipient's federal adjusted gross 78633
income in determining the recipient's Ohio adjusted gross income, 78634
except that the amount added shall not exceed amounts previously 78635

deducted under division (A) of this section less any amounts added 78636
under division (D)(1) of this section in a prior taxable year. 78637

(2) If amounts paid by a purchaser or contributor on or after 78638
January 1, 2000, are distributed or refunded to someone other than 78639
the purchaser or contributor or beneficiary, the amount of the 78640
payment not included in the recipient's federal adjusted gross 78641
income, less any amounts added under division (D) of this section 78642
in a prior taxable year, shall be added to the recipient's federal 78643
adjusted gross income in determining the recipient's Ohio adjusted 78644
gross income. 78645

Sec. 5747.80. (A) Upon the issuance of a tax credit 78646
certificate by the Ohio venture capital authority under section 78647
150.07 of the Revised Code, a credit may be claimed against the 78648
tax imposed by section 5747.02 of the Revised Code. The credit 78649
shall be claimed for the taxable year specified in the certificate 78650
issued by the authority and in the order required under section 78651
5747.98 of the Revised Code. 78652

(B) If the taxpayer elected a refundable credit under section 78653
150.07 of the Revised Code and the amount of the credit shown on 78654
the certificate does not exceed the tax otherwise due under 78655
section 5747.02 of the Revised Code after all nonrefundable 78656
credits are deducted, then the taxpayer shall claim a refundable 78657
credit equal to the amount of the credit shown on the certificate. 78658

(C) If the taxpayer elected a refundable credit under section 78659
150.07 of the Revised Code, and the amount of the credit shown on 78660
the certificate exceeds the tax otherwise due under section 78661
5747.02 of the Revised Code after all nonrefundable credits, 78662
~~including the credit allowed under this section,~~ are deducted ~~in~~ 78663
~~that order,~~ the taxpayer shall ~~receive a refund equal to~~ 78664
~~seventy five per cent of that excess. If the taxpayer elected a~~ 78665
~~nonrefundable credit, the amount of the credit, claimed in that~~ 78666

~~order, shall not exceed the tax otherwise due after all the~~ 78667
~~taxpayer's credits are deducted in that order. If claim a~~ 78668
~~refundable credit equal to the sum of the following:~~ 78669

(1) The amount, if any, of the tax otherwise due under 78670
section 5747.02 of the Revised Code after all nonrefundable 78671
credits are deducted; 78672

(2) Seventy-five per cent of the difference between the 78673
amount of the refundable credit shown on the certificate and the 78674
tax otherwise due under section 5747.02 of the Revised Code after 78675
all nonrefundable credits are deducted. 78676

(D) If the taxpayer elected a nonrefundable credit and the 78677
credit to which the taxpayer would otherwise be entitled under 78678
this section for any taxable year is greater than the tax 78679
otherwise due under section 5747.02 of the Revised Code, after 78680
allowing for any other credits that, under section 5747.98 of the 78681
Revised Code, precede the credit allowed under this section, the 78682
excess shall be allowed as a nonrefundable credit in each of the 78683
ensuing ten taxable years, but the amount of any excess credit 78684
allowed in the ensuing taxable year shall be deducted from the 78685
balance carried forward to the next taxable year. 78686

Sec. 5747.98. (A) To provide a uniform procedure for 78687
calculating the amount of tax due under section 5747.02 of the 78688
Revised Code, a taxpayer shall claim any credits to which the 78689
taxpayer is entitled in the following order: 78690

(1) The retirement income credit under division (B) of 78691
section 5747.055 of the Revised Code; 78692

(2) The senior citizen credit under division (C) of section 78693
5747.05 of the Revised Code; 78694

(3) The lump sum distribution credit under division (D) of 78695
section 5747.05 of the Revised Code; 78696

(4) The dependent care credit under section 5747.054 of the Revised Code;	78697 78698
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	78699 78700
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	78701 78702
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	78703 78704
(8) <u>The low-income credit under section 5747.056 of the Revised Code;</u>	78705 78706
<u>(9)</u> The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	78707 78708
(9) <u>(10)</u> The campaign contribution credit under section 5747.29 of the Revised Code;	78709 78710
(10) <u>(11)</u> The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	78711 78712
(11) <u>(12)</u> The joint filing credit under division (G) of section 5747.05 of the Revised Code;	78713 78714
(12) <u>(13)</u> The nonresident credit under division (A) of section 5747.05 of the Revised Code;	78715 78716
(13) <u>(14)</u> The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	78717 78718
(14) <u>(15)</u> The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	78719 78720 78721
(15) <u>(16)</u> The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	78722 78723
(16) <u>(17)</u> The credit for adoption of a minor child under section 5747.37 of the Revised Code;	78724 78725

(17) <u>(18)</u> The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	78726 78727
(18) <u>(19)</u> The job retention credit under division (B) of section 5747.058 of the Revised Code;	78728 78729
(19) <u>(20)</u> The credit for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a nonrefundable credit under section 150.07 of the Revised Code;	78730 78731 78732 78733
(20) <u>(21)</u> The credit for purchases of new manufacturing machinery and equipment under section 5747.26 or section 5747.261 of the Revised Code;	78734 78735 78736
(21) <u>(22)</u> The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	78737 78738 78739
(22) <u>(23)</u> The job training credit under section 5747.39 of the Revised Code;	78740 78741
(23) <u>(24)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	78742 78743
(24) <u>(25)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	78744 78745
(25) <u>(26)</u> The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	78746 78747
(26) <u>(27)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	78748 78749
(27) <u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	78750 78751
(28) <u>(29)</u> The export sales credit under section 5747.057 of the Revised Code;	78752 78753
(29) <u>(30)</u> The credit for research and development and	78754

technology transfer investors under section 5747.33 of the Revised Code;	78755 78756
(30) <u>(31)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	78757 78758
(31) <u>(32)</u> The research and development credit under section 5747.331 of the Revised Code;	78759 78760
(32) <u>(33)</u> The refundable jobs creation credit under division (A) of section 5747.058 of the Revised Code;	78761 78762
(33) <u>(34)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	78763 78764
(34) <u>(35)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;	78765 78766 78767
(35) <u>(36)</u> The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;	78768 78769
(36) <u>(37)</u> The credit for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code if the taxpayer elected a refundable credit under section 150.07 of the Revised Code.	78770 78771 78772 78773
(B) For any credit, except the credits enumerated in divisions (A) (32) <u>(33)</u> to (36) <u>(37)</u> of this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.	78774 78775 78776 78777 78778 78779 78780 78781 78782 78783
Sec. 5747.99. (A) Whoever violates section 5747.19 of the	78784

Revised Code, ~~or whoever violates section 5747.06 or 5747.07 of~~ 78785
~~the Revised Code by failing to remit state income taxes withheld~~ 78786
~~from an employee, is guilty of a misdemeanor of the first degree.~~ 78787
If the person previously has been convicted of any offense under 78788
Title LVII of the Revised Code, the person is guilty of a felony 78789
of the ~~fifth~~ fourth degree. 78790

(B) Whoever violates section 5747.06 or 5747.07 of the 78791
Revised Code by failing to remit to the state the tax collected 78792
under section 5747.06 or 5747.07 of the Revised Code is guilty of 78793
a misdemeanor of the first degree if the amount of collected tax 78794
the person failed to remit is less than five hundred dollars and 78795
is guilty of a felony of the fourth degree if the amount of 78796
collected tax the person failed to remit is five hundred dollars 78797
or more. 78798

(C) Whoever violates any provision of sections 5747.01 to 78799
5747.19 of the Revised Code, or any lawful rule promulgated by the 78800
tax commissioner under authority of any provision of those 78801
sections, for the violation of which no other penalty is provided 78802
in this section, shall be fined not less than one hundred nor more 78803
than five thousand dollars is guilty of a minor misdemeanor. If 78804
the person previously has been convicted of any offense under 78805
Title LVII of the Revised Code, the person is guilty of a 78806
misdemeanor of the first degree. 78807

~~(C)~~(D) Whoever violates section 5747.49 of the Revised Code 78808
shall be fined not more than five dollars for each day that 78809
elapses between the date specified by law for performance and the 78810
date when the duty is actually performed. 78811

Sec. 5749.02. (A) For the purpose of providing revenue to 78812
administer the state's coal mining and reclamation regulatory 78813
program, to meet the environmental and resource management needs 78814
of this state, and to reclaim land affected by mining, an excise 78815

tax is hereby levied on the privilege of engaging in the severance 78816
of natural resources from the soil or water of this state. The tax 78817
shall be imposed upon the severer and shall be: 78818

- (1) Seven cents per ton of coal; 78819
- (2) Four cents per ton of salt; 78820
- (3) Two cents per ton of limestone or dolomite; 78821
- (4) Two cents per ton of sand and gravel; 78822
- (5) Ten cents per barrel of oil; 78823
- (6) Two and one-half cents per thousand cubic feet of natural 78824
gas; 78825
- (7) One cent per ton of clay, sandstone or conglomerate, 78826
shale, gypsum, or quartzite. 78827

(B) Of the moneys received by the treasurer of state from the 78828
tax levied in division (A)(1) of this section, six and 78829
three-tenths per cent shall be credited to the geological mapping 78830
fund created in section 1505.09 of the Revised Code, fourteen and 78831
two-tenths per cent shall be credited to the reclamation 78832
forfeiture fund created in section 1513.18 of the Revised Code, 78833
fifty-seven and nine-tenths per cent shall be credited to the coal 78834
mining administration and reclamation reserve fund created in 78835
section 1513.181 of the Revised Code, and the remainder shall be 78836
credited to the unreclaimed lands fund created in section 1513.30 78837
of the Revised Code. When, at any time during a fiscal year, the 78838
chief of the division of mineral resources management finds that 78839
the balance of the coal mining administration and reclamation 78840
reserve fund is below two million dollars, the chief shall certify 78841
that fact to the director of budget and management. Upon receipt 78842
of the chief's certification, the director shall direct the 78843
~~treasurer of state~~ tax commissioner to instead credit to the coal 78844
mining administration and reclamation reserve fund during the 78845

remainder of the fiscal year for which the certification is made 78846
the fourteen and two-tenths per cent of the moneys collected from 78847
the tax levied in division (A)(1) of this section and otherwise 78848
required by this division to be credited to the reclamation 78849
forfeiture fund. 78850

Fifteen per cent of the moneys received by the treasurer of 78851
state from the tax levied in division (A)(2) of this section shall 78852
be credited to the geological mapping fund and the remainder shall 78853
be credited to the unreclaimed lands fund. 78854

Of the moneys received by the treasurer of state from the tax 78855
levied in divisions (A)(3) and (4) of this section, seven and 78856
five-tenths per cent shall be credited to the geological mapping 78857
fund, forty-two and five-tenths per cent shall be credited to the 78858
unreclaimed lands fund, and the remainder shall be credited to the 78859
surface mining fund created in section 1514.06 of the Revised 78860
Code. 78861

Of the moneys received by the treasurer of state from the tax 78862
levied in divisions (A)(5) and (6) of this section, ninety per 78863
cent shall be credited to the oil and gas well fund created in 78864
section 1509.02 of the Revised Code and ten per cent shall be 78865
credited to the geological mapping fund. All of the moneys 78866
received by the treasurer of state from the tax levied in division 78867
(A)(7) of this section shall be credited to the surface mining 78868
fund. 78869

(C) For the purpose of paying the state's expenses for 78870
reclaiming mined lands that the operator failed to reclaim under a 78871
coal mining and reclamation permit issued under Chapter 1513. of 78872
the Revised Code, or under a surface mining permit issued under 78873
Chapter 1514. of the Revised Code, for which the operator's bond 78874
is not sufficient to pay the state's expense for reclamation, 78875
there is hereby levied an excise tax on the privilege of engaging 78876
in the severance of coal from the soil or water of this state in 78877

addition to the taxes levied by divisions (A)(1) and (D) of this section. The tax shall be imposed at the rate of one cent per ton of coal. Moneys received by the treasurer of state from the tax levied under this division shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code.

(D) For the purpose of paying the state's expenses for reclaiming coal mined lands that the operator failed to reclaim in accordance with Chapter 1513. of the Revised Code under a coal mining and reclamation permit issued after April 10, 1972, but before September 1, 1981, for which the operator's bond is not sufficient to pay the state's expense for reclamation and paying the expenses for administering the state's coal mining and reclamation regulatory program, there is hereby levied an excise tax on the privilege of engaging in the severance of coal from the soil or water of this state in addition to the taxes levied by divisions (A)(1) and (C) of this section. The tax shall be imposed at the rate of one cent per ton of coal as prescribed in this division. Moneys received by the treasurer of state from the tax levied by this division shall be credited to the reclamation forfeiture fund created in section 1513.18 of the Revised Code.

When, at the close of any fiscal year, the chief finds that the balance of the reclamation forfeiture fund, plus estimated transfers to it from the coal mining and reclamation reserve fund under section 1513.181 of the Revised Code, plus the estimated revenues from the tax levied by this division for the remainder of the calendar year that includes the close of the fiscal year, are sufficient to complete the reclamation of such lands, the purposes for which the tax under this division is levied shall be deemed accomplished at the end of that calendar year. The chief, within thirty days after the close of the fiscal year, shall certify those findings to the tax commissioner, and the tax shall cease to be imposed after the last day of that calendar year.

(E) On the day fixed for the payment of the severance taxes 78910
required to be paid by this section, the taxes with any penalties 78911
or interest on them shall become a lien on all property of the 78912
taxpayer in this state whether the property is employed by the 78913
taxpayer in the prosecution of its business or is in the hands of 78914
an assignee, trustee, or receiver for the benefit of creditors or 78915
stockholders. The lien shall continue until the taxes and any 78916
penalties or interest thereon are paid. 78917

Upon failure of the taxpayer to pay a tax on the day fixed 78918
for payment, the tax commissioner may file, for which no filing 78919
fee shall be charged, in the office of the county recorder in each 78920
county in this state in which the taxpayer owns or has a 78921
beneficial interest in real estate, notice of the lien containing 78922
a brief description of the real estate. The lien shall not be 78923
valid as against any mortgagee, purchaser, or judgment creditor 78924
whose rights have attached prior to the time the notice is filed 78925
in the county in which the real estate that is the subject of the 78926
mortgage, purchase, or judgment lien is located. The notice shall 78927
be recorded in a book kept by the recorder called the "severance 78928
tax lien record" and indexed under the name of the taxpayer 78929
charged with the tax. When the tax has been paid, the tax 78930
commissioner shall furnish to the taxpayer an acknowledgement of 78931
payment, which the taxpayer may record with the recorder of each 78932
county in which notice of the lien has been filed. 78933

Sec. 5751.01. As used in this chapter: 78934

(A) "Person" means, but is not limited to, individuals, 78935
combinations of individuals of any form, receivers, assignees, 78936
trustees in bankruptcy, firms, companies, joint-stock companies, 78937
business trusts, estates, partnerships, limited liability 78938
partnerships, limited liability companies, associations, joint 78939
ventures, clubs, societies, for-profit and nonprofit corporations, 78940

S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities. "Person" does not include the state, its agencies, its instrumentalities, and its political subdivisions. 78941
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(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code. 78946
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(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code. 78950
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(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons. 78953
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(E) "Excluded person" means any of the following: 78957

(1) Any person with not more than two hundred thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a group that is a consolidated elected taxpayer or a combined taxpayer; 78958
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(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts: 78963
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(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 78968
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<u>of the Revised Code;</u>	78971
<u>(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;</u>	78972 78973 78974 78975 78976
<u>(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.</u>	78977 78978 78979 78980 78981 78982 78983 78984
<u>As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.</u>	78985 78986 78987
<u>(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;</u>	78988 78989 78990 78991 78992
<u>(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;</u>	78993 78994 78995 78996 78997
<u>(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p);</u>	78998 78999
<u>(6) A bank holding company as defined in the "Bank Holding</u>	79000

Company Act," 12 U.S.C. 1841(a); 79001

(7) A savings and loan holding company as defined in the 79002
"Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging 79003
only in activities or investments permissible for a financial 79004
holding company under 12 U.S.C. 1843(k); 79005

(8) A person directly or indirectly owned by one or more 79006
financial institutions, financial holding companies, bank holding 79007
companies, or savings and loan holding companies described in 79008
division (E)(3), (5), (6), or (7) of this section that is engaged 79009
in activities permissible for a financial holding company under 12 79010
U.S.C. 1843(k), except that any such person held pursuant to 79011
merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 79012
U.S.C. 1843(k)(4)(I) is not an excluded person, or a person 79013
directly or indirectly owned by one or more insurance companies 79014
described in division (E)(9) of this section that is authorized to 79015
do the business of insurance in this state. 79016

For the purposes of division (E)(8) of this section, a person 79017
owns another person under the following circumstances: 79018

(a) In the case of corporations issuing capital stock, one 79019
corporation owns another corporation if it owns fifty per cent or 79020
more of the other corporation's capital stock with current voting 79021
rights; 79022

(b) In the case of a limited liability company, one person 79023
owns the company if that person's membership interest, as defined 79024
in section 1705.01 of the Revised Code, is fifty per cent or more 79025
of the combined membership interests of all persons owning such 79026
interests in the company; 79027

(c) In the case of a partnership, trust, or other 79028
unincorporated business organization other than a limited 79029
liability company, one person owns the organization if, under the 79030
articles of organization or other instrument governing the affairs 79031

of the organization, that person has a beneficial interest in the 79032
organization's profits, surpluses, losses, or distributions of 79033
fifty per cent or more of the combined beneficial interests of all 79034
persons having such an interest in the organization; 79035

(d) In the case of multiple ownership, the ownership 79036
interests of more than one person may be aggregated to meet the 79037
fifty per cent ownership tests in this division only when each 79038
such owner is described in division (E)(3), (5), (6), (7), or (9) 79039
of this section and is engaged in activities permissible for a 79040
financial holding company under 12 U.S.C. 1843(k); 79041

(9) A domestic insurance company or foreign insurance 79042
company, as defined in section 5725.01 of the Revised Code, that 79043
paid the insurance company premiums tax imposed by section 5725.18 79044
or Chapter 5729. of the Revised Code based on one or more 79045
measurement periods that include the entire tax period under this 79046
chapter; 79047

(10) A person that solely facilitates or services one or more 79048
securitizations or similar transactions for any person described 79049
in division (E)(3), (5), (6), (7), (8), or (9) of this section. 79050
For purposes of this division, "securitization" means transferring 79051
one or more assets to one or more persons and then issuing 79052
securities backed by the right to receive payment from the asset 79053
or assets so transferred. 79054

(F) Except as otherwise provided in divisions (F)(2), (3), 79055
(4), and (5) of this section, "gross receipts" means the total 79056
amount realized by a person, without deduction for the cost of 79057
goods sold or other expenses incurred, in a transaction or 79058
transactions that contribute to the production of gross income of 79059
the person, including the fair market value of any property and 79060
any services received, and any debt transferred or forgiven as 79061
consideration, and including the total amount realized with regard 79062

<u>to unrelated business taxable income of tax-exempt organizations</u>	79063
<u>under the Internal Revenue Code.</u>	79064
<u>(1) The following are examples of gross receipts:</u>	79065
<u>(a) Amounts realized from the sale, exchange, or other</u>	79066
<u>disposition of the taxpayer's property to or with another;</u>	79067
<u>(b) Amounts realized from the taxpayer's performance of</u>	79068
<u>services for another;</u>	79069
<u>(c) Amounts realized from another's use or possession of the</u>	79070
<u>taxpayer's property or capital;</u>	79071
<u>(d) Amounts realized with regard to the taxpayer's unrelated</u>	79072
<u>business taxable income;</u>	79073
<u>(e) Any combination of the foregoing amounts.</u>	79074
<u>(2) "Gross receipts" excludes the following amounts:</u>	79075
<u>(a) Interest income not generated in the ordinary course of</u>	79076
<u>business except interest on credit sales;</u>	79077
<u>(b) Dividend income, distributions from corporations</u>	79078
<u>received, and distributive or proportionate shares of receipts and</u>	79079
<u>income from a pass-through entity as defined under section 5733.04</u>	79080
<u>of the Revised Code, except when generated in the ordinary course</u>	79081
<u>of business;</u>	79082
<u>(c) Receipts from the sale, exchange, or other disposition of</u>	79083
<u>an asset described in section 1221 or 1231 of the Internal Revenue</u>	79084
<u>Code, without regard to the length of time the person held the</u>	79085
<u>asset, except when generated in ordinary course of business;</u>	79086
<u>(d) Proceeds received attributable to the repayment,</u>	79087
<u>maturity, or redemption of the principal of a loan, bond, mutual</u>	79088
<u>fund, certificate of deposit, or marketable instrument;</u>	79089
<u>(e) The principal amount received under a repurchase</u>	79090
<u>agreement or on account of any transaction properly characterized</u>	79091

<u>as a loan to the person;</u>	79092
<u>(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;</u>	79093 79094 79095 79096
<u>(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;</u>	79097 79098 79099 79100 79101 79102 79103 79104 79105
<u>(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;</u>	79106 79107 79108
<u>(i) Proceeds received on the account of payments from life insurance policies;</u>	79109 79110
<u>(j) Gifts or charitable contributions received, membership dues received, and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes; and proceeds received by a nonprofit organization except those proceeds realized with regard to its unrelated business taxable income;</u>	79111 79112 79113 79114 79115 79116 79117 79118
<u>(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;</u>	79119 79120 79121

<u>(l) Property, money, and other amounts received or acquired</u>	79122
<u>by an agent on behalf of another in excess of the agent's</u>	79123
<u>commission, fee, or other remuneration;</u>	79124
<u>(m) Tax refunds and other tax benefit recoveries;</u>	79125
<u>(n) Pension reversions;</u>	79126
<u>(o) Contributions to capital;</u>	79127
<u>(p) Sales or use taxes collected as a vendor or an</u>	79128
<u>out-of-state seller on behalf of the taxing jurisdiction from a</u>	79129
<u>consumer;</u>	79130
<u>(q) In the case of receipts from the sale of cigarettes or</u>	79131
<u>tobacco products by a wholesale dealer, retail dealer,</u>	79132
<u>distributor, manufacturer, or seller, all as defined in section</u>	79133
<u>5743.01 of the Revised Code, an amount equal to the federal and</u>	79134
<u>state excise taxes paid by any person on or for such cigarettes or</u>	79135
<u>tobacco products under subtitle E of the Internal Revenue Code or</u>	79136
<u>Chapter 5743. of the Revised Code;</u>	79137
<u>(r) In the case of receipts from the sale of motor fuel by a</u>	79138
<u>licensed motor fuel dealer, licensed retail dealer, or licensed</u>	79139
<u>permissive motor fuel dealer, all as defined in section 5735.01 of</u>	79140
<u>the Revised Code, an amount equal to federal and state excise</u>	79141
<u>taxes paid by any person on such motor fuel under section 4081 of</u>	79142
<u>the Internal Revenue Code or Chapter 5735. of the Revised Code;</u>	79143
<u>(s) In the case of receipts from the sale of beer or</u>	79144
<u>intoxicating liquor, as defined in section 4301.01 of the Revised</u>	79145
<u>Code, by a person holding a permit issued under Chapter 4301. or</u>	79146
<u>4303. of the Revised Code, an amount equal to federal and state</u>	79147
<u>excise taxes paid by any person on or for such beer or</u>	79148
<u>intoxicating liquor under subtitle E of the Internal Revenue Code</u>	79149
<u>or Chapter 4301. or 4305. of the Revised Code;</u>	79150
<u>(t) Receipts realized by a person engaged in selling</u>	79151

<u>securities in excess of the gain on the sale of those securities;</u>	79152
<u>(u) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;</u>	79153 79154 79155 79156 79157 79158 79159
<u>(v) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;</u>	79160 79161 79162 79163 79164 79165 79166 79167
<u>(w) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;</u>	79168 79169 79170 79171
<u>(x) Funds received by a mortgage broker from a lender, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms used in division (F)(2)(x) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.</u>	79172 79173 79174 79175 79176 79177 79178 79179 79180
<u>(y) Property, money, and other amounts received by a professional employer organization, as defined in 4125.01 of the</u>	79181 79182

Revised Code, from a client employer, as defined in that section, 79183
in excess of the administrative fee charged by the professional 79184
employer organization to the client employer; 79185

(z) In the case of amounts retained as commissions by a 79186
permit holder under Chapter 3769. of the Revised Code, an amount 79187
equal to the amounts specified under that chapter that must be 79188
paid to or collected by the tax commissioner as a tax and the 79189
amounts specified under that chapter to be used as purse money; 79190

(aa) Any receipts for which the tax imposed by this chapter 79191
is prohibited by the constitution or laws of the United States or 79192
the constitution of this state. 79193

For the purposes of divisions (F)(2)(a), (b), and (c) of this 79194
section, an amount described in any of those divisions arising 79195
from the investment of a taxpayer's capital shall be considered to 79196
be not generated in the ordinary course of business. 79197

(3) "Gross receipts" excludes amounts received from the sale 79198
of tangible personal property that is delivered into or shipped 79199
from a qualified foreign trade zone area that includes a qualified 79200
intermodal facility. 79201

As used in division (F)(3) of this section: 79202

(a) "Qualified foreign trade zone area" means a warehouse or 79203
other place of delivery or shipment that is: 79204

(i) Located within one mile of the nearest boundary of an 79205
international airport; and 79206

(ii) Located, in whole or in part, within a foreign trade 79207
zone as defined in division (A)(2) of section 5709.44 of the 79208
Revised Code. 79209

(b) "Qualified intermodal facility" means a transshipment 79210
station that is capable of receiving and shipping freight through 79211
rail transportation, highway transportation, and air 79212

transportation. A transshipment station is "capable of receiving and shipping freight" after the commencement of the construction of each of the rail, highway, and air transportation components of the facility. 79213
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(4) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code. 79217
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(5) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly. 79225
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In calculating gross receipts, the following shall be deducted: 79232
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(a) Cash discounts allowed and taken; 79234

(b) Returns and allowances; 79235

(c) Bad debts from receipts upon which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purposes of this division, "bad debts" mean any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted pursuant thereto, or that could be claimed as such if the 79236
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taxpayer kept its accounts on the accrual basis. "Bad debts" does 79244
not include uncollectible amounts on property that remains in the 79245
possession of the taxpayer until the full purchase price is paid, 79246
expenses in attempting to collect any account receivable or for 79247
any portion of the debt recovered, and repossessed property; 79248

(d) Any amount realized from the sale of an account 79249
receivable but only to the extent the receipts from the underlying 79250
transaction giving rise to the account receivable were included in 79251
the gross receipts of the taxpayer. 79252

(G) "Taxable gross receipts" means gross receipts sitused to 79253
this state under section 5751.033 of the Revised Code. 79254

(H) A person has "substantial nexus with this state" if any 79255
of the following applies. The person: 79256

(1) Owns or uses a part or all of its capital in this state; 79257

(2) Holds a certificate of compliance with the laws of this 79258
state authorizing the person to do business in this state; 79259

(3) Has bright-line presence in this state; 79260

(4) Otherwise has nexus with this state to an extent that the 79261
person can be required to remit the tax imposed under this chapter 79262
under the constitution of the United States. 79263

(I) A person has "bright-line presence" in this state for a 79264
reporting period and for the remaining portion of the calendar 79265
year if any of the following applies. The person: 79266

(1) Has at any time during the calendar year property in this 79267
state with an aggregate value of at least fifty thousand dollars. 79268
For the purpose of division (I)(1) of this section, owned property 79269
is valued at original cost and rented property is valued at eight 79270
times the net annual rental charge. 79271

(2) Has during the calendar year payroll in this state of at 79272
least fifty thousand dollars. Payroll in this state includes all 79273

<u>of the following:</u>	79274
<u>(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;</u>	79275
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<u>(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and</u>	79277
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<u>(c) Any amount the person pays for services performed in this state on its behalf by another.</u>	79280
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<u>(3) Has during the calendar year taxable gross receipts in this state of at least five hundred thousand dollars.</u>	79282
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<u>(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total sales.</u>	79284
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<u>(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.</u>	79287
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<u>(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.</u>	79289
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<u>(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.</u>	79291
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<u>(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.</u>	79299
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<u>(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax</u>	79302
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<u>imposed under this chapter.</u>	79304
<u>(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.</u>	79305
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<u>(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.</u>	79307
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<u>(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including, but not limited to, any of the following:</u>	79309
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<u>(1) A person receiving a fee to sell financial instruments;</u>	79312
<u>(2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;</u>	79313
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<u>(3) A person issuing licenses and permits under section 1533.13 of the Revised Code;</u>	79316
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<u>(4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;</u>	79318
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<u>(5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.</u>	79320
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<u>(O) "Received" includes amounts accrued under the accrual method of accounting.</u>	79322
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<u>Sec. 5751.011.</u> <u>(A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements:</u>	79324
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<u>(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having at least eighty per cent, or all persons having more than fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during</u>	79327
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all or any portion of the tax period, together with the common 79333
owners. At the election of the group, all foreign corporations 79334
meeting the elected ownership test shall either be included in the 79335
group or all shall be excluded from the group. The group shall 79336
notify the tax commissioner of the foregoing elections at the time 79337
of filing the initial registration required under section 5751.04 79338
of the Revised Code. Division (A)(3) of this section applies with 79339
respect to the elections described in this division. 79340

(2) The group applies to the tax commissioner for approval to 79341
be treated as a consolidated elected taxpayer pursuant to division 79342
(D) of this section. 79343

(3) The group agrees that if the commissioner approves the 79344
election, all of the following apply: 79345

(a) The group shall file reports as a single taxpayer for at 79346
least the next eight calendar quarters following the election so 79347
long as at least two or more of the members of the group meet the 79348
requirements of division (A)(1) of this section. 79349

(b) Before the expiration of the eighth such calendar 79350
quarter, the group shall notify the commissioner if it elects to 79351
cancel its designation as a consolidated elected taxpayer. If the 79352
group does not so notify the tax commissioner, the election 79353
remains in effect for another eight calendar quarters. 79354

(c) If, at any time during any of those eight calendar 79355
quarters following the election, a former member of the group no 79356
longer meets the requirements under division (A)(1) of this 79357
section, that member shall report and pay the tax imposed under 79358
this chapter separately, as a member of a combined taxpayer, or, 79359
if the former member satisfies such requirements with respect to 79360
another consolidated elected group, as a member of that 79361
consolidated elected group. 79362

(d) The group agrees to the application of division (B) of 79363

this section. 79364

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group. 79365
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(C)(1) A consolidated elected taxpayer shall exclude taxable gross receipts between its members except for taxable gross receipts received by a member described in division (E)(4) of section 5751.01 of the Revised Code that is not a qualifying dealer in intangibles as defined in section 5725.24 of the Revised Code. Except as provided in division (C)(2) of this section, nothing in this section shall have the effect of excluding taxable gross receipts received from persons that are not members of the group. 79369
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(2) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under division (C)(1) of this section if all other requirements of that division are met, even if the receipts are from and to the same member of the group. 79378
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(D) To make the election to be a consolidated elected taxpayer, a group of persons shall apply to the tax commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The application shall be filed and the fee paid before the later of the beginning of the first calendar quarter to which the election applies or November 15, 2005. The fee shall be collected and used in the same manner as 79385
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provided in section 5751.04 of the Revised Code. 79395

The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group. The tax commissioner shall approve a group's election if the group satisfies the requirements of division (A) of this section. 79396
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Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner. 79402
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(E) Each member of a consolidated elected taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code. 79407
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Sec. 5751.012. (A) All persons, other than persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having more than fifty per cent of the value of their ownership interest owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners, shall be members of a combined taxpayer if those persons are not members of a consolidated elected taxpayer pursuant to an election under section 5751.011 of the Revised Code. 79414
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(B) A combined taxpayer shall register, file returns, and pay taxes under this chapter as a single taxpayer. 79423
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(C) A combined taxpayer shall neither exclude taxable gross receipts between its members nor from others that are not members. 79425
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(D) A combined taxpayer shall pay to the tax commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The fee shall be timely paid before the later of the beginning of the first calendar quarter or November 15, 2005. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code. 79427
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Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A) of this section, and the group must notify the tax commissioner of any additions with the next quarterly tax return it files with the commissioner. 79436
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(E) Each member of a combined taxpayer is jointly and severally liable for the tax imposed by this chapter and any penalties or interest thereon. The tax commissioner may require one person in the group to be the taxpayer for purposes of registration and remittance of the tax, but all members of the group are subject to assessment under section 5751.09 of the Revised Code. 79441
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Sec. 5751.013. (A) Except as provided in division (B) of this section: 79448
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(1) A person shall include as taxable gross receipts the value of property the person transfers into this state for the person's own use within one year after the person receives the property outside this state; and 79450
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(2) In the case of an elected consolidated taxpayer or a 79454

combined taxpayer, the taxpayer shall include as taxable gross receipts the value of property that any of the taxpayer's members transferred into this state for the use of any of the taxpayer's members within one year after the taxpayer receives the property outside this state. 79455
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(B) Property brought into this state within one year after it is received outside this state by a person or group described in division (A)(1) or (2) of this section shall not be included as taxable gross receipts as required under those divisions if the tax commissioner ascertains that the property's receipt outside this state by the person or group followed by its transfer into this state within one year was not intended in whole or in part to avoid in whole or in part the tax imposed under this chapter. 79460
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(C) The tax commissioner may adopt rules necessary to administer this section. 79468
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Sec. 5751.02. (A) For the purpose of funding the needs of this state and its local governments beginning with the tax period that commences July 1, 2005, and continuing for every tax period thereafter, there is hereby levied a commercial activity tax on each person with taxable gross receipts for the privilege of engaging in this state in any activity, whether legal or illegal, that is conducted for, or results in, gain, profit, or income, at any time during the calendar year. Such persons include, but are not limited to, persons with substantial nexus with this state. The tax imposed under this section is not a transactional tax and is not subject to Public Law No. 86-272, 73 Stat. 555. The tax imposed under this section is in addition to any other taxes or fees imposed under the Revised Code. The tax levied under this section is imposed on the person receiving the gross receipts and is not a tax imposed directly on a purchaser. 79470
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(B) The tax imposed by this section is a tax on the taxpayer 79485

and shall not be billed or invoiced to another person. Even if the tax or any portion thereof is billed or invoiced and separately stated, such amounts remain part of the price for purposes of the sales and use taxes levied under Chapters 5739. and 5741. of the Revised Code. Nothing in division (B) of this section prohibits a person from including in the price charged for a good or service an amount sufficient to recover the tax imposed by this section.

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Sec. 5751.03. (A) Except as provided in division (B) of this section and in section 5751.031 of the Revised Code, the tax levied under this section for each tax period shall be the product of two and six-tenths mills per dollar times the remainder of the taxpayer's taxable gross receipts for the tax period after subtracting the exclusion amount provided for in division (C) of this section.

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(B) Notwithstanding division (C) of this section, the tax on the first one million dollars in taxable gross receipts each calendar year shall be one hundred seventy-five dollars. For calendar year 2006, the tax imposed under this division shall be paid not later than May 10, 2006, by both calendar year taxpayers and calendar quarter taxpayers. For calendar year 2007 and thereafter, the tax imposed under this division shall be paid with the fourth-quarter tax return or annual tax return for the prior calendar year by both calendar year taxpayers and calendar quarter taxpayers.

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(C)(1) Each calendar quarter taxpayer may exclude the first two hundred fifty thousand dollars of taxable gross receipts for a calendar quarter and may carry forward and apply any unused exclusion amount to the three subsequent calendar quarters. Each calendar year taxpayer may exclude the first one million dollars of taxable gross receipts for a calendar year.

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(2) A taxpayer switching from a calendar year tax period to a

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calendar quarter tax period may, for the first quarter of the 79517
change, apply the prior calendar quarter exclusion amounts to the 79518
first calendar quarter return the taxpayer files that calendar 79519
year. The tax rate shall be based on the rate imposed that 79520
calendar quarter when the taxpayer switches from a calendar year 79521
to a calendar quarter tax period. 79522

Sec. 5751.031. This section applies only to calendar quarter 79523
taxpayers. The tax imposed per calendar quarter under division (A) 79524
of section 5751.03 of the Revised Code shall be computed as 79525
follows: 79526

(A) From January 1, 2006, to March 31, 2006, by multiplying 79527
the tax otherwise due under that division by twenty-three per 79528
cent; 79529

(B) From April 1, 2006, to March 31, 2007, by multiplying the 79530
tax otherwise due under that division by forty per cent; 79531

(C) From April 1, 2007, to March 31, 2008, by multiplying the 79532
tax otherwise due under that division by sixty per cent; 79533

(D) From April 1, 2008, to March 31, 2009, by multiplying the 79534
tax otherwise due under that division by eighty per cent; 79535

(E) After March 31, 2008, one hundred per cent of the tax due 79536
under that division. 79537

Sec. 5751.032. (A) From its inception through February 28, 79538
2007, the commercial activity tax levied under this chapter is 79539
intended to generate six hundred seventy-seven million dollars. 79540
Not later than March 15, 2007, the tax commissioner shall provide 79541
a report to the general assembly reporting the total amount of tax 79542
paid under this chapter that was collected from the inception of 79543
the tax through February 28, 2007, and the adjustment in the rate 79544
of tax imposed under this chapter that would have been required to 79545

generate six hundred seventy-seven million dollars of tax from the 79546
inception of the tax through February 28, 2007. If the total 79547
amount of tax paid during that period exceeds six hundred 79548
seventy-seven million dollars, the tax commissioner, not later 79549
than March 15, 2007, shall certify the excess amount to the 79550
director of budget and management, who shall transfer the excess 79551
amount from the general revenue fund to the commercial activity 79552
tax reduction fund, which is hereby created in the state treasury. 79553

(B) From March 1, 2008, through February 28, 2009, the 79554
commercial activity tax levied under this chapter is intended to 79555
generate one billion one hundred seven million dollars. Not later 79556
than March 15, 2009, the tax commissioner shall provide a report 79557
to the general assembly reporting the total amount of tax paid 79558
under this chapter that was collected during that period, the 79559
amount by which taxes were reduced during that period under 79560
division (E) of this section, and the adjustment in the rate of 79561
tax imposed under this chapter that would have been required to 79562
generate the sum of those amounts. If the sum of such amounts 79563
exceeds one billion one hundred seven million dollars, the tax 79564
commissioner, not later than March 31, 2009, shall certify the 79565
excess amount to the director of budget and management, who shall 79566
transfer the excess amount from the general revenue fund to the 79567
commercial activity tax reduction fund between the first and 79568
fifteenth day of October. 79569

(C) During fiscal year 2010, the commercial activity tax 79570
levied under this chapter is intended to generate one billion five 79571
hundred forty-eight million dollars. Not later than September 30, 79572
2010, the tax commissioner shall provide a report to the general 79573
assembly reporting the total amount of tax paid under this chapter 79574
that was collected during fiscal year 2010, the amount by which 79575
taxes were reduced during that period under division (E) of this 79576

section, and the adjustment in the rate of tax imposed under this 79577
chapter that would have been required to generate the sum of those 79578
amounts. If the sum of such amounts exceeds one billion five 79579
hundred forty-eight million dollars, the tax commissioner, not 79580
later than September 30, 2010, shall certify the excess amount to 79581
the director of budget and management, who shall transfer the 79582
excess amount from the general revenue fund to the commercial 79583
activity tax reduction fund between the first and fifteenth day of 79584
October. 79585

(D) During fiscal year 2011 and each succeeding fiscal year, 79586
the commercial activity tax levied under this chapter is intended 79587
to generate one billion five hundred ninety-four million dollars. 79588
Not later than the thirtieth day of September each fiscal year 79589
beginning in fiscal year 2012, the tax commissioner shall provide 79590
a report to the general assembly reporting the total amount of tax 79591
paid under this chapter that was collected during the preceding 79592
fiscal year, the amount by which taxes were reduced during that 79593
period under division (E) of this section, and the adjustment in 79594
the rate of tax imposed under this chapter that would have been 79595
required to generate the sum of those amounts. If the sum of such 79596
amounts exceeds one billion five hundred ninety-four million 79597
dollars, the tax commissioner, not later than the thirtieth day of 79598
September of the current fiscal year, shall certify the excess 79599
amount to the director of budget and management, who shall 79600
transfer the excess amount from the general revenue fund to the 79601
commercial activity tax reduction fund between the first and 79602
fifteenth day of October. 79603

(E) All money credited to the commercial activity tax 79604
reduction fund in any year, including all investment earnings on 79605
balances in the fund, shall be applied to reduce the rate of tax 79606
imposed under section 5751.03 of the Revised Code as provided in 79607
this division. Each year after making the transfer under division 79608

(A), (B), (C), or (D) of this section, the director of budget and management shall compute the percentage that the excess amount transferred under that division is of the intended revenue amount for the fiscal year in which the transfer is made, and certify that amount to the tax commissioner. The tax rate imposed under section 5751.03 of the Revised Code for the tax year beginning on the first day of January in the fiscal year in which the transfer is made shall be reduced by the percentage certified by the director. The tax commissioner shall certify the adjusted tax rate to the governor, the president of the senate, the speaker of the house of representatives, and all members of the general assembly. The commissioner shall publish the revised rate by journal entry and provide notice to taxpayers of the revised rate.

(F) Before the last day of March, June, September, and December of each tax year in which the rate of tax imposed by section 5751.03 of the Revised Code is reduced under division (E) of this section, the director of budget and management shall transfer from the commercial activity tax reduction fund to the general revenue fund one-fourth of the excess amount transferred under division (A), (B), (C), or (D) of this section, as applicable, in October of the preceding calendar year.

(G) It is the intent of the General Assembly to conduct a review of the dollar revenue limitations and rate reductions provided for under divisions (A) to (E) of this section every two years in conjunction with its biennial budget deliberations, and to establish lower dollar revenue limitations or reduce the rate of tax levied under section 5751.023 of the Revised Code on the basis of the following three factors:

(1) The revenue yield of the tax;

(2) The condition of the Ohio economy;

(3) Savings realized by ongoing reform to medicaid and other

policy initiatives. 79640

Sec. 5751.033. For the purposes of this chapter, gross 79641
receipts shall be sitused to this state as follows: 79642

(A) Gross rents and royalties from real property located in 79643
this state shall be sitused to this state. 79644

(B) Gross rents and royalties from tangible personal property 79645
shall be sitused to this state to the extent the tangible personal 79646
property is located or used in this state. 79647

(C) Gross receipts from the sale of electricity and electric 79648
transmission and distribution services shall be sitused to this 79649
state in the manner provided under section 5733.059 of the Revised 79650
Code. 79651

(D) Gross receipts from the sale of real property located in 79652
this state shall be sitused to this state. 79653

(E) Gross receipts from the sale of tangible personal 79654
property shall be sitused to this state if the property is 79655
received in this state by the purchaser. In the case of delivery 79656
of tangible personal property by common carrier or by other means 79657
of transportation, the place at which such property is ultimately 79658
received after all transportation has been completed shall be 79659
considered the place where the purchaser receives the property. 79660
For purposes of this section, the phrase "delivery of tangible 79661
personal property by common carrier or by other means of 79662
transportation" includes the situation in which a purchaser 79663
accepts the property in this state and then transports the 79664
property directly or by other means to a location outside this 79665
state. Direct delivery in this state, other than for purposes of 79666
transportation, to a person or firm designated by a purchaser 79667
constitutes delivery to the purchaser in this state, and direct 79668
delivery outside this state to a person or firm designated by a 79669

purchaser does not constitute delivery to the purchaser in this state, regardless of where title passes or other conditions of sale. 79670
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(F) Gross receipts from the sale, exchange, disposition, or other grant of the right to use trademarks, trade names, patents, copyrights, and similar intellectual property shall be situated to this state to the extent that the receipts are based on the amount of use of the property in this state. If the receipts are not based on the amount of use of the property, but rather on the right to use the property, and the payor has the right to use the property in this state, then the receipts from the sale, exchange, disposition, or other grant of the right to use such property shall be situated to this state to the extent the receipts are based on the right to use the property in this state. 79673
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(G) Gross receipts from the sale of transportation services by a common or contract carrier shall be situated to this state in proportion to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways in this state to the mileage traveled by the carrier during the tax period on roadways, waterways, airways, and railways everywhere. With prior written approval of the tax commissioner, a common or contract carrier may use an alternative situsing procedure for transportation services. 79684
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(H) Gross receipts from dividends, interest, and other sources of income from financial instruments described in division (F)(4), (5), (6), (7), (8), (9), (10), (11), and (13) of section 5733.056 of the Revised Code shall be situated to this state in accordance with the situsing provisions set forth in those divisions. When applying the provisions of divisions (F)(6), (8), and (13) of section 5733.056 of the Revised Code, "gross receipts" shall be substituted for "net gains" wherever "net gains" appears in those divisions. Nothing in this division limits or modifies 79693
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the exclusions enumerated in divisions (E) and (F)(2) of section 5751.01 of the Revised Code. The tax commissioner may promulgate rules to further specify the manner in which to situs gross receipts subject to this division. 79702
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(I) Gross receipts from the sale of all other services, and all other gross receipts not otherwise sitused under this section, shall be sitused to this state in the proportion that the purchaser's benefit in this state with respect to what was purchased bears to the purchaser's benefit everywhere with respect to what was purchased. The physical location where the purchaser ultimately uses or receives the benefit of what was purchased shall be paramount in determining the proportion of the benefit in this state to the benefit everywhere. 79706
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(J) If the situsing provisions of divisions (A) to (H) of this section do not fairly represent the extent of a person's activity in this state, the person may request, or the tax commissioner may require or permit, an alternative method. Such request by a person must be made within the applicable statute of limitations set forth in this chapter. 79715
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(K) The tax commissioner may adopt rules to provide additional guidance to the application of this section, and provide alternative methods of situsing gross receipts that apply to all persons, or subset of persons, that are engaged in similar business or trade activities. 79721
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Sec. 5751.04. (A) Not later than the later of November 15, 2005, or thirty days after a person first has more than two hundred thousand dollars in taxable gross receipts in a calendar year, each person subject to this chapter shall register with the tax commissioner on the form prescribed by the commissioner. The form shall include the following: 79726
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<u>(1) The person's name;</u>	79732
<u>(2) If applicable, the name of the state or country under the laws of which the person is incorporated;</u>	79733 79734
<u>(3) If applicable, the location of a person's principal office, and, in the case of a foreign corporation, the location of its principal place of business in this state and the name and address of the officer or agent of the corporation in charge of the business in this state;</u>	79735 79736 79737 79738 79739
<u>(4) If applicable, the names of the person's president, secretary, treasurer, and statutory agent designated pursuant to section 1703.041 of the Revised Code, with the post office address of each;</u>	79740 79741 79742 79743
<u>(5) The kind of business in which the person is engaged, including applicable business or industry codes;</u>	79744 79745
<u>(6) The date of the beginning of the person's annual accounting period that includes the first day of January of the taxable calendar year;</u>	79746 79747 79748
<u>(7) If the person is not a corporation or a sole proprietor, the names of all the person's owners and officers;</u>	79749 79750
<u>(8) The person's federal employer identification number or numbers or, if those are not applicable, the person's social security number or equivalent;</u>	79751 79752 79753
<u>(9) All other information that the commissioner requires to administer and enforce this chapter.</u>	79754 79755
<u>(B) Except as otherwise provided in this division, each person registering with the tax commissioner as required by division (A) of this section shall pay a registration fee. The fee shall be in the amount of fifteen dollars if a person registers electronically and twenty dollars if a person does not register electronically. The registration fee shall be paid in the manner</u>	79756 79757 79758 79759 79760 79761

prescribed by the tax commissioner at the same time the 79762
registration is due if a person is subject to the tax imposed 79763
under this chapter before January 1, 2006. If a person first 79764
becomes subject to the tax after that date, the registration fee 79765
is payable with the first tax period return the person is required 79766
to file as prescribed by section 5751.051 of the Revised Code. If 79767
a registration fee is not paid when due, an additional fee is 79768
imposed in the amount of one hundred dollars per month or part 79769
thereof the fee is outstanding, not to exceed one thousand 79770
dollars. The tax commissioner may abate the additional fee. The 79771
fee imposed under this division may be assessed in the same manner 79772
as the tax imposed under this chapter. Proceeds from the fee shall 79773
be credited to the commercial activity tax administrative fund, 79774
which is hereby created in the state treasury for the commissioner 79775
to use in implementing and administering the tax imposed under 79776
this chapter. 79777

No registration fee is payable by a person for a calendar 79778
year if the person first begins business operations in this state 79779
after the thirtieth day of November of that calendar year or if 79780
the person's taxable gross receipts for the calendar year exceed 79781
two hundred thousand dollars but do not exceed two hundred 79782
thousand dollars as of the first day of December of the calendar 79783
year. 79784

Registration fees paid under this section, excluding any 79785
additional fee imposed for late payment of the registration fee, 79786
shall be credited against the first payment of tax payable under 79787
section 5751.03 of the Revised Code after the registration fee is 79788
paid. 79789

(C) If a person that has registered under this section is no 79790
longer a taxpayer subject to this chapter, including no longer 79791
being a taxpayer because of the application of division (E)(1) of 79792
section 5751.01 of the Revised Code, the person shall notify the 79793

commissioner that the person's registration should be cancelled. 79794

Sec. 5751.05. (A) If a person subject to this chapter 79795
anticipates that the person's taxable gross receipts will be less 79796
than one million dollars in calendar year 2006, the person may 79797
elect to be a calendar year taxpayer. If a person is not required 79798
to be registered under this section for calendar year 2006 and 79799
anticipates that the person's taxable gross receipts will be less 79800
than one million dollars in the first calendar year the person is 79801
required to register under this section, the person may elect to 79802
be a calendar year taxpayer. 79803

(B) Any person that is a calendar year taxpayer pursuant to 79804
an election under division (A) of this section shall become a 79805
calendar quarter taxpayer in the subsequent calendar year if the 79806
person's taxable gross receipts for the prior calendar year are 79807
one million dollars or more, and shall remain a calendar quarter 79808
taxpayer until the person notifies the tax commissioner, and 79809
receives approval in writing from the tax commissioner, to switch 79810
back to being a calendar year taxpayer. Nothing in this division 79811
prohibits a person that has elected to be a calendar year taxpayer 79812
from notifying the tax commissioner, using the procedures 79813
prescribed by the commissioner, that it is switching back to being 79814
a calendar quarter taxpayer. 79815

(C) Any taxpayer that is not a calendar year taxpayer 79816
pursuant to this section is a calendar quarter taxpayer. The tax 79817
commissioner may grant written approval for a calendar quarter 79818
taxpayer to use an alternative reporting schedule or estimate the 79819
amount of tax due for a calendar quarter if the taxpayer 79820
demonstrates to the commissioner the need for such a deviation. 79821
The commissioner may adopt a rule to apply division (C) of this 79822
section to a group of taxpayers without the taxpayers having to 79823
receive written approval from the commissioner. 79824

Sec. 5751.051. (A)(1) Not later than forty days after the end 79825
of each calendar quarter, every taxpayer other than a calendar 79826
year taxpayer shall file with the tax commissioner a tax return in 79827
such form as the commissioner prescribes. The return shall 79828
include, but is not limited to, the amount of the taxpayer's 79829
taxable gross receipts for the calendar quarter and shall indicate 79830
the amount of tax due under section 5751.03 of the Revised Code 79831
for the calendar quarter. 79832

(2) Not later than forty days after the end of each calendar 79833
year, every calendar year taxpayer shall file with the tax 79834
commissioner a tax return in such form as the commissioner 79835
prescribes. The return shall include, but is not limited to, the 79836
amount of the taxpayer's taxable gross receipts for the calendar 79837
year and shall indicate the amount of tax due under section 79838
5751.03 of the Revised Code for the calendar year. 79839

(B) A person that first becomes subject to this chapter 79840
during a calendar quarter on or after January 1, 2006, shall pay 79841
the minimum tax imposed under division (B) of section 5751.03 of 79842
the Revised Code along with the registration fee imposed under 79843
this section on or before the day the return is required to be 79844
filed for that quarter under division (A)(1) of this section, 79845
regardless of whether the person elects to be a calendar year 79846
taxpayer under section 5751.05 of the Revised Code. 79847

The amount of the minimum tax shall be reduced to fifty 79848
dollars if the registration is timely filed after the first day of 79849
May and before the first day of December of the calendar year. 79850

Sec. 5751.06. (A) Any taxpayer that fails to file a return or 79851
pay the full amount of the tax due within the period prescribed 79852
therefor under this chapter shall pay a penalty in an amount not 79853
exceeding the greater of fifty dollars or ten per cent of the tax 79854

required to be paid for the tax period. 79855

(B)(1) If any additional tax is found to be due, the tax commissioner may impose an additional penalty of up to fifteen per cent on the additional tax found to be due. 79856
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(2) Any delinquent payments of the tax made after a taxpayer is notified of an audit or a tax discrepancy by the commissioner is subject to the penalty imposed by division (B) of this section. If an assessment is issued under section 5751.10 of the Revised Code in connection with such delinquent payments, the payments shall be credited to the assessment. 79859
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(C) After calendar year 2008, the tax commissioner may impose an additional penalty against a taxpayer that fails to switch to being a calendar quarter taxpayer at the time it had over two million in taxable gross receipts in the calendar year, as required under section 5751.04 of the Revised Code. The penalty may be imposed in an amount not to exceed ten per cent of the tax due above two million dollars in taxable gross receipts for the calendar year. Any penalty imposed under this division is in addition to any other penalties imposed under this section. 79865
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(D) If the tax commissioner notifies a person required to register under section 5751.05 of the Revised Code of such requirement and of the requirement to remit the tax due under this chapter, and the person fails to so register and remit the tax within sixty days after such notice, the tax commissioner may impose an additional penalty of up to thirty-five per cent of the tax due. The penalty imposed under this division is in addition to any other penalties imposed under this section. 79874
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(E) The tax commissioner may collect any penalty or interest imposed by this section in the same manner as the tax imposed under this chapter. Penalties and interest so collected shall be 79882
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considered as revenue arising from the tax imposed under this chapter. 79885
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(F) The tax commissioner may abate all or a portion of any penalties imposed under this section and may adopt rules governing such abatements. 79887
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(G) If any tax due is not timely paid in accordance with this chapter, the taxpayer shall pay interest, calculated at the rate per annum prescribed by section 5703.47 of the Revised Code, from the date the tax payment was due to the date of payment or to the date an assessment was issued, whichever occurs first. 79890
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Sec. 5751.07. (A) Any person required to file returns for a calendar quarter shall remit each tax payment, and, if required by the tax commissioner, file the tax return or the annual report, electronically. The commissioner may require taxpayers to use the Ohio business gateway as defined in section 718.051 of the Revised Code to file returns and remit the tax, or may provide another means for taxpayers to file and remit the tax electronically. 79895
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(B) A person required by this section to remit taxes or file returns electronically may apply to the tax commissioner, on the form prescribed by the commissioner, to be excused from that requirement. The commissioner may excuse a person from the requirements of this division for good cause. 79902
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(C)(1) If a person required to remit taxes or file a return electronically under this section fails to do so, the commissioner may impose a penalty not to exceed the following: 79907
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(a) For either of the first two calendar quarters the person so fails, five per cent of the amount of the payment that was required to be remitted; 79910
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(b) For the third and any subsequent calendar quarters the person so fails, ten per cent of the amount of the payment that 79913
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was required to be remitted.

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(2) The penalty imposed under division (C)(1) of this section is in addition to any other penalty imposed under this chapter and shall be considered as revenue arising from the tax imposed under this chapter. A penalty may be collected by assessment in the manner prescribed by section 5751.09 of the Revised Code. The tax commissioner may abate all or a portion of such a penalty.

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Sec. 5751.08. (A) An application for refund to the taxpayer of the amount of taxes imposed under this chapter that are overpaid, paid illegally or erroneously, or paid on any illegal or erroneous assessment shall be filed with the tax commissioner, on the form prescribed by the commissioner, within four years after the date of the illegal or erroneous payment of the tax. The applicant shall provide the amount of the requested refund along with the claimed reasons for, and documentation to support, the issuance of a refund.

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(B) On the filing of the refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify the amount to the director of budget and management and treasurer of state for payment from the tax refund fund created under section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

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(C) Interest on a refund applied for under this section, computed at the rate provided for in section 5703.47 of the Revised Code, shall be allowed from the later of the date the tax was paid or when the tax payment was due.

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(D) A calendar quarter taxpayer with more than one million

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dollars in taxable gross receipts in a calendar year other than 79945
calendar year 2005 and that is not able to exclude one million 79946
dollars in taxable gross receipts because of the operation of the 79947
taxpayer's business in that calendar year may file for a refund 79948
under this section to obtain the full exclusion of one million 79949
dollars in taxable gross receipts for that calendar year. 79950

(E) No person with an active registration as a taxpayer under 79951
this chapter may claim a refund under this section for the tax 79952
imposed under division (B) of section 5751.03 of the Revised Code 79953
unless the person cancelled the registration before the tenth day 79954
of February of the current calendar year pursuant to division (C) 79955
of section 5751.04 of the Revised Code. 79956

(F) Except as provided in section 5751.091 of the Revised 79957
Code, the tax commissioner may, with the consent of the taxpayer, 79958
provide for the crediting against tax due for a tax year the 79959
amount of any refund due the taxpayer under this chapter for a 79960
preceding tax year. 79961

Sec. 5751.081. As used in this section, "debt to this state" 79962
means unpaid taxes due the state, unpaid workers' compensation 79963
premiums due under section 4123.35 of the Revised Code, unpaid 79964
unemployment compensation contributions due under section 4141.25 79965
of the Revised Code, unpaid unemployment compensation payment in 79966
lieu of contribution under section 4141.241 of the Revised Code, 79967
unpaid fee payable to the state or to the clerk of courts pursuant 79968
to section 4505.06 of the Revised Code, incorrect medical 79969
assistance payments under section 5111.02 of the Revised Code, or 79970
any unpaid charge, penalty, or interest arising from any of the 79971
foregoing. 79972

If a taxpayer entitled to a refund under section 5751.08 of 79973
the Revised Code owes any debt to this state, the amount 79974
refundable may be applied in satisfaction of the debt. If the 79975

amount refundable is less than the amount of the debt, it may be 79976
applied in partial satisfaction of the debt. If the amount 79977
refundable is greater than the amount of the debt, the amount 79978
remaining after satisfaction of the debt shall be refunded. This 79979
section applies only to debts that have become final. For the 79980
purposes of this section, a debt becomes final when, under the 79981
applicable law, any time provided for petition for reassessment, 79982
request for reconsideration, or other appeal of the legality or 79983
validity of the amount giving rise to the debt expires without an 79984
appeal having been filed in the manner provided by law. 79985

Sec. 5751.09. (A) The tax commissioner may make an 79986
assessment, based on any information in the commissioner's 79987
possession, against any person that fails to file a return or pay 79988
any tax as required by this chapter. The commissioner shall give 79989
the person assessed written notice of the assessment as provided 79990
in section 5703.37 of the Revised Code. With the notice, the 79991
commissioner shall provide instructions on the manner in which to 79992
petition for reassessment and request a hearing with respect to 79993
the petition. 79994

(B) Unless the person assessed, within sixty days after 79995
service of the notice of assessment, files with the tax 79996
commissioner, either personally or by certified mail, a written 79997
petition signed by the person or the person's authorized agent 79998
having knowledge of the facts, the assessment becomes final, and 79999
the amount of the assessment is due and payable from the person 80000
assessed to the treasurer of state. The petition shall indicate 80001
the objections of the person assessed, but additional objections 80002
may be raised in writing if received by the commissioner prior to 80003
the date shown on the final determination. 80004

If a petition for reassessment has been properly filed, the 80005
commissioner shall proceed under section 5703.60 of the Revised 80006

Code. 80007

(C)(1) After an assessment becomes final, if any portion of 80008
the assessment, including accrued interest, remains unpaid, a 80009
certified copy of the tax commissioner's entry making the 80010
assessment final may be filed in the office of the clerk of the 80011
court of common pleas in the county in which the person resides or 80012
has its principal place of business in this state, or in the 80013
office of the clerk of court of common pleas of Franklin county. 80014

(2) Immediately upon the filing of the entry, the clerk shall 80015
enter judgment for the state against the person assessed in the 80016
amount shown on the entry. The judgment may be filed by the clerk 80017
in a loose-leaf book entitled, "special judgments for the 80018
commercial activity tax" and shall have the same effect as other 80019
judgments. Execution shall issue upon the judgment at the request 80020
of the tax commissioner, and all laws applicable to sales on 80021
execution shall apply to sales made under the judgment. 80022

(3) The portion of the assessment not paid within sixty days 80023
after the day the assessment was issued shall bear interest at the 80024
rate per annum prescribed by section 5703.47 of the Revised Code 80025
from the day the tax commissioner issues the assessment until it 80026
is paid. Interest shall be paid in the same manner as the tax and 80027
may be collected by the issuance of an assessment under this 80028
section. 80029

(D) If the tax commissioner believes that collection of the 80030
tax will be jeopardized unless proceedings to collect or secure 80031
collection of the tax are instituted without delay, the 80032
commissioner may issue a jeopardy assessment against the person 80033
liable for the tax. Immediately upon the issuance of the jeopardy 80034
assessment, the commissioner shall file an entry with the clerk of 80035
the court of common pleas in the manner prescribed by division (C) 80036
of this section. Notice of the jeopardy assessment shall be served 80037

on the person assessed or the person's authorized agent in the 80038
manner provided in section 5703.37 of the Revised Code within five 80039
days of the filing of the entry with the clerk. The total amount 80040
assessed is immediately due and payable, unless the person 80041
assessed files a petition for reassessment in accordance with 80042
division (B) of this section and provides security in a form 80043
satisfactory to the commissioner and in an amount sufficient to 80044
satisfy the unpaid balance of the assessment. Full or partial 80045
payment of the assessment does not prejudice the commissioner's 80046
consideration of the petition for reassessment. 80047

(E) The tax commissioner shall immediately forward to the 80048
treasurer of state all amounts the commissioner receives under 80049
this section, and such amounts shall be considered as revenue 80050
arising from the tax imposed under this chapter. 80051

(F) Except as otherwise provided in this division, no 80052
assessment shall be made or issued against a taxpayer for the tax 80053
imposed under this chapter more than four years after the due date 80054
for the filing of the return for the tax period for which the tax 80055
was reported, or more than four years after the return for the tax 80056
period was filed, whichever is later. Nothing in this division 80057
bars an assessment against a taxpayer that fails to file a return 80058
required by this chapter or that files a fraudulent return. 80059

(G) If the tax commissioner possesses information that 80060
indicates that the amount of tax a taxpayer is required to pay 80061
under this chapter exceeds the amount the taxpayer paid, the tax 80062
commissioner may audit a sample of the taxpayer's sales or 80063
receipts over a representative period of time to ascertain the 80064
amount of tax due, and may issue an assessment based on the audit. 80065
The tax commissioner shall make a good faith effort to reach 80066
agreement with the taxpayer in selecting a representative sample. 80067
The tax commissioner may apply a sampling method only if the 80068
commissioner has prescribed the method by rule. 80069

(H) If the whereabouts of a person subject to this chapter is not known to the tax commissioner, the secretary of state is hereby deemed to be that person's agent for purposes of service of process of notice of any assessment, action, or proceedings instituted in this state against the person under this chapter. Such process or notice shall be served on such person by the commissioner or by one of the commissioner's agents by leaving at the office of the secretary of state, at least fifteen days before the return day of such process or notice, a true and attested copy of the notice, and by sending to such person by ordinary mail, with an endorsement thereon of the service upon the secretary of state, addressed to such person at the person's last known address. 80070
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Sec. 5751.10. If any person liable for the tax imposed under this chapter sells the trade or business, disposes in any manner other than in the regular course of business at least seventy-five per cent of assets of the trade or business, or quits the trade or business, any tax owed by such person shall become due and payable immediately, and the person shall pay the tax under this section, including any applicable penalties and interest, within fifteen days after the date of selling or quitting the trade or business. The person's successor shall withhold a sufficient amount of the purchase money to cover the amount due and unpaid until the former owner produces a receipt from the tax commissioner showing that the amounts are paid or a certificate indicating that no taxes are due. If a purchaser fails to withhold purchase money, that person is personally liable up to the purchase money amount, for such amounts that are unpaid during the operation of the business by the former owner. 80083
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The tax commissioner may adopt rules regarding the issuance of certificates under this section, including the waiver of the 80099
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need for a certificate if certain criteria are met. 80101

Sec. 5751.11. (A) If any person subject to this chapter fails 80102
to report or pay the tax as required under this chapter, or fails 80103
to pay any penalty imposed under this chapter within ninety days 80104
after the time prescribed for payment of the penalty, the tax 80105
commissioner shall provide such person at least thirty days' 80106
notice either personally or by certified mail of the 80107
commissioner's intent to revoke the person's registration under 80108
section 5751.04 of the Revised Code. The revocation shall be 80109
stayed if the taxpayer objects, in writing, to the revocation 80110
within thirty days from the receipt of the notice of revocation. 80111
It shall be unlawful for such person to engage in business in this 80112
state after such registration is revoked. A final determination 80113
revoking a registration shall be served in the manner provided by 80114
section 5703.37 of the Revised Code. The commissioner's final 80115
determination may be appealed to the board of tax appeals pursuant 80116
to section 5717.02 of the Revised Code. The revocation shall 80117
become effective immediately upon the expiration of all time 80118
limits for appeal. The commissioner shall certify the revocation 80119
to the secretary of state. 80120

(B) Upon receiving notification of the commissioner's 80121
revocation under division (A) of this section, the secretary of 80122
state shall: 80123

(1) Cancel the articles of incorporation of any corporation 80124
that is organized under the laws of the state by appropriate entry 80125
upon the margin thereof; 80126

(2) Cancel by proper entry the certificate of authority of 80127
any foreign corporation to do business in this state; 80128

(3) Cancel the registration of a domestic limited liability 80129
partnership by making a notation of the cancellation on the 80130

secretary of state's records of those persons that are the subject 80131
of the revocation. 80132

Upon a cancellation under division (B) of this section, all 80133
the powers, privileges, and franchises conferred upon a 80134
corporation by its articles of incorporation or conferred upon a 80135
foreign corporation by its certificate of authority, and all 80136
powers and privileges of a registered domestic limited liability 80137
partnership cease, subject to Title XVII of the Revised Code. 80138

Upon making a cancellation under division (B) of this 80139
section, the secretary of state shall immediately notify such 80140
domestic or foreign corporation or domestic limited liability 80141
partnership of the action taken by the secretary of state, and 80142
shall forward for filing a certification of the action to the 80143
county recorder of the county in which the principal place of 80144
business of the corporation or partnership in this state is 80145
located. No fee shall be charged by the county recorder for the 80146
filing. 80147

(C) No person shall exercise or attempt to exercise any 80148
powers, privileges, or franchises under its articles of 80149
incorporation or its certificate of authority, whichever the case 80150
may be, after its articles or certificate is canceled for failure 80151
to make a report or return or to pay any tax or fee under this 80152
chapter. 80153

(D) A person whose registration has been revoked under this 80154
section may not reregister for a new registration under section 80155
5751.04 of the Revised Code unless and until all applicable taxes, 80156
penalties, and interest are paid. In addition, no individual 80157
having a ten per cent or greater direct or constructive ownership 80158
interest in such person may reregister as an owner of a trade or 80159
business registering under section 5751.04 of the Revised Code 80160
unless and until all applicable taxes, penalties, and interest are 80161

paid. 80162

(E) Upon a corporation's or partnership's paying any fees 80163
required by the secretary of state and filing with the secretary 80164
of state a certificate from the tax commissioner specifying that 80165
it has complied with all the requirements of this chapter and has 80166
paid all applicable taxes, penalties, and interest, the secretary 80167
of state shall cancel the entry of cancellation of the 80168
corporation's or partnership's rights, privileges, and franchises. 80169

Sec. 5751.12. The tax commissioner may prescribe requirements 80170
for the keeping of records and other pertinent documents, the 80171
filing of copies of federal income tax returns and determinations, 80172
and computations reconciling federal income tax returns with the 80173
returns and reports required by section 5751.05 of the Revised 80174
Code. The commissioner may require any person, by rule or notice 80175
served on that person, to keep those records that the commissioner 80176
considers necessary to show whether, and the extent to which, a 80177
person is subject to this chapter. Those records and other 80178
documents shall be open during business hours to the inspection of 80179
the commissioner, and shall be preserved for a period of four 80180
years unless the commissioner, in writing, consents to their 80181
destruction within that period, or by order requires that they be 80182
kept longer. If such records are normally kept by the person 80183
electronically, the person shall provide such records to the 80184
commissioner electronically at the commissioner's request. 80185

Any information required by the tax commissioner under this 80186
chapter is confidential as provided for in section 5703.21 of the 80187
Revised Code. However, the commissioner shall make public an 80188
electronic list of all actively registered persons required to 80189
remit the tax under this chapter, including legal names, trade 80190
names, addresses, and account numbers. In addition, such list 80191
shall include all persons that cancelled their registration at any 80192

<u>time during the preceding four calendar years, including the date</u>	80193
<u>the registration was cancelled.</u>	80194
<u>Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of</u>	80195
<u>the Revised Code:</u>	80196
<u>(1) "School district," "joint vocational school district,"</u>	80197
<u>"local taxing unit," "state education aid," "recognized</u>	80198
<u>valuation," "fixed-rate levy," and "fixed-sum levy" have the same</u>	80199
<u>meanings as used in section 5727.84 of the Revised Code.</u>	80200
<u>(2) "State education aid offset" means the amount determined</u>	80201
<u>for each school district or joint vocational school district under</u>	80202
<u>division (A)(1) of section 5751.21 of the Revised Code.</u>	80203
<u>(3) "Machinery and equipment property tax value loss" means</u>	80204
<u>the amount determined under division (C)(1) of this section.</u>	80205
<u>(4) "Inventory property tax value loss" means the amount</u>	80206
<u>determined under division (C)(2) of this section.</u>	80207
<u>(5) "Furniture and fixtures property tax value loss" means</u>	80208
<u>the amount determined under division (C)(3) of this section.</u>	80209
<u>(6) "Machinery and equipment fixed-rate levy loss" means the</u>	80210
<u>amount determined under division (D)(1) of this section.</u>	80211
<u>(7) "Inventory fixed-rate levy loss" means the amount</u>	80212
<u>determined under division (D)(2) of this section.</u>	80213
<u>(8) "Furniture and fixtures fixed-rate levy loss" means the</u>	80214
<u>amount determined under division (D)(3) of this section.</u>	80215
<u>(9) "Total fixed-rate levy loss" means the sum of the</u>	80216
<u>machinery and equipment fixed-rate levy loss, the inventory</u>	80217
<u>fixed-rate levy loss, and the furniture and fixtures fixed-rate</u>	80218
<u>levy loss.</u>	80219
<u>(10) "Fixed-sum levy loss" means the amount determined under</u>	80220
<u>division (E) of this section.</u>	80221

(11) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code. 80222
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(12) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code. 80225
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(13) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code. 80228
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(14) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005, and first levied in tax year 2006. 80231
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(B) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. All money in that fund shall be credited for each fiscal year in the following percentages to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages: 80235
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<u>Fiscal year</u>	<u>General Revenue Fund</u>	<u>School District Tangible Property Tax Replacement Fund</u>	<u>Local Government Tangible Property Tax Replacement Fund</u>	
<u>2006</u>	<u>67.7%</u>	<u>22.6%</u>	<u>9.7%</u>	80248
<u>2007</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	80249

<u>2008</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	80250
<u>2009</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	80251
<u>2010</u>	<u>0%</u>	<u>70.0%</u>	<u>30.0%</u>	80252
<u>2011</u>	<u>3.6%</u>	<u>67.5%</u>	<u>28.9%</u>	80253
<u>2012</u>	<u>9.5%</u>	<u>67.5%</u>	<u>23.0%</u>	80254
<u>2013</u>	<u>14.4%</u>	<u>67.5%</u>	<u>18.1%</u>	80255
<u>2014</u>	<u>17.7%</u>	<u>67.5%</u>	<u>14.8%</u>	80256
<u>2015</u>	<u>20.6%</u>	<u>67.5%</u>	<u>11.9%</u>	80257
<u>2016</u>	<u>24.0%</u>	<u>67.5%</u>	<u>8.5%</u>	80258
<u>2017</u>	<u>27.4%</u>	<u>67.5%</u>	<u>5.1%</u>	80259
<u>2018</u>	<u>30.8%</u>	<u>67.5%</u>	<u>1.7%</u>	80260
<u>2019 and</u> <u>thereafter</u>	<u>100%</u>	<u>0%</u>	<u>0%</u>	80261

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, and furniture and fixtures property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), and (3) of this section: 80262
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(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by: 80268
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(a) For tax year 2006, thirty-three and eight-tenths per cent; 80271
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(b) For tax year 2007, sixty-one and three-tenths per cent; 80273

(c) For tax year 2008, eighty-three per cent; 80274

(d) For tax year 2009 and thereafter, one hundred per cent. 80275

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by: 80276
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<u>(a) For tax year 2006, a fraction, the numerator of which is</u>	80279
<u>five and three-fourths and the denominator of which is</u>	80280
<u>twenty-three;</u>	80281
<u>(b) For tax year 2007, a fraction, the numerator of which is</u>	80282
<u>nine and one-half and the denominator of which is twenty-three;</u>	80283
<u>(c) For tax year 2008, a fraction, the numerator of which is</u>	80284
<u>thirteen and one-fourth and the denominator of which is</u>	80285
<u>twenty-three;</u>	80286
<u>(d) For tax year 2009 and thereafter a fraction, the</u>	80287
<u>numerator of which is seventeen and the denominator of which is</u>	80288
<u>twenty-three.</u>	80289
<u>(3) Furniture and fixtures property tax value loss is the</u>	80290
<u>taxable value of furniture and fixture property as reported by</u>	80291
<u>taxpayers for tax year 2004 multiplied by:</u>	80292
<u>(a) For tax year 2006, twenty-five per cent;</u>	80293
<u>(b) For tax year 2007, fifty per cent;</u>	80294
<u>(c) For tax year 2008, seventy-five per cent;</u>	80295
<u>(d) For tax year 2009 and thereafter, one hundred per cent.</u>	80296
<u>To facilitate the calculations required under division (C) of</u>	80297
<u>this section, the county auditor, upon request from the tax</u>	80298
<u>commissioner, shall provide by August 1, 2005, the values of</u>	80299
<u>machinery and equipment, inventory, and furniture and fixtures for</u>	80300
<u>all single-county personal property taxpayers for tax year 2004.</u>	80301
<u>(D) Not later than September 15, 2005, the tax commissioner</u>	80302
<u>shall determine for each tax year from 2006 through 2010 for each</u>	80303
<u>school district, joint vocational school district, and local</u>	80304
<u>taxing unit its machinery and equipment, inventory, and furniture</u>	80305
<u>and fixtures fixed-rate levy losses, which are the applicable</u>	80306
<u>amounts described in divisions (D)(1), (2), and (3) of this</u>	80307
<u>section:</u>	80308

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies. 80309
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(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies. 80312
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(3) The furniture and fixtures fixed-rate levy loss is the furniture and fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies. 80315
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(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section: 80318
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(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district emergency levies that are qualifying levies not remaining in effect for the current year. For 2011 through 2017, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district emergency levy remains in effect in a year after 2010 only if, for that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006. 80324
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(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, and furniture and fixtures property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar. 80340
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(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2010 under divisions (C)(1), (2), and (3) of this section. 80345
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(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions. 80349
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If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (D) of section 5751.21 or division (A)(2) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit. 80358
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(F) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and 80368
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equipment, inventory, and furniture and fixtures property tax 80371
value losses determined under division (C) of this section, the 80372
machinery and equipment, inventory, and furniture and fixtures 80373
property fixed-rate levy losses determined under division (D) of 80374
this section, and the fixed-sum levy losses calculated under 80375
division (E) of this section. The calculations under divisions (D) 80376
and (E) of this section shall separately display the levy loss for 80377
each levy eligible for reimbursement. 80378

(G) Not later than October 1, 2005, the tax commissioner 80379
shall certify the amount of the fixed-sum levy losses to the 80380
county auditor of each county in which a school district, joint 80381
vocational school district, or local taxing unit with a fixed-sum 80382
levy loss reimbursement has territory. 80383

Sec. 5751.21. (A) Not later than the thirty-first day of July 80384
of 2007 through 2017, the department of education shall determine 80385
the following for each school district and each joint vocational 80386
school district eligible for payment under division (B) of this 80387
section: 80388

(1) The state education aid offset, which is the difference 80389
obtained by subtracting the amount described in division (A)(1)(b) 80390
of this section from the amount described in division (A)(1)(a) of 80391
this section: 80392

(a) The state education aid computed for the school district 80393
or joint vocational school district for the current fiscal year as 80394
of the thirty-first day of July; 80395

(b) The state education aid that would be computed for the 80396
school district or joint vocational school district for the 80397
current fiscal year as of the thirty-first day of July if the 80398
recognized valuation included the machinery and equipment, 80399
inventory, and furniture and fixtures property tax value losses 80400

for the school district or joint vocational school district for 80401
the second preceding tax year. 80402

(2) The greater of zero or the difference obtained by 80403
subtracting the state education aid offset determined under 80404
division (A)(1) of this section from the sum of the machinery and 80405
equipment fixed-rate levy loss, the inventory fixed-rate levy 80406
loss, and furniture and fixtures fixed-rate levy loss certified 80407
under division (F) of section 5751.20 of the Revised Code for all 80408
taxing districts in each school district and joint vocational 80409
school district for the second preceding tax year. 80410

By the fifth day of August of each such year, the department 80411
of education shall certify the amount so determined under division 80412
(A)(1) of this section to the director of budget and management. 80413

(B) The department of education shall pay from the school 80414
district tangible property tax replacement fund to each school 80415
district and joint vocational school district all of the following 80416
for fixed-rate levy losses certified under division (F) of section 80417
5751.20 of the Revised Code: 80418

(1) On or before May 31, 2006, one-sixth of the total 80419
fixed-rate levy loss for tax year 2006; 80420

(2) On or before August 31, 2006, November 30, 2006, and 80421
February 28, 2007, one-third of five-sixths of the total 80422
fixed-rate levy loss for tax year 2006; 80423

(3) On or before May 31, 2007, one-sixth of the total 80424
fixed-rate levy loss for tax year 2007; 80425

(4) On or before August 31, 2007, November 30, 2007, and 80426
February 29, 2008, one-fourth of the amount determined under 80427
division (A)(2) of this section for fiscal year 2008, but not less 80428
than zero, plus one-third of five-sixths of the difference between 80429
the total fixed-rate levy loss for tax year 2007 and the total 80430

<u>fixed-rate levy loss for tax year 2006.</u>	80431
<u>(5) On or before May 31, 2008, one-fourth of the amount</u>	80432
<u>determined under division (A)(2) of this section for fiscal year</u>	80433
<u>2008, but not less than zero, plus one-sixth of the difference</u>	80434
<u>between the total fixed-rate levy loss for tax year 2008 and the</u>	80435
<u>total fixed-rate levy loss for tax year 2006.</u>	80436
<u>(6) On or before August 31, 2008, November 30, 2008, and</u>	80437
<u>February 28, 2009, one-fourth of the amount determined under</u>	80438
<u>division (A)(2) of this section for fiscal year 2009, but not less</u>	80439
<u>than zero, plus one-third of five-sixths of the difference between</u>	80440
<u>the total fixed-rate levy loss in tax year 2008 and the total</u>	80441
<u>fixed-rate levy loss in tax year 2007.</u>	80442
<u>(7) On or before May 31, 2009, one-fourth of the amount</u>	80443
<u>determined under division (A)(2) of this section for fiscal year</u>	80444
<u>2009, but not less than zero, plus one-sixth of the difference</u>	80445
<u>between the total fixed-rate levy loss for tax year 2009 and the</u>	80446
<u>total fixed-rate levy loss for tax year 2007.</u>	80447
<u>(8) On or before August 31, 2009, November 30, 2009, and</u>	80448
<u>February 28, 2010, one-fourth of the amount determined under</u>	80449
<u>division (A)(2) of this section for fiscal year 2010, but not less</u>	80450
<u>than zero, plus one-third of five-sixths of the difference between</u>	80451
<u>the total fixed-rate levy loss in tax year 2009 and the total</u>	80452
<u>fixed-rate levy loss in tax year 2008.</u>	80453
<u>(9) On or before May 31, 2010, one-fourth of the amount</u>	80454
<u>determined under division (A)(2) of this section for fiscal year</u>	80455
<u>2010, but not less than zero, plus one-sixth of the difference</u>	80456
<u>between the total fixed-rate levy loss in tax year 2010 and the</u>	80457
<u>total fixed-rate levy loss in tax year 2008.</u>	80458
<u>(10) On or before August 31, 2010, November 30, 2010,</u>	80459
<u>February 28, 2011, and May 31, 2011, one-fourth of the amount</u>	80460
<u>determined under division (A)(2) of this section for fiscal year</u>	80461

2011, but not less than zero. 80462

(11) On or before August 31, 2011, November 30, 2011, 80463
February 29, 2012, and May 31, 2012, the amount determined under 80464
division (A)(2) of this section multiplied by a fraction, the 80465
numerator of which is fourteen and the denominator of which is 80466
seventeen, but not less than zero, multiplied by one-fourth. 80467

(12) On or before August 31, 2012, November 30, 2012, 80468
February 28, 2013, and May 31, 2013, the amount determined under 80469
division (A)(2) of this section multiplied by a fraction, the 80470
numerator of which is eleven and the denominator of which is 80471
seventeen, but not less than zero, multiplied by one-fourth. 80472

(13) On or before August 31, 2013, November 30, 2013, 80473
February 28, 2014, and May 31, 2014, the amount determined under 80474
division (A)(2) of this section multiplied by a fraction, the 80475
numerator of which is nine and the denominator of which is 80476
seventeen, but not less than zero, multiplied by one-fourth. 80477

(14) On or before August 31, 2014, November 30, 2014, 80478
February 28, 2015, and May 31, 2015, the amount determined under 80479
division (A)(2) of this section multiplied by a fraction, the 80480
numerator of which is seven and the denominator of which is 80481
seventeen, but not less than zero, multiplied by one-fourth. 80482

(15) On or before August 31, 2015, November 30, 2015, 80483
February 29, 2016, and May 31, 2016, the amount determined under 80484
division (A)(2) of this section multiplied by a fraction, the 80485
numerator of which is five and the denominator of which is 80486
seventeen, but not less than zero, multiplied by one-fourth. 80487

(16) On or before August 31, 2016, November 30, 2016, 80488
February 28, 2017, and May 31, 2017, the amount determined under 80489
division (A)(2) of this section multiplied by a fraction, the 80490
numerator of which is three and the denominator of which is 80491
seventeen, but not less than zero, multiplied by one-fourth. 80492

(17) On or before August 31, 2017, November 30, 2017, February 28, 2018, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one-fourth.

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(18) After May 31, 2018, no payments shall be made under this section.

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The department of education shall report to each school district and joint vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under division (F) of section 5751.20 of the Revised Code.

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Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 does not qualify for any reimbursement after the tax year to which it is last applicable.

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(C) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (B) of this section.

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(D)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (F) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the

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commissioner made such a determination. The department shall pay 80524
from the school district property tax replacement fund to the 80525
school district or joint vocational school district one-fourth of 80526
the fixed-sum levy loss so certified for each year on or before 80527
the last day of May, August, and November of the current year and 80528
of February of the following year. 80529

(2) Beginning in 2006, by the first day of January of each 80530
year, the tax commissioner shall review the certification 80531
originally made under division (D)(1) of this section. If the 80532
commissioner determines that a debt levy that had been scheduled 80533
to be reimbursed in the current year has expired, a revised 80534
certification for that and all subsequent years shall be made to 80535
the department of education. 80536

(E) Beginning in September 2007 and through June 2018, the 80537
director of budget and management shall transfer from the school 80538
district tangible property tax replacement fund to the general 80539
revenue fund each of the following: 80540

(1) On the first day of September, the lesser of one-fourth 80541
of the amount certified for that fiscal year under division (A)(1) 80542
of this section or the balance in the school district tangible 80543
property tax replacement fund; 80544

(2) On the first day of December, the lesser of one-fourth of 80545
the amount certified for that fiscal year under division (A)(1) of 80546
this section or the balance in the school district tangible 80547
property tax replacement fund; 80548

(3) On the first day of March, the lesser of one-fourth of 80549
the amount certified for that fiscal year under division (A)(1) of 80550
this section or the balance in the school district tangible 80551
property tax replacement fund; 80552

(4) On the first day of June, the lesser of one-fourth of the 80553
amount certified for that fiscal year under division (A)(1) of 80554

this section or the balance in the school district tangible 80555
property tax replacement fund. 80556

(F) For each of the fiscal years 2006 through 2018, if the 80557
total amount in the school district tangible property tax 80558
replacement fund is insufficient to make all payments under 80559
divisions (B), (C), or (D) of this section at the times the 80560
payments are to be made, the director of budget and management 80561
shall transfer from the general revenue fund to the school 80562
district tangible property tax replacement fund the difference 80563
between the total amount to be paid and the amount in the school 80564
district tangible property tax replacement fund. For each fiscal 80565
year after 2018, at the time payments under division (D) of this 80566
section are to be made, the director of budget and management 80567
shall transfer from the general revenue fund to the school 80568
district property tax replacement fund the amount necessary to 80569
make such payments. 80570

(G) On the fifteenth day of June of 2006 through 2011, the 80571
director of budget and management may transfer any balance in the 80572
school district tangible property tax replacement fund to the 80573
general revenue fund. At the end of fiscal years 2012 through 80574
2018, any balance in the school district tangible property tax 80575
replacement fund shall remain in the fund to be used in future 80576
fiscal years for school purposes. 80577

(H) If all of the territory of a school district or joint 80578
vocational school district is merged with another district, or if 80579
a part of the territory of a school district or joint vocational 80580
school district is transferred to an existing or newly created 80581
district, the department of education, in consultation with the 80582
tax commissioner, shall adjust the payments made under this 80583
section as follows: 80584

(1) For a merger of two or more districts, the machinery and 80585

equipment, inventory, and furniture and fixture fixed-rate levy 80586
losses and the fixed-sum levy losses of the successor district 80587
shall be equal to the sum of the machinery and equipment, 80588
inventory, and furniture and fixtures fixed-rate levy losses as 80589
determined in section 5751.20 of the Revised Code, for each of the 80590
districts involved in the merger. 80591

(2) If property is transferred from one district to a 80592
previously existing district, the amount of machinery and 80593
equipment, inventory, and furniture and fixtures fixed-rate levy 80594
losses that shall be transferred to the recipient district shall 80595
be an amount equal to the total machinery and equipment, 80596
inventory, and furniture and fixtures fixed-rate levy losses times 80597
a fraction, the numerator of which is the value of business 80598
tangible personal property on the land being transferred in the 80599
most recent year for which data are available, and the denominator 80600
of which is the total value of business tangible personal property 80601
in the district from which the land is being transferred in the 80602
most recent year for which data are available. 80603

(3) After December 31, 2004, if property is transferred from 80604
one or more districts to a district that is newly created out of 80605
the transferred property, the newly created district shall be 80606
deemed not to have any machinery and equipment, inventory, or 80607
furniture and fixtures fixed-rate levy losses and the districts 80608
from which the property was transferred shall have no reduction in 80609
their machinery and equipment, inventory, and furniture and 80610
fixtures fixed-rate levy losses. 80611

(4) If the recipient district under division (H)(2) of this 80612
section or the newly created district under divisions (H)(3) of 80613
this section is assuming debt from one or more of the districts 80614
from which the property was transferred and any of the districts 80615
losing the property had fixed-sum levy losses, the department of 80616
education, in consultation with the tax commissioner, shall make 80617

an equitable division of the fixed-sum levy loss reimbursements. 80618

Sec. 5751.22. (A) Not later than January 1, 2006, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), and (3) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the commissioner determined, pursuant to division (E) of section 5751.20 of the Revised Code, that a fixed-sum levy loss is to be reimbursed. 80619
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(1) Except as provided in division (A)(3) of this section, for machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses determined under division (D) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses multiplied by the following: 80628
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(a) For tax years 2006 through 2010, one hundred per cent; 80633

(b) For tax year 2011, a fraction, the numerator of which is fourteen and the denominator of which is seventeen; 80634
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(c) For tax year 2012, a fraction, the numerator of which is eleven and the denominator of which is seventeen; 80636
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(d) For tax year 2013, a fraction, the numerator of which is nine and the denominator of which is seventeen; 80638
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(e) For tax year 2014, a fraction, the numerator of which is seven and the denominator of which is seventeen; 80640
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(f) For tax year 2015, a fraction, the numerator of which is five and the denominator of which is seventeen; 80642
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(g) For tax year 2016, a fraction, the numerator of which is three and the denominator of which is seventeen; 80644
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(h) For tax year 2017, a fraction, the numerator of which is 80646

one and the denominator of which is seventeen; 80647

(i) For tax years 2018 and thereafter, no fixed-rate payments shall be made. 80648
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Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 shall not qualify for any reimbursement after the tax year to which it is last applicable. 80650
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(2) For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 and thereafter. 80653
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(3) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017. 80657
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(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made. 80667
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(C) Payments to local taxing units required to be made under division (A) of this section shall be paid from the local government tangible property tax replacement fund to the county 80675
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undivided income tax fund in the proper county treasury. Beginning 80678
in May 2006, one-third of the amount certified under that division 80679
shall be paid by the last day of May, August, and October. Within 80680
forty-five days after receipt of such payments, the county 80681
treasurer shall distribute amounts determined under division (A) 80682
of this section to the proper local taxing unit as if they had 80683
been levied and collected as taxes, and the local taxing unit 80684
shall apportion the amounts so received among its funds in the 80685
same proportions as if those amounts had been levied and collected 80686
as taxes. 80687

(D) For each of the fiscal years 2006 through 2018, if the 80688
total amount in the local government tangible property tax 80689
replacement fund is insufficient to make all payments under 80690
division (C) of this section at the times the payments are to be 80691
made, the director of budget and management shall transfer from 80692
the general revenue fund to the local government tangible property 80693
tax replacement fund the difference between the total amount to be 80694
paid and the amount in the local government tangible property tax 80695
replacement fund. For each fiscal year after 2018, at the time 80696
payments under division (A)(2) of this section are to be made, the 80697
director of budget and management shall transfer from the general 80698
revenue fund to the local government property tax replacement fund 80699
the amount necessary to make such payments. 80700

(E) On the fifteenth day of June of each year from 2006 80701
through 2018, the director of budget and management may transfer 80702
any balance in the local government tangible property tax 80703
replacement fund to the general revenue fund. 80704

(F) If all or a part of the territories of two or more local 80705
taxing units are merged, or unincorporated territory of a township 80706
is annexed by a municipal corporation, the tax commissioner shall 80707
adjust the payments made under this section to each of the local 80708
taxing units in proportion to the tax value loss apportioned to 80709

the merged or annexed territory, or as otherwise provided by a 80710
written agreement between the legislative authorities of the local 80711
taxing units certified to the commissioner not later than the 80712
first day of June of the calendar year in which the payment is to 80713
be made. 80714

Sec. 5751.23. (A) As used in this section: 80715

(1) "Administrative fees" means the dollar percentages 80716
allowed by the county auditor for services or by the county 80717
treasurer as fees, or paid to the credit of the real estate 80718
assessment fund, under divisions (A) and (B) of section 319.54 and 80719
division (A) of section 321.26 of the Revised Code. 80720

(2) "Administrative fee loss" means a county's loss of 80721
administrative fees due to its tax value loss, determined as 80722
follows: 80723

(a) For purposes of the determination made under division (B) 80724
of this section in the years 2006 through 2010, the administrative 80725
fee loss shall be computed by multiplying the amounts determined 80726
for all taxing districts in the county under divisions (D) and (E) 80727
of section 5751.20 of the Revised Code by nine thousand six 80728
hundred fifty-nine ten-thousandths of one per cent if total taxes 80729
collected in the county in 2004 exceeded one hundred fifty million 80730
dollars, or one and one thousand one hundred fifty-nine 80731
ten-thousandths of one per cent if total taxes collected in the 80732
county in 2004 were one hundred fifty million dollars or less; 80733

(b) For purposes of the determination under division (B) of 80734
this section in the years after 2010, the administrative fee 80735
losses shall be determined by multiplying the administrative fee 80736
losses calculated for 2010 by the fractions in divisions (A)(1)(b) 80737
to (i) of section 5751.22 of the Revised Code. 80738

(3) "Total taxes collected" means all money collected on any 80739

tax duplicate of the county, other than the estate tax duplicates. 80740
"Total taxes collected" does not include amounts received pursuant 80741
to divisions (F) and (G) of section 321.24 or section 323.156 of 80742
the Revised Code. 80743

(B) Not later than December 31, 2005, the tax commissioner 80744
shall certify to each county auditor the tax levy losses 80745
calculated under divisions (D) and (E) of section 5751.20 of the 80746
Revised Code for each school district, joint vocational school 80747
district, and local taxing unit in the county. Not later than the 80748
thirty-first day of January of 2006 through 2017, the county 80749
auditor shall determine the administrative fee loss for the county 80750
and apportion that loss ratably among the school districts, joint 80751
vocational school districts, and local taxing units on the basis 80752
of the tax levy losses certified under this division. 80753

(C) On or before each of the days prescribed for the 80754
settlements under divisions (A) and (C) of section 321.24 of the 80755
Revised Code in the years 2006 through 2017, the county treasurer 80756
shall deduct one-half of the amount apportioned to each school 80757
district, joint vocational school district, and local taxing unit 80758
from the portions of revenue payable to them. 80759

(D) On or before each of the days prescribed for settlements 80760
under divisions (A) and (C) of section 321.24 of the Revised Code 80761
in the years 2006 through 2017, the county auditor shall cause to 80762
be deposited an amount equal to one-half of the amount of the 80763
administrative fee loss in the same funds as if allowed as 80764
administrative fees. 80765

Sec. 5751.31. (A) Notwithstanding any section of law to the 80766
contrary, the tax commissioner may issue one or more final 80767
determinations under section 5703.60 of the Revised Code for which 80768
any appeal must be made directly to the supreme court within 80769
thirty days after the date the commissioner issued the 80770

determination if the primary issue raised by the petitioner is an issue arising under Section 3, 5a, or 13 of Article XII, Ohio Constitution. Such final determination shall clearly indicate that any appeal thereof must be made directly to the supreme court within the thirty-day period prescribed in this division.

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(B) If division (H)(3) of section 5751.01 of the Revised Code is determined to be unconstitutional under the Ohio Constitution or the Constitution of the United States, the commissioner may require taxpayers with taxable gross receipts in this state to provide a report as part of the tax returns the taxpayers file detailing the purchases they make from persons not registered to collect the tax imposed under this chapter. The commissioner shall adopt rules to enforce this division. The rules shall not require a taxpayer located in this state to file a report for purchases from a seller that total less than two million dollars in a calendar year.

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Sec. 5751.50. (A) For tax periods beginning on or after January 1, 2008, a refundable credit granted by the tax credit authority under section 122.17 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax period. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due for a tax period beginning before July 1, 2008. The refundable credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under sections 122.17 or 122.171 of the Revised Code.

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(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. The credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under sections 122.17 or 122.171 of the Revised Code. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, except to the extent the credit was not applied against such tax.

Sec. 5751.51. (A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) For tax periods beginning on or after January 1, 2008, a nonrefundable credit may be claimed under this chapter equal to seven per cent of the excess of (a) qualified research expenses incurred in this state by the taxpayer in the tax period for which the credit is claimed over (b) the taxpayer's average annual qualified research expenses incurred in this state for the three preceding tax periods.

(2) The taxpayer shall claim the credit allowed under division (B)(1) of this section in the order required by section 5751.98 of the Revised Code. A credit claimed in tax year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. Any credit amount in excess of the tax due under section 5751.03 of the Revised Code, after allowing for any other credits that precede the credit

under this section in the order required under that section, may 80832
be carried forward for seven tax years, but the amount of the 80833
excess credit claimed against the tax for any tax period shall be 80834
deducted from the balance carried forward to the next tax period. 80835

(3) No credit shall be allowed under this chapter if the 80836
credit was available against the tax imposed by section 5733.06 of 80837
the Revised Code, except to the extent the credit was not applied 80838
against such tax. 80839

Sec. 5751.52. (A) As used in this section: 80840

(1) "Borrower" means any person that receives a loan from the 80841
director of development under section 166.21 of the Revised Code, 80842
regardless of whether the borrower is subject to the tax imposed 80843
by this chapter. 80844

(2) "Qualified research and development loan payments" has 80845
the same meaning as in section 166.21 of the Revised Code. 80846

(3) "Related member" has the same meaning as in section 80847
5733.042 of the Revised Code. 80848

(B) For tax periods beginning on or after January 1, 2008, a 80849
nonrefundable credit may be claimed under this chapter equal to a 80850
borrower's qualified research and development loan payments made 80851
during the calendar year immediately preceding the tax period for 80852
which the credit is claimed. The amount of the credit for a 80853
calendar year shall not exceed one hundred fifty thousand dollars. 80854
No taxpayer is entitled to claim a credit under this section 80855
unless the taxpayer has obtained a certificate issued by the 80856
director of development under division (D) of section 166.21 of 80857
the Revised Code. The credit shall be claimed in the order 80858
required under section 5151.98 of the Revised Code. A credit 80859
claimed in calendar year 2008 may not be applied against the tax 80860
otherwise due under this chapter for a tax period beginning before 80861

July 1, 2008. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code except to the extent the credit was not applied against such tax. The credit, to the extent it exceeds the taxpayer's tax liability for a tax period after allowance for any other credits that precede the credit under this section in that order, shall be carried forward to the next succeeding tax period or periods, but the amount of the excess credit claimed against the tax for any tax period shall be deducted from the balance carried forward to the next tax period.

(C) A borrower entitled to a credit under this section may assign the credit, or a portion thereof, to any of the following:

(1) A related member of that borrower;

(2) The owner or lessee of the eligible research and development project;

(3) A related member of the owner or lessee of the eligible research and development project.

A borrower making an assignment under this division shall provide written notice of the assignment to the tax commissioner and the director of development, in such form as the commissioner prescribes, before the credit that was assigned is used. The assignor may not claim the credit to the extent it was assigned to an assignee. The assignee may claim the credit only to the extent the assignor has not claimed it.

(D) If any taxpayer is a partner in a partnership or a member in a limited liability company treated as a partnership for federal income tax purposes, the taxpayer shall be allowed the taxpayer's distributive or proportionate share of the credit available through the partnership or limited liability company.

Sec. 5751.53. (A) As used in this section:

(1) "Net income" and "taxable year" have the same meanings as in section 5733.04 of the Revised Code. 80892
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(2) "Franchise tax year" means "tax year" as defined in section 5733.04 of the Revised Code. 80894
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(3) "Deductible temporary differences" and "taxable temporary differences" have the same meanings as those terms have for purposes of paragraph 13 of the statement of financial accounting standards, number 109. 80896
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(4) "Qualifying taxpayer" means a taxpayer under this chapter that has a qualifying Ohio net operating loss carryforward equal to or greater than the qualifying amount. 80900
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(5) "Qualifying Ohio net operating loss carryforward" means an Ohio net operating loss carryforward that the taxpayer could deduct in whole or in part for franchise tax year 2006 under section 5733.04 of the Revised Code but for the application of division (H) of this section. A qualifying Ohio net operating loss carryforward shall not exceed the amount of loss carryforward from franchise tax year 2005 as reported by the taxpayer either on a franchise tax report for franchise tax year 2005 pursuant to section 5733.02 of the Revised Code or on an amended franchise tax report prepared in good faith for such year and filed before July 1, 2006. 80903
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(6) "Disallowed Ohio net operating loss carryforward" means the lesser of the amounts described in division (A)(6)(a) or (b) of this section, but the amounts described in divisions (A)(6)(a) and (b) of this section shall each be reduced by the qualifying amount. 80914
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(a) The qualifying taxpayer's qualifying Ohio net operating loss carryforward; 80919
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(b) The Ohio net operating loss carryforward amount that the 80921

qualifying taxpayer used to compute the related deferred tax asset 80922
reflected on its books and records on the last day of its taxable 80923
year ending in 2004, adjusted for return to accrual, but this 80924
amount shall be reduced by the qualifying related valuation 80925
allowance amount. For the purposes of this section, the 80926
"qualifying related valuation allowance amount" is the amount of 80927
Ohio net operating loss reflected in the qualifying taxpayer's 80928
computation of the valuation allowance account, as shown on its 80929
books and records on the last day of its taxable year ending in 80930
2004, with respect to the deferred tax asset relating to its Ohio 80931
net operating loss carryforward amount. 80932

(7) "Other net deferred tax items apportioned to this state" 80933
is the product of (a) the amount of net deferred tax items and (b) 80934
the fraction described in division (B)(2) of section 5733.05 for 80935
the qualifying taxpayer's franchise tax year 2005. 80936

(8)(a) Subject to divisions (A)(8)(b) to (d) of this section, 80937
the "amount of other net deferred tax items" is the difference 80938
between (i) the qualifying taxpayer's deductible temporary 80939
differences, net of related valuation allowance amounts, shown on 80940
the qualifying taxpayer's books and records on the last day of its 80941
taxable year ending in 2004, and (ii) the qualifying taxpayer's 80942
taxable temporary differences as shown on those books and records 80943
on that date. The amount of other net deferred tax items may be 80944
less than zero. 80945

(b) For the purposes of computing the amount of the 80946
qualifying taxpayer's other net deferred tax items described in 80947
division (A)(8)(a) of this section, any credit carryforward 80948
allowed under Chapter 5733. of the Revised Code shall be excluded 80949
from the amount of deductible temporary differences to the extent 80950
such credit carryforward amount, net of any related valuation 80951
allowance amount, is otherwise included in the qualifying 80952
taxpayer's deductible temporary differences, net of related 80953

valuation allowance amounts, shown on the qualifying taxpayer's 80954
books and records on the last day of the qualifying taxpayer's 80955
taxable year ending in 2004. 80956

(c) No portion of the disallowed Ohio net operating loss 80957
carryforward shall be included in the computation of the amount of 80958
the qualifying taxpayer's net deferred tax items described in 80959
division (A)(8)(a) of this section. 80960

(d) In no event shall the amount of other net deferred tax 80961
items exceed twenty-five per cent of the qualifying Ohio net 80962
operating loss carryforward. 80963

(9) "Amortizable amount" means: 80964

(a) If the qualifying taxpayer's other net deferred tax items 80965
apportioned to this state is equal to or greater than zero, eight 80966
per cent of the sum of the qualifying taxpayer's disallowed Ohio 80967
net operating loss carryforward and the qualifying taxpayer's 80968
other net deferred tax items apportioned to this state; 80969

(b) If the amount of the qualifying taxpayer's other net 80970
deferred tax items apportioned to this state is less than zero and 80971
if the absolute value of the amount of qualifying taxpayer's other 80972
net deferred tax items apportioned to this state is less than the 80973
qualifying taxpayer's disallowed net operating loss, eight per 80974
cent of the difference between the qualifying taxpayer's 80975
disallowed net operating loss carryforward and the absolute value 80976
of the qualifying taxpayer's other net deferred tax items 80977
apportioned to this state; 80978

(c) If the amount of the qualifying taxpayer's other net 80979
deferred tax items apportioned to this state is less than zero and 80980
if the absolute value of the amount of qualifying taxpayer's other 80981
net deferred tax items apportioned to this state is equal to or 80982
greater than the qualifying taxpayer's disallowed net operating 80983
loss, zero. 80984

(10) "Books and records" means the qualifying taxpayer's books, records, and all other information, all of which the qualifying taxpayer maintains and uses to prepare and issue its financial statements in accordance with generally accepted accounting principles. 80985
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(11)(a) Except as modified by division (A)(11)(b) of this section, "qualifying amount" means fifty million dollars per person. 80990
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(b) If for franchise tax year 2005 the person was a member of a combined franchise tax report, as provided by section 5733.052 of the Revised Code, the "qualifying amount" is, in the aggregate, fifty million dollars for all members of that combined franchise tax report, and for purposes of divisions (A)(6)(a) and (b) of this section, those members shall allocate to each member any portion of the fifty million dollar amount. The total amount allocated to the members who are qualifying taxpayers shall equal fifty million dollars. 80993
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(B) For each calendar period beginning prior to January 1, 2030, there is hereby allowed a nonrefundable tax credit against the tax levied each year by this chapter on each qualifying taxpayer, on each consolidated elected taxpayer having one or more qualifying taxpayers as a member, and on each combined taxpayer having one or more qualifying taxpayers as a member. The credit shall be claimed in the order specified in section 5751.98 of the Revised Code and is allowed only to reduce the first one-half of any tax remaining after allowance of the credits that precede it in section 5751.98 of the Revised Code. No credit under division (B) of this section shall be allowed against the second one-half of such remaining tax. 81002
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Except as otherwise limited by divisions (C) and (D) of this section, the maximum amount of the nonrefundable credit that may 81014
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<u>be used against the first one-half of the remaining tax for each</u>	81016
<u>calendar year is as follows:</u>	81017
<u>(1) For calendar year 2010, ten per cent of the amortizable</u>	81018
<u>amount;</u>	81019
<u>(2) For calendar year 2011, twenty per cent of the</u>	81020
<u>amortizable amount, less all amounts previously used;</u>	81021
<u>(3) For calendar year 2012, thirty per cent of the</u>	81022
<u>amortizable amount, less all amounts previously used;</u>	81023
<u>(4) For calendar year 2013, forty per cent of the amortizable</u>	81024
<u>amount, less all amounts previously used;</u>	81025
<u>(5) For calendar year 2014, fifty per cent of the amortizable</u>	81026
<u>amount, less all amounts previously used;</u>	81027
<u>(6) For calendar year 2015, sixty per cent of the amortizable</u>	81028
<u>amount, less all amounts previously used;</u>	81029
<u>(7) For calendar year 2016, seventy per cent of the</u>	81030
<u>amortizable amount, less all amounts previously used;</u>	81031
<u>(8) For calendar year 2017, eighty per cent of the</u>	81032
<u>amortizable amount, less all amounts previously used;</u>	81033
<u>(9) For calendar year 2018, ninety per cent of the</u>	81034
<u>amortizable amount, less all amounts previously used;</u>	81035
<u>(10) For each of calendar years 2019 through 2029, one</u>	81036
<u>hundred per cent of the amortizable amount, less all amounts used</u>	81037
<u>in all previous years.</u>	81038
<u>In no event shall the cumulative credit used for calendar</u>	81039
<u>years 2010 through 2029 exceed one hundred per cent of the</u>	81040
<u>amortizable amount.</u>	81041
<u>(C)(1) Except as otherwise set forth in division (C)(2) of</u>	81042
<u>this section, a refundable credit is allowed in calendar year 2030</u>	81043
<u>for any portion of the qualifying taxpayer's amortizable amount</u>	81044

that is not used in accordance with division (B) of this section 81045
against the tax levied by this chapter on all taxpayers. 81046

(2) Division (C)(1) of this section shall not apply and no 81047
refundable credit shall be available to any person if during any 81048
portion of the calendar year 2030 the person is not subject to the 81049
tax imposed by this chapter. 81050

(D) Not later than June 30, 2006, each qualifying taxpayer, 81051
consolidated elected taxpayer, or combined taxpayer that will 81052
claim for any commercial activity tax year the credit allowed in 81053
divisions (B) and (C) of this section shall file with the tax 81054
commissioner a report setting forth the amortizable amount 81055
available to such taxpayer and all other related information that 81056
the commissioner, by rule, requires. If the taxpayer does not 81057
timely file the report or fails to provide timely all information 81058
required by this division, the taxpayer is precluded from claiming 81059
any credit amounts described in divisions (B) and (C) of this 81060
section. 81061

(E) For the purpose of calculating the amortizable amount, if 81062
the tax commissioner ascertains that any portion of that amount is 81063
the result of a sham transaction as described in section 5703.56 81064
of the Revised Code, the commissioner shall reduce the amortizable 81065
amount by two times the adjustment. 81066

(F) If one entity transfers all or a portion of its assets 81067
and equity to another entity as part of an entity organization or 81068
reorganization or subsequent entity organization or reorganization 81069
for which no gain or loss is recognized in whole or in part for 81070
federal income tax purposes under the Internal Revenue Code, the 81071
credits allowed by this section shall be computed in a manner 81072
consistent with that used to compute the portion, if any, of 81073
federal net operating losses allowed to the respective entities 81074
under the Internal Revenue Code. The tax commissioner may 81075

prescribe forms or rules for making the computations required by 81076
this division. 81077

(G)(1) Except as provided in division (F) of this section, no 81078
person shall pledge, collateralize, hypothecate, assign, convey, 81079
sell, exchange, or otherwise dispose of any or all tax credits, or 81080
any portion of any or all tax credits allowed under this section. 81081

(2) No credit allowed under this section is subject to 81082
execution, attachment, lien, levy, or other judicial proceeding. 81083

(H)(1)(a) Except as set forth in division (H)(1)(b) of this 81084
section and notwithstanding division (I)(1) of section 5733.04 of 81085
the Revised Code to the contrary, each person timely and fully 81086
complying with the reporting requirements set forth in division 81087
(E) of this section shall not claim, and shall not be entitled to 81088
claim, any deduction or adjustment for any Ohio net operating loss 81089
carried forward to any one or more franchise tax years after 81090
franchise tax year 2005. 81091

(b) Division (H)(1)(a) of this section applies only to the 81092
portion of the Ohio net operating loss represented by the 81093
disallowed Ohio net operating loss carryforward. 81094

(2) Notwithstanding division (I) of section 5733.04 of the 81095
Revised Code to the contrary, with respect to all franchise tax 81096
years after franchise tax year 2005, each person timely and fully 81097
complying with the reporting requirements set forth in division 81098
(D) of this section shall not claim, and shall not be entitled to 81099
claim, any deduction, exclusion, or adjustment with respect to 81100
deductible temporary differences reflected on the person's books 81101
and records on the last day of its taxable year ending in 2004. 81102

(3)(a) Except as set forth in division (H)(3)(b) of this 81103
section and notwithstanding division (I) of section 5733.04 of the 81104
Revised Code to the contrary, with respect to all franchise tax 81105
years after franchise tax year 2005, each person timely and fully 81106

complying with the reporting requirements set forth in division 81107
(D) of this section shall exclude from Ohio net income all taxable 81108
temporary differences reflected on the person's books and records 81109
on the last day of its taxable year ending in 2004. 81110

(b) In no event shall the exclusion provided by division 81111
(H)(3)(a) of this section for any franchise tax year exceed the 81112
amount of the taxable temporary differences otherwise included in 81113
Ohio net income for that year. 81114

(4) Divisions (H)(2) and (3) of this section shall apply only 81115
to the extent such items were used in the calculations of the 81116
credit provided by this section. 81117

Sec. 5751.98. (A) To provide a uniform procedure for 81118
calculating the amount of tax due under this chapter, a taxpayer 81119
shall claim any credits to which it is entitled in the following 81120
order: 81121

(1) The nonrefundable jobs retention credit under division 81122
(B) of section 5751.50 of the Revised Code; 81123

(2) The nonrefundable credit for qualified research expenses 81124
under division (B) of section 5751.51 of the Revised Code; 81125

(3) The nonrefundable credit for a borrower's qualified 81126
research and development loan payments under division (B) of 81127
section 5751.52 of the Revised Code; 81128

(4) The nonrefundable credit for calendar years 2010 to 2029 81129
for unused net operating losses under division (B) of section 81130
5751.53 of the Revised Code; 81131

(5) The refundable credit for calendar year 2030 for unused 81132
net operating losses under division (C) of section 5751.53 of the 81133
Revised Code; 81134

(6) The refundable jobs creation credit under division (A) of 81135

section 5751.50 of the Revised Code. 81136

(B) For any credit except the credit enumerated in division (A)(4) of this section, the amount of the credit for a tax period shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating the credit. 81137
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Sec. 5751.99. (A) Whoever files a fraudulent refund claim under section 5751.08 of the Revised Code shall be fined the greater of not more than one thousand dollars or the amount of the fraudulent refund requested or imprisoned not more than sixty days, or both. 81143
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(B) Except as provided in this section, whoever violates any section of this chapter, or any rule adopted by the tax commissioner under this chapter, shall be fined not more than five hundred dollars or imprisoned not more than thirty days, or both. 81148
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(C) The penalties provided in this section are in addition to any penalties imposed by the tax commissioner under section 5751.06 of the Revised Code. 81152
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Sec. 5907.15. There is hereby created in the state treasury the Ohio veterans' homes rental, service, and medicare reimbursement fund. Revenue generated from temporary use agreements of a veterans' home, from the sale of meals at a home's dining halls, from rental, lease, or sharing agreements for the use of facilities, supplies, equipment, utilities, or services provided by a home, and from medicare reimbursements shall be credited to the fund. The fund shall be used only for maintenance costs of the homes and for the purchase of medications, medication services, medical supplies, and medical equipment by the homes. 81155
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Sec. 5919.31. (A) If an active duty member of the Ohio national guard chooses to purchase life insurance pursuant to the "Servicemembers' Group Life Insurance Act," 79 Stat. 880 et seq. (1965), 38 U.S.C. 1965 et seq., the adjutant general shall reimburse the member in an amount equal to the monthly premium paid for each month or part of a month by the member pursuant to the act while being an active duty member. 81165
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(B) The adjutant general may request additional money from the controlling board if the adjutant general does not have sufficient available unencumbered funds to reimburse active duty members for life insurance premiums pursuant to this section. 81172
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(C) The adjutant general may prescribe and enforce regulations to implement the requirements of this section. In prescribing and enforcing those regulations, the adjutant general need not comply with section 111.15 or Chapter 119. of the Revised Code. 81176
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(D) As used in this section, "active duty member" means a member of the Ohio national guard on active duty pursuant to an executive order of the president of the United States, the "Act of October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as amended, another act of the congress of the United States, or a proclamation of the governor. 81181
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~~Sec. 5919.33. Upon certification of availability of funds by the director of budget and management, the~~ (A) The adjutant general shall pay a death benefit of ~~twenty one hundred~~ one hundred thousand dollars from the appropriations ~~for operating expenses made for the purpose~~ to the beneficiary or beneficiaries of any active duty member of the Ohio national guard who dies while performing ~~state~~ active duty ~~under orders issued by the adjutant general on behalf of the governor~~, if the beneficiary or beneficiaries has or have 81187
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been so designated in a written statement as prescribed by the 81195
adjutant general. 81196

(C) As used in this section, "active duty member" means a 81197
member of the Ohio national guard on active duty pursuant to an 81198
executive order of the president of the United States, the "Act of 81199
October 28, 2004," 118 Stat. 1878, 32 U.S.C. 901 to 908, as 81200
amended, another act of the congress of the United States, or a 81201
proclamation of the governor. 81202

Sec. 5919.341. There is hereby created in the state treasury 81203
the national guard scholarship reserve fund. Not later than the 81204
first day of July of each fiscal year, the Ohio board of regents 81205
shall certify to the director of budget and management the 81206
unencumbered balance of the general revenue fund appropriations 81207
made in the immediately preceding fiscal year for purposes of the 81208
Ohio national guard scholarship program created under division (B) 81209
of section 5919.34 of the Revised Code. Upon receipt of the 81210
certification, the director may transfer an amount not exceeding 81211
the certified amount from the general revenue fund to the national 81212
guard scholarship reserve fund. Moneys in the national guard 81213
scholarship reserve fund shall be used to pay scholarship 81214
obligations in excess of the general revenue fund appropriations 81215
made for that purpose. Upon request of the adjutant general, the 81216
Ohio board of regents shall seek controlling board approval to 81217
establish appropriations as necessary. 81218

The director may transfer any unencumbered balance from the 81219
national guard scholarship reserve fund to the general revenue 81220
fund. 81221

Sec. 5920.01. (A) The governor shall organize and maintain 81222
within this state on a cadre or reserve basis military forces 81223
capable of being expanded and trained to defend this state 81224

whenever the Ohio national guard, or a part thereof, is employed 81225
so as to leave this state without adequate defense. In case of an 81226
emergency proclaimed by the president, or the Congress of the 81227
United States, or the governor, or caused by enemy action or 81228
imminent danger thereof, the governor, as commander in chief, 81229
shall expand such forces as the exigency of the occasion requires. 81230
Such forces shall be organized and maintained under regulations 81231
which shall not be inconsistent with such regulations as the 81232
secretary of defense prescribes for discipline and training and 81233
shall be composed of officers commissioned and assigned, and such 81234
able-bodied citizens of the state as are accepted therein. Such 81235
forces shall be equipped with suitable uniforms not in violation 81236
of federal laws or contrary to the regulations of the secretary of 81237
defense. Such forces shall be known as the Ohio military reserve. 81238
During the period of organization on a cadre or reserve basis the 81239
commander in chief may fix lesser rates of pay for armory drill 81240
purposes or for service in encampments and maneuvers. In the event 81241
that the regulations of the department of defense are modified so 81242
as to recognize the Ohio military reserve as a part of the Ohio 81243
national guard not subject to induction into federal service, the 81244
laws pertaining to the Ohio national guard shall apply to the Ohio 81245
military reserve and it shall be known as a component of the Ohio 81246
national guard. 81247

(B) The commander of the Ohio military reserve shall report 81248
all expenditures and the use of all funds by the Ohio military 81249
reserve to the general assembly. The commander annually shall 81250
deliver the report, in writing, within three months of the end of 81251
the state fiscal year. 81252

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) 81253
of this section, on and after January 1, 1994, no person shall 81254
operate or maintain a public water system in this state without a 81255
license issued by the director of environmental protection. A 81256

person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, not later than January 31, 1994;

(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;

(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~2006~~ 2008, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an

initial license who is proposing to operate or maintain a new 81288
public water system after January 1, 1994, shall submit a fee that 81289
equals a prorated amount of the appropriate fee established under 81290
that division for the remainder of the licensing year. 81291

(B) Not later than thirty days after receiving a completed 81292
application and the appropriate license fee for an initial license 81293
under division (A) of this section, the director shall issue the 81294
license for the public water system. Not later than thirty days 81295
after receiving a completed application and the appropriate 81296
license fee for a license renewal under division (A) of this 81297
section, the director shall do one of the following: 81298

(1) Issue the license renewal for the public water system; 81299

(2) Issue the license renewal subject to terms and conditions 81300
that the director determines are necessary to ensure compliance 81301
with this chapter and rules adopted under it; 81302

(3) Deny the license renewal if the director finds that the 81303
public water system was not operated in substantial compliance 81304
with this chapter and rules adopted under it. 81305

(C) The director may suspend or revoke a license or license 81306
renewal issued under this section if the director finds that the 81307
public water system was not operated in substantial compliance 81308
with this chapter and rules adopted under it. The director shall 81309
adopt, and may amend and rescind, rules in accordance with Chapter 81310
119. of the Revised Code governing such suspensions and 81311
revocations. 81312

(D)(1) As used in division (D) of this section, "church" 81313
means a fellowship of believers, congregation, society, 81314
corporation, convention, or association that is formed primarily 81315
or exclusively for religious purposes and that is not formed or 81316
operated for the private profit of any person. 81317

(2) This section does not apply to a church that operates or 81318

maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

Sec. 6111.30. (A) Applications for a section 401 water quality certification required under division (P) of section 6111.03 of the Revised Code shall be submitted on forms provided by the director of environmental protection and shall include all information required on those forms as well as all of the following:

(1) A copy of a letter from the United States army corps of engineers documenting its jurisdiction over the wetlands, streams, or other waters of the state that are the subject of the section 401 water quality certification application;

(2) If the project involves impacts to a wetland, a wetland characterization analysis consistent with the Ohio rapid assessment method;

(3) If the project involves a stream for which a specific aquatic life use designation has not been made, a use attainability analysis;

(4) A specific and detailed mitigation proposal, including the location and proposed legal mechanism for protecting the property in perpetuity;

(5) Applicable fees;

<u>(6) Site photographs;</u>	81349
<u>(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat;</u>	81350 81351 81352 81353 81354
<u>(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project;</u>	81355 81356 81357 81358
<u>(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project;</u>	81359 81360 81361
<u>(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project.</u>	81362 81363 81364
<u>(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized list of the information or materials that are necessary to complete the application. If the applicant fails to provide the information or materials within sixty days after the director's receipt of the application, the director may return the incomplete application to the applicant and take no further action on the application. If the application is withdrawn or returned to the</u>	81365 81366 81367 81368 81369 81370 81371 81372 81373 81374 81375 81376 81377 81378 81379

applicant because it is incomplete, the director shall return the 81380
review fee levied under division (A)(1), (2), or (3) of section 81381
3745.114 of the Revised Code to the applicant, but shall retain 81382
the application fee levied under that section. 81383

The time period specified in division (G) of this section 81384
does not apply until the application is determined to be complete 81385
by the director. Determining that an application is complete does 81386
not constitute a technical review or approval of the application. 81387

(C) Not later than twenty-one days after a determination that 81388
an application is complete under division (B) of this section, the 81389
applicant shall publish public notice of the director's receipt of 81390
the complete application in a newspaper of general circulation in 81391
the county in which the project that is the subject of the 81392
application is located. The public notice shall be in a form 81393
acceptable to the director. The applicant shall promptly provide 81394
the director with proof of publication. The applicant may choose, 81395
subject to review by and approval of the director, to include in 81396
the public notice an advertisement for an antidegradation public 81397
hearing on the application pursuant to section 6111.12 of the 81398
Revised Code. There shall be a public comment period of thirty 81399
days following the publication of the public notice. 81400

(D) If the director determines that there is significant 81401
public interest in a public hearing as evidenced by the public 81402
comments received concerning the application and by other requests 81403
for a public hearing on the application, the director or the 81404
director's representative shall conduct a public hearing 81405
concerning the application. Notice of the public hearing shall be 81406
published by the applicant, subject to review and approval by the 81407
director, at least thirty days prior to the date of the hearing in 81408
a newspaper of general circulation in the county in which the 81409
project that is the subject of the application is to take place. 81410
If a public hearing is requested concerning an application, the 81411

director shall accept comments concerning the application until 81412
five business days after the public hearing. A public hearing 81413
conducted under this division shall take place not later than one 81414
hundred days after the application is determined to be complete. 81415

(E) The director shall forward all public comments concerning 81416
an application submitted under this section that are received 81417
through the public involvement process required by rules adopted 81418
under this chapter to the applicant not later than five business 81419
days after receipt of the comments by the director. 81420

(F) The applicant shall respond in writing to written 81421
comments or to deficiencies identified by the director during the 81422
course of reviewing the application not later than fifteen days 81423
after receiving or being notified of them. 81424

(G) The director shall issue or deny a section 401 water 81425
quality certification not later than one hundred fifty days after 81426
the application for the certification is received. The director 81427
shall provide an applicant for a section 401 water quality 81428
certification with an opportunity to review the certification 81429
prior to its issuance. 81430

(H) The director shall maintain an accessible database that 81431
includes environmentally beneficial water restoration and 81432
protection projects that may serve as potential mitigation 81433
projects for projects in the state for which a section 401 water 81434
quality certification is required. A project's inclusion in the 81435
database does not constitute an approval of the project. 81436

(I) As used in this section and sections 6111.31 and 6111.32 81437
of the Revised Code, "section 401 water quality certification" 81438
means certification pursuant to section 401 of the Federal Water 81439
Pollution Control Act and this chapter and rules adopted under it 81440
that any discharge, as set forth in section 401, will comply with 81441
sections 301, 302, 303, 306, and 307 of the Federal Water 81442

Pollution Control Act. 81443

Sec. 6111.31. All substantive wetland, stream, or lake mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used in a uniform manner by the director of environmental protection in evaluating the adequacy of a mitigation proposal contained in an application for a section 401 water quality certification shall be adopted and reviewed in accordance with sections 119.03 and 119.032 of the Revised Code before those standards, criteria, or scientific methods have the force of law. Until that time, any such mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used by or approved for use by the director to evaluate, measure, or determine the success, approval, or denial of a mitigation proposal, but that have not been subject to review under sections 119.03 and 119.032 or the Revised Code shall not be used as the basis for any certification or permit denial or as a standard applied to mitigation unless the applicant has been notified in advance that additional mitigation standards, criteria, scientific methods, processes, or procedures will be considered as part of the review process. 81444
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Sec. 6111.32. (A) Mitigation for wetland or stream impacts for which a section 401 water quality certification has been issued under section 6111.30 of the Revised Code shall be conducted by the applicant for the certification in accordance with the following requirements: 81463
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(1) For impacts to one acre or less of category 1 or category 2 wetlands, the applicant shall conduct mitigation within the same United States army corps of engineers district as the impacts. 81468
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(2) For all other wetland or stream impacts, mitigation shall occur in the following preferred order: 81471
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<u>(a) On-site mitigation, provided that it is practicable and, if applicable, will provide wetland functions and values;</u>	81473
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<u>(b) Mitigation within the eight-digit United States geological survey watershed or within the service area of a mitigation bank approved by a mitigation bank review team appointed by the director of environmental protection;</u>	81475
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<u>(c) Mitigation in an adjacent eight-digit United States geological survey watershed;</u>	81479
	81480
<u>(d) Mitigation within the same United States army corps of engineers district as the impacts.</u>	81481
	81482
<u>(B) As used in this section, "category 1 wetland" and "category 2 wetland" have the same meanings as in section 6111.02 of the Revised Code.</u>	81483
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Sec. 6121.04. The Ohio water development authority may do any or all of the following:	81486
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(A) Adopt bylaws for the regulation of its affairs and the conduct of its business;	81488
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(B) Adopt an official seal;	81490
(C) Maintain a principal office and suboffices at places within the state that it designates;	81491
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(D) Sue and plead in its own name and be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6121.06, 6121.08, and 6121.13 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located or in the court of common pleas of the county in which the cause of action arose, provided that the county is	81493
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located within this state, and all summonses, exceptions, and 81502
notices of every kind shall be served on the authority by leaving 81503
a copy thereof at the principal office with the person in charge 81504
thereof or with the secretary-treasurer of the authority. 81505

(E) Make loans and grants to governmental agencies for the 81506
acquisition or construction of water development projects by any 81507
such governmental agency and adopt rules and procedures for making 81508
such loans and grants; 81509

(F) Acquire, construct, reconstruct, enlarge, improve, 81510
furnish, equip, maintain, repair, operate, or lease or rent to, or 81511
contract for operation by, a governmental agency or person, water 81512
development projects, and establish rules for the use of those 81513
projects; 81514

(G) Make available the use or services of any water 81515
development project to one or more persons, one or more 81516
governmental agencies, or any combination thereof; 81517

(H) Issue water development revenue bonds and notes and water 81518
development revenue refunding bonds of the state, payable solely 81519
from revenues as provided in section 6121.06 of the Revised Code, 81520
unless the bonds are refunded by refunding bonds, for the purpose 81521
of paying any part of the cost of one or more water development 81522
projects or parts thereof; 81523

(I) Acquire by gift or purchase, hold, and dispose of real 81524
and personal property in the exercise of its powers and the 81525
performance of its duties under this chapter; 81526

(J) Acquire, in the name of the state, by purchase or 81527
otherwise, on terms and in the manner that it considers proper, or 81528
by the exercise of the right of condemnation in the manner 81529
provided by section 6121.18 of the Revised Code, public or private 81530
lands, including public parks, playgrounds, or reservations, or 81531
parts thereof or rights therein, rights-of-way, property, rights, 81532

easements, and interests that it considers necessary for carrying 81533
out this chapter, but excluding the acquisition by the exercise of 81534
the right of condemnation of any waste water facility or water 81535
management facility owned by any person or governmental agency, 81536
and compensation shall be paid for public or private lands so 81537
taken, except that a government-owned waste water facility may be 81538
appropriated in accordance with section 6121.041 of the Revised 81539
Code; 81540

(K) Adopt rules to protect augmented flow in waters of the 81541
state, to the extent augmented by a water development project, 81542
from depletion so it will be available for beneficial use, and to 81543
provide standards for the withdrawal from waters of the state of 81544
the augmented flow created by a water development project that is 81545
not returned to the waters of the state so augmented and to 81546
establish reasonable charges therefor if considered necessary by 81547
the authority; 81548

(L) Make and enter into all contracts and agreements and 81549
execute all instruments necessary or incidental to the performance 81550
of its duties and the execution of its powers under this chapter 81551
in accordance with the following requirements: 81552

(1) When the cost under any such contract or agreement, other 81553
than compensation for personal services, involves an expenditure 81554
of more than ~~ten~~ twenty-five thousand dollars, the authority shall 81555
make a written contract with the lowest responsive and responsible 81556
bidder, in accordance with section 9.312 of the Revised Code, 81557
after advertisement for not less than two consecutive weeks in a 81558
newspaper of general circulation in Franklin county, and in other 81559
publications that the authority determines, which shall state the 81560
general character of the work and the general character of the 81561
materials to be furnished, the place where plans and 81562
specifications therefor may be examined, and the time and place of 81563
receiving bids, provided that a contract or lease for the 81564

operation of a water development project constructed and owned by 81565
the authority or an agreement for cooperation in the acquisition 81566
or construction of a water development project pursuant to section 81567
6121.13 of the Revised Code or any contract for the construction 81568
of a water development project that is to be leased by the 81569
authority to, and operated by, persons who are not governmental 81570
agencies and the cost of the project is to be amortized 81571
exclusively from rentals or other charges paid to the authority by 81572
persons who are not governmental agencies is not subject to the 81573
foregoing requirements and the authority may enter into such a 81574
contract or lease or such an agreement pursuant to negotiation and 81575
upon terms and conditions and for the period that it finds to be 81576
reasonable and proper in the circumstances and in the best 81577
interests of proper operation or of efficient acquisition or 81578
construction of the project. 81579

(2) Each bid for a contract for the construction, demolition, 81580
alteration, repair, or reconstruction of an improvement shall 81581
contain the full name of every person interested in it and shall 81582
meet the requirements of section 153.54 of the Revised Code. 81583

(3) Each bid for a contract except as provided in division 81584
(L)(2) of this section shall contain the full name of every person 81585
or company interested in it and shall be accompanied by a 81586
sufficient bond or certified check on a solvent bank that if the 81587
bid is accepted, a contract will be entered into and the 81588
performance thereof secured. 81589

(4) The authority may reject any and all bids. 81590

(5) A bond with good and sufficient surety, approved by the 81591
authority, shall be required of every contractor awarded a 81592
contract except as provided in division (L)(2) of this section, in 81593
an amount equal to at least fifty per cent of the contract price, 81594
conditioned upon the faithful performance of the contract. 81595

(M) Employ managers, superintendents, and other employees and 81596
retain or contract with consulting engineers, financial 81597
consultants, accounting experts, architects, attorneys, and other 81598
consultants and independent contractors that are necessary in its 81599
judgment to carry out this chapter, and fix the compensation 81600
thereof. All expenses thereof shall be payable solely from the 81601
proceeds of water development revenue bonds or notes issued under 81602
this chapter, from revenues, or from funds appropriated for that 81603
purpose by the general assembly. 81604

(N) Receive and accept from any federal agency, subject to 81605
the approval of the governor, grants for or in aid of the 81606
construction of any water development project or for research and 81607
development with respect to waste water or water management 81608
facilities, and receive and accept aid or contributions from any 81609
source of money, property, labor, or other things of value, to be 81610
held, used, and applied only for the purposes for which the grants 81611
and contributions are made; 81612

(O) Engage in research and development with respect to waste 81613
water or water management facilities; 81614

(P) Purchase fire and extended coverage and liability 81615
insurance for any water development project and for the principal 81616
office and suboffices of the authority, insurance protecting the 81617
authority and its officers and employees against liability for 81618
damage to property or injury to or death of persons arising from 81619
its operations, and any other insurance the authority may agree to 81620
provide under any resolution authorizing its water development 81621
revenue bonds or in any trust agreement securing the same; 81622

(Q) Charge, alter, and collect rentals and other charges for 81623
the use or services of any water development project as provided 81624
in section 6121.13 of the Revised Code; 81625

(R) Provide coverage for its employees under Chapters 145., 81626

4123., and 4141. of the Revised Code; 81627

(S) Assist in the implementation and administration of the 81628
drinking water assistance fund and program created in section 81629
6109.22 of the Revised Code and the water pollution control loan 81630
fund and program created in section 6111.036 of the Revised Code, 81631
including, without limitation, performing or providing fiscal 81632
management for the funds and investing and disbursing moneys in 81633
the funds, and enter into all necessary and appropriate agreements 81634
with the director of environmental protection for those purposes; 81635

(T) Issue water development revenue bonds and notes of the 81636
state in principal amounts that are necessary for the purpose of 81637
raising moneys for the sole benefit of the water pollution control 81638
loan fund created in section 6111.036 of the Revised Code, 81639
including moneys to meet the requirement for providing matching 81640
moneys under division (D) of that section. The bonds and notes may 81641
be secured by appropriate trust agreements and repaid from moneys 81642
credited to the fund from payments of principal and interest on 81643
loans made from the fund, as provided in division (F) of section 81644
6111.036 of the Revised Code. 81645

(U) Issue water development revenue bonds and notes of the 81646
state in principal amounts that are necessary for the purpose of 81647
raising moneys for the sole benefit of the drinking water 81648
assistance fund created in section 6109.22 of the Revised Code, 81649
including moneys to meet the requirement for providing matching 81650
moneys under divisions (B) and (F) of that section. The bonds and 81651
notes may be secured by appropriate trust agreements and repaid 81652
from moneys credited to the fund from payments of principal and 81653
interest on loans made from the fund, as provided in division (F) 81654
of section 6109.22 of the Revised Code. 81655

(V) Make loans to and enter into agreements with boards of 81656
county commissioners for the purposes of section 1521.26 of the 81657

Revised Code and adopt rules establishing requirements and 81658
procedures for making the loans and entering into the agreements; 81659

(W) Do all acts necessary or proper to carry out the powers 81660
expressly granted in this chapter. 81661

Any instrument by which real property is acquired pursuant to 81662
this section shall identify the agency of the state that has the 81663
use and benefit of the real property as specified in section 81664
5301.012 of the Revised Code. 81665

"Sec. 6111.30. (A) Applications for a section 401 water 81666
quality certification required under division (P) of section 81667
6111.03 of the Revised Code shall be submitted on forms provided 81668
by the director of environmental protection and shall include all 81669
information required on those forms as well as all of the 81670
following: 81671

(1) A copy of a letter from the United States army corps of 81672
engineers documenting its jurisdiction over the wetlands, streams, 81673
or other waters of the state that are the subject of the section 81674
401 water quality certification application; 81675

(2) If the project involves impacts to a wetland, a wetland 81676
characterization analysis consistent with the Ohio rapid 81677
assessment method; 81678

(3) If the project involves a stream for which a specific 81679
aquatic life use designation has not been made, a use 81680
attainability analysis; 81681

(4) A specific and detailed mitigation proposal, including 81682
the location and proposed legal mechanism for protecting the 81683
property in perpetuity; 81684

(5) Applicable fees; 81685

(6) Site photographs; 81686

(7) Adequate documentation confirming that the applicant has requested comments from the department of natural resources and the United States fish and wildlife service regarding threatened and endangered species, including the presence or absence of critical habitat; 81687
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(8) Descriptions, schematics, and appropriate economic information concerning the applicant's preferred alternative, nondegradation alternatives, and minimum degradation alternatives for the design and operation of the project; 81692
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(9) The applicant's investigation report of the waters of the United States in support of a section 404 permit application concerning the project; 81696
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(10) A copy of the United States army corps of engineers' public notice regarding the section 404 permit application concerning the project. 81699
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(B) Not later than fifteen business days after the receipt of an application for a section 401 water quality certification, the director shall review the application to determine if it is complete and shall notify the applicant in writing as to whether the application is complete. If the director fails to notify the applicant within fifteen business days regarding the completeness of the application, the application is considered complete. If the director determines that the application is not complete, the director shall include with the written notification an itemized list of the information or materials that are necessary to complete the application. If the applicant fails to provide the information or materials within sixty days after the director's receipt of the application, the director may return the incomplete application to the applicant and take no further action on the application. If the application is withdrawn or returned to the applicant because it is incomplete, the director shall return the 81702
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review fee levied under division (A)(1), (2), or (3) of section 81718
3745.114 of the Revised Code to the applicant, but shall retain 81719
the application fee levied under that section. 81720

The time period specified in division (G) of this section 81721
does not apply until the application is determined to be complete 81722
by the director. Determining that an application is complete does 81723
not constitute a technical review or approval of the application. 81724

(C) Not later than twenty-one days after a determination that 81725
an application is complete under division (B) of this section, the 81726
applicant shall publish public notice of the director's receipt of 81727
the complete application in a newspaper of general circulation in 81728
the county in which the project that is the subject of the 81729
application is located. The public notice shall be in a form 81730
acceptable to the director. The applicant shall promptly provide 81731
the director with proof of publication. The applicant may choose, 81732
subject to review by and approval of the director, to include in 81733
the public notice an advertisement for an antidegradation public 81734
hearing on the application pursuant to section 6111.12 of the 81735
Revised Code. There shall be a public comment period of thirty 81736
days following the publication of the public notice. 81737

(D) If the director determines that there is significant 81738
public interest in a public hearing as evidenced by the public 81739
comments received concerning the application and by other requests 81740
for a public hearing on the application, the director or the 81741
director's representative shall conduct a public hearing 81742
concerning the application. Notice of the public hearing shall be 81743
published by the applicant, subject to review and approval by the 81744
director, at least thirty days prior to the date of the hearing in 81745
a newspaper of general circulation in the county in which the 81746
project that is the subject of the application is to take place. 81747
If a public hearing is requested concerning an application, the 81748
director shall accept comments concerning the application until 81749

five business days after the public hearing. A public hearing 81750
conducted under this division shall take place not later than one 81751
hundred days after the application is determined to be complete. 81752

(E) The director shall forward all public comments concerning 81753
an application submitted under this section that are received 81754
through the public involvement process required by rules adopted 81755
under this chapter to the applicant not later than five business 81756
days after receipt of the comments by the director. 81757

(F) The applicant shall respond in writing to written 81758
comments or to deficiencies identified by the director during the 81759
course of reviewing the application not later than fifteen days 81760
after receiving or being notified of them. 81761

(G) The director shall issue or deny a section 401 water 81762
quality certification not later than one hundred fifty days after 81763
the application for the certification is received. The director 81764
shall provide an applicant for a section 401 water quality 81765
certification with an opportunity to review the certification 81766
prior to its issuance. 81767

(H) The director shall maintain an accessible database that 81768
includes environmentally beneficial water restoration and 81769
protection projects that may serve as potential mitigation 81770
projects for projects in the state for which a section 401 water 81771
quality certification is required. A project's inclusion in the 81772
database does not constitute an approval of the project. 81773

(I) As used in this section and sections 6111.31 and 6111.32 81774
of the Revised Code, "section 401 water quality certification" 81775
means certification pursuant to section 401 of the Federal Water 81776
Pollution Control Act and this chapter and rules adopted under it 81777
that any discharge, as set forth in section 401, will comply with 81778
sections 301, 302, 303, 306, and 307 of the Federal Water 81779
Pollution Control Act. 81780

Sec. 6111.31. All substantive wetland, stream, or lake mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used in a uniform manner by the director of environmental protection in evaluating the adequacy of a mitigation proposal contained in an application for a section 401 water quality certification shall be adopted and reviewed in accordance with sections 119.03 and 119.032 of the Revised Code before those standards, criteria, or scientific methods have the force of law. Until that time, any such mitigation standards, criteria, scientific methods, processes, or other procedures or policies that are used by or approved for use by the director to evaluate, measure, or determine the success, approval, or denial of a mitigation proposal, but that have not been subject to review under sections 119.03 and 119.032 or the Revised Code shall not be used as the basis for any certification or permit denial or as a standard applied to mitigation unless the applicant has been notified in advance that additional mitigation standards, criteria, scientific methods, processes, or procedures will be considered as part of the review process.

Sec. 6111.32. (A) Mitigation for wetland or stream impacts for which a section 401 water quality certification has been issued under section 6111.30 of the Revised Code shall be conducted by the applicant for the certification in accordance with the following requirements:

(1) For impacts to one acre or less of category 1 or category 2 wetlands, the applicant shall conduct mitigation within the same United States army corps of engineers district as the impacts.

(2) For all other wetland or stream impacts, mitigation shall occur in the following preferred order:

(a) On-site mitigation, provided that it is practicable and,

<u>if applicable, will provide wetland functions and values;</u>	81811
<u>(b) Mitigation within the eight-digit United States geological survey watershed or within the service area of a mitigation bank approved by a mitigation bank review team appointed by the director of environmental protection;</u>	81812
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<u>(c) Mitigation in an adjacent eight-digit United States geological survey watershed;</u>	81816
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<u>(d) Mitigation within the same United States army corps of engineers district as the impacts.</u>	81818
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<u>(B) As used in this section, "category 1 wetland" and "category 2 wetland" have the same meanings as in section 6111.02 of the Revised Code."</u>	81820
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Sec. 6123.04. For the purposes of this chapter, the Ohio water development authority may:	81823
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(A) Adopt bylaws for the regulation of its affairs and the conduct of its business under this chapter;	81825
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(B) Sue and plead in its own name; be sued and impleaded in its own name with respect to its contracts or torts of its members, employees, or agents acting within the scope of their employment, or to enforce its obligations and covenants made under sections 6123.06, 6123.08, and 6123.13 of the Revised Code. Any such actions against the authority shall be brought in the court of common pleas of the county in which the principal office of the authority is located, or in the court of common pleas of the county in which the cause of action arose, provided such county is located within this state, and all summonses, exceptions, and notices of every kind shall be served on the authority by leaving a copy thereof at the principal office with the person in charge thereof or with the secretary-treasurer of the authority.	81827
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(C) Make loans and grants to governmental agencies for the	81840

acquisition or construction of development projects by any such 81841
governmental agency and adopt rules and procedures for making such 81842
loans and grants; 81843

(D) Acquire, construct, reconstruct, enlarge, improve, 81844
furnish, equip, maintain, repair, operate, lease or rent to, or 81845
contract for operation by, a person or governmental agency, 81846
development projects, and establish rules for the use of such 81847
projects; 81848

(E) Make available the use or services of any development 81849
project to one or more persons, one or more governmental agencies, 81850
or any combination thereof; 81851

(F) Issue development revenue bonds and notes and development 81852
revenue refunding bonds of the state, payable solely from revenues 81853
as provided in section 6123.06 of the Revised Code, unless the 81854
bonds be refunded by refunding bonds, for the purpose of paying 81855
any part of the cost of one or more development projects or parts 81856
thereof; 81857

(G) Acquire by gift or purchase, hold, and dispose of real 81858
and personal property in the exercise of the powers of the 81859
authority and the performance of its duties under this chapter; 81860

(H) Acquire, in the name of the state, by purchase or 81861
otherwise, on such terms and in such manner as the authority 81862
determines proper, public or private lands, or parts thereof or 81863
rights therein, rights-of-way, property, rights, easements, and 81864
interests as it finds necessary for carrying out this chapter; and 81865
compensation shall be paid for public or private lands so taken; 81866

(I) Make and enter into all contracts and agreements and 81867
execute all instruments necessary or incidental to the performance 81868
of its duties and the execution of its powers under this chapter: 81869

(1) When the cost under any such contract or agreement, other 81870

than compensation for personal services, involves an expenditure 81871
of more than ~~two~~ twenty-five thousand dollars, the authority shall 81872
make a written contract with the lowest responsive and responsible 81873
bidder, in accordance with section 9.312 of the Revised Code, 81874
after advertisement for not less than two consecutive weeks in a 81875
newspaper of general circulation in Franklin county, and in such 81876
other publications as the authority determines, such notice shall 81877
state the general character of the work and materials to be 81878
furnished, the place where plans and specifications therefor may 81879
be examined, and the time and place of receiving bids. Provided, 81880
that a contract or lease for the operation of a development 81881
project constructed and owned by the authority or an agreement for 81882
cooperation in the acquisition or construction of a development 81883
project pursuant to section 6123.13 of the Revised Code or any 81884
contract for the construction of a development project that is to 81885
be leased by the authority to, and operated by, persons who are 81886
not governmental agencies and the cost of such project is to be 81887
amortized exclusively from rentals or other charges paid to the 81888
authority by persons who are not governmental agencies or by 81889
governmental agencies that receive the use or services of such 81890
project, including governmental agencies that are parties to an 81891
agreement for cooperation in the acquisition or construction of 81892
such development project pursuant to section 6123.13 of the 81893
Revised Code, is not subject to the foregoing requirements and the 81894
authority may enter into such contract or lease or such agreement 81895
pursuant to negotiation and upon such terms and conditions and for 81896
such period as it finds to be reasonable and proper in the 81897
circumstances and in the best interests of proper operation or of 81898
efficient acquisition or construction of such project. 81899

(2) Each bid for a contract for the construction, demolition, 81900
alteration, repair, or reconstruction of an improvement shall 81901
contain the full name of every person interested in it and who 81902

meets the requirements of section 153.54 of the Revised Code. 81903

(3) Each bid for a contract, except as provided in division 81904
(I)(2) of this section, shall contain the full name of every 81905
person or company interested in it and shall be accompanied by a 81906
sufficient bond or certified check on a solvent bank that if the 81907
bid is accepted a contract will be entered into and the 81908
performance thereof secured. 81909

(4) The authority may reject any and all bids. 81910

(5) A bond with good and sufficient surety, approved by the 81911
authority, shall be required of every contractor awarded a 81912
contract except as provided in division (I)(2) of this section, in 81913
an amount equal to at least fifty per cent of the contract price, 81914
conditioned upon the faithful performance of the contract. 81915

(J) Employ managers, superintendents, and other employees and 81916
retain or contract with consulting engineers, financial 81917
consultants, accounting experts, architects, attorneys, and such 81918
other consultants and independent contractors as are necessary in 81919
its judgment to carry out this chapter, and fix the compensation 81920
thereof. All expenses thereof shall be payable solely from the 81921
proceeds of development revenue bonds or notes issued under this 81922
chapter, from revenues, or from funds appropriated for such 81923
purpose by the general assembly. 81924

(K) Receive and accept from any federal agency, subject to 81925
the approval of the governor, grants for or in aid of the 81926
construction of any development project or for research and 81927
development with respect to solid waste facilities or energy 81928
resource development facilities, and receive and accept aid or 81929
contributions from any source of money, property, labor, or other 81930
things of value, to be held, used, and applied only for the 81931
purposes for which such grants and contributions are made; 81932

(L) Engage in research and development with respect to solid 81933

waste facilities or energy resource development facilities;	81934
(M) Purchase fire and extended coverage and liability insurance for any development project and for the principal office and sub-offices of the authority, insurance protecting the authority and its officers and employees against liability for damage to property or injury to or death of persons arising from its operations, and any other insurance the authority may agree to provide under any resolution authorizing its development revenue bonds or in any trust agreement securing the same;	81935 81936 81937 81938 81939 81940 81941 81942
(N) Charge, alter, and collect rentals and other charges for the use or services of any development project as provided in section 6123.13 of the Revised Code;	81943 81944 81945
(O) Provide coverage for its employees under Chapters 145., 4123., and 4141. of the Revised Code;	81946 81947
(P) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.	81948 81949
Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.	81950 81951 81952 81953
Section 101.02. That existing sections 9.24, 101.68, 102.02, 102.06, 105.41, 108.05, 109.54, 109.57, 109.60, 109.79, 109.91, 109.98, 117.10, 120.06, 120.13, 120.23, 120.52, 120.53, 121.37, 121.38, 122.011, 122.17, 122.171, 122.18, 122.40, 122.603, 122.71, 122.72, 122.73, 122.74, 122.75, 122.751, 122.76, 122.77, 122.78, 122.79, 122.82, 122.83, 122.95, 122.951, 123.01, 123.152, 123.17, 124.01, 124.02, 124.04, 124.07, 124.09, 124.11, 124.133, 124.14, 124.15, 124.20, 124.23, 124.231, 124.241, 124.25, 124.26, 124.27, 124.29, 124.30, 124.31, 124.311, 124.32, 124.321, 124.322, 124.323, 124.324, 124.325, 124.328, 124.33, 124.34, 125.041,	81954 81955 81956 81957 81958 81959 81960 81961 81962 81963

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5121.12, 5121.21, 5122.03, 5122.31, 5123.01, 5123.045, 5123.046, 82041
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5123.71, 5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 5126.055, 82043
5126.056, 5126.057, 5126.12, 5139.01, 5139.36, 5153.16, 5502.01, 82044
5531.10, 5540.01, 5540.09, 5552.01, 5703.052, 5703.053, 5703.26, 82045
5703.50, 5703.70, 5703.80, 5703.99, 5705.091, 5705.19, 5705.391, 82046
5711.21, 5711.22, 5711.28, 5715.01, 5715.24, 5725.01, 5725.19, 82047
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5727.12, 5727.23, 5727.47, 5727.81, 5727.82, 5727.84, 5727.85, 82049
5727.99, 5728.01, 5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 82050
5728.99, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 5731.18, 82051
5731.181, 5731.39, 5731.41, 5731.99, 5733.01, 5733.065, 5733.066, 82052
5733.33, 5733.351, 5733.352, 5733.40, 5733.41, 5733.49, 5733.98, 82053
5733.99, 5735.99, 5737.03, 5739.01, 5739.02, 5739.021, 5739.025, 82054
5739.026, 5739.03, 5739.033, 5739.034, 5739.035, 5739.09, 5739.10, 82055
5739.12, 5739.16, 5739.17, 5739.99, 5741.02, 5741.16, 5741.99, 82056
5743.01, 5743.02, 5743.03, 5743.05, 5743.071, 5743.08, 5743.10, 82057
5743.111, 5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 5743.19, 82058
5743.20, 5743.32, 5743.33, 5743.99, 5747.01, 5747.012, 5747.02, 82059

5747.05, 5747.08, 5747.212, 5747.331, 5747.70, 5747.80, 5747.98, 82060
 5747.99, 5749.02, 5907.15, 5919.33, 5920.01, 6109.21, 6121.04, and 82061
 6123.04 of the Revised Code are hereby repealed. Existing Section 82062
 41.36 of Am. Sub. H.B. 95 of the 125th General Assembly is hereby 82063
 repealed. 82064

Section 105.01. That sections 181.53, 339.77, 742.36, 82065
 1541.221, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 3301.37, 82066
 3301.38, 3301.80, 3301.85, 3301.87, 3311.40, 3317.012, 3317.0212, 82067
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 3901.784, 4115.16, 4519.06, 4519.07, 5101.751, 5101.753, 5101.754, 82070
 5111.041, 5111.205, 5111.24, 5111.262, 5111.34, 5115.10, 5115.11, 82071
 5115.12, 5115.13, 5115.14, 5123.041, 5123.048, 5731.20, 5733.122, 82072
 and 6111.028 of the Revised Code are hereby repealed. 82073

Section 200.01. Except as otherwise provided, all 82074
 appropriation items (AI) in this act are appropriated out of any 82075
 moneys in the state treasury to the credit of the designated fund 82076
 that are not otherwise appropriated. For all appropriations made 82077
 in this act, the amounts in the first column are for fiscal year 82078
 2006 and the amounts in the second column are for fiscal year 82079
 2007. 82080

FND AI	AI TITLE	APPROPRIATIONS	82081
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Section 203.03. ACC ACCOUNTANCY BOARD OF OHIO 82082

General Services Fund Group			82083
4J8 889-601	CPA Education	\$ 209,510 \$ 209,510	82084
	Assistance		
4K9 889-609	Operating Expenses	\$ 1,069,776 \$ 1,069,776	82085
TOTAL GSF General Services Fund			82086
Group		\$ 1,279,286 \$ 1,279,286	82087

Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated. 82114
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STATE EMPLOYEE HEALTH BENEFIT FUND 82117

The foregoing appropriation item 995-668, State Employee Health Benefit Fund, shall be used to make payments from the State Employee Health Benefit Fund (Fund 808), pursuant to section 124.87 of the Revised Code. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated. 82118
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Effective July 1, 2005, or as soon thereafter as possible, the Director of Budget and Management may transfer up to \$70,000 in cash from the General Revenue Fund to the State Employee Health Benefit Fund (Fund 808). The amount of the transfer shall not exceed the amount of cash transferred from the State Employee Health Benefit Fund to the Health Care Spending Account Fund (Fund 813) during fiscal year 2005. 82124
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DEPENDENT CARE SPENDING ACCOUNT 82131

The foregoing appropriation item 995-669, Dependent Care Spending Account, shall be used to make payments from the Dependent Care Spending Account (Fund 809) to employees eligible for dependent care expenses. If it is determined by the Director of Budget and Management that additional amounts are necessary, the amounts are appropriated. 82132
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LIFE INSURANCE INVESTMENT FUND 82138

The foregoing appropriation item 995-670, Life Insurance Investment Fund, shall be used to make payments from the Life Insurance Investment Fund (Fund 810) for the costs and expenses of the state's life insurance benefit program pursuant to section 125.212 of the Revised Code. If it is determined by the Director 82139
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of Budget and Management that additional amounts are necessary, 82144
the amounts are appropriated. 82145

PARENTAL LEAVE BENEFIT FUND 82146

The foregoing appropriation item 995-671, Parental Leave 82147
Benefit Fund, shall be used to make payments from the Parental 82148
Leave Benefit Fund (Fund 811) to employees eligible for parental 82149
leave benefits pursuant to section 124.137 of the Revised Code. If 82150
it is determined by the Director of Budget and Management that 82151
additional amounts are necessary, the amounts are appropriated. 82152

HEALTH CARE SPENDING ACCOUNT 82153

There is hereby established in the State Treasury the Health 82154
Care Spending Account Fund (Fund 813). The foregoing appropriation 82155
item 995-672, Health Care Spending Account, shall be used to make 82156
payments from the fund. The fund shall be under the supervision of 82157
the Department of Administrative Services and shall be used to 82158
make payments pursuant to state employees' participation in a 82159
flexible spending account for non-reimbursed health care expenses 82160
and pursuant to Section 125 of the Internal Revenue Code. All 82161
income derived from the investment of the fund shall accrue to the 82162
fund. If it is determined by the Director of Administrative 82163
Services that additional appropriation amounts are necessary, the 82164
Director of Administrative Services may request that the Director 82165
of Budget and Management increase such amounts. Such amounts are 82166
hereby appropriated. 82167

At the request of the Director of Administrative Services, 82168
the Director of Budget and Management shall transfer up to 82169
\$400,000 from the State Employee Health Benefit Fund (Fund 808) to 82170
the Health Care Spending Account Fund during fiscal years 2006 and 82171
2007. This cash shall be transferred as needed to provide adequate 82172
cash flow for the Health Care Spending Account Fund during fiscal 82173
year 2006 and fiscal year 2007. At the end of fiscal years 2006 82174

and 2007, the Director of Budget and Management shall transfer 82175
cash up to the amount previously transferred in the respective 82176
year back from the Health Care Spending Account (Fund 813) to the 82177
State Employee Health Benefit Fund (Fund 808). If funds are not 82178
available in the Health Care Spending Account Fund, the Director 82179
of Administrative Services may request, and the Director of Budget 82180
and Management may transfer, the balance of the funds needed from 82181
the General Revenue Fund. 82182

Section 203.09. ADJ ADJUTANT GENERAL 82183

General Revenue Fund 82184

GRF 745-401	Ohio Military Reserve	\$	15,188	\$	15,188	82185
GRF 745-404	Air National Guard	\$	1,939,762	\$	1,939,762	82186
GRF 745-407	National Guard	\$	1,400,000	\$	1,400,000	82187

Benefits

GRF 745-409	Central Administration	\$	3,899,590	\$	3,899,590	82188
GRF 745-499	Army National Guard	\$	4,086,222	\$	4,086,222	82189
GRF 745-502	Ohio National Guard	\$	102,973	\$	102,973	82190

Unit Fund

TOTAL GRF	General Revenue Fund	\$	11,443,735	\$	11,443,735	82191
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General Services Fund Group 82192

534 745-612	Armory Improvements	\$	534,304	\$	534,304	82193
536 745-620	Camp Perry/Buckeye Inn	\$	1,094,970	\$	1,094,970	82194

Operations

537 745-604	Ohio National Guard	\$	219,826	\$	219,826	82195
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Facility Maintenance

TOTAL GSF	General Services Fund	\$	1,849,100	\$	1,849,100	82196
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Group

Federal Special Revenue Fund Group 82197

3E8 745-628	Air National Guard	\$	12,174,760	\$	12,174,760	82198
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Agreement

3R8 745-603	Counter Drug	\$	25,000	\$	25,000	82199
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		Operations					
341	745-615	Air National Guard	\$	2,424,740	\$	2,424,740	82200
		Base Security					
342	745-616	Army National Guard	\$	8,686,893	\$	8,686,893	82201
		Agreement					
		TOTAL FED Federal Special Revenue	\$	23,311,393	\$	23,311,393	82202
		Fund Group					
		State Special Revenue Fund Group					82203
5U8	745-613	Community Match	\$	90,000	\$	91,800	82204
		Armories					
528	745-605	Marksmanship	\$	126,078	\$	128,600	82205
		Activities					
		TOTAL SSR State Special Revenue	\$	216,078	\$	220,400	82206
		Fund Group					
		TOTAL ALL BUDGET FUND GROUPS	\$	36,820,306	\$	36,824,628	82207
		NATIONAL GUARD BENEFITS					82208
		The foregoing appropriation item 745-407, National Guard					82209
		Benefits, shall be used for purposes of sections 5919.31 and					82210
		5919.33 of the Revised Code, and for administrative costs of the					82211
		associated programs.					82212
		For active duty members of the Ohio National Guard who died					82213
		after October 7, 2001, while performing active duty, the death					82214
		benefit, pursuant to section 5919.33 of the Revised Code, shall be					82215
		paid to the beneficiary or beneficiaries designated on the					82216
		member's Servicemembers' Group Life Insurance Policy.					82217
		Section 203.12. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES					82218
		General Revenue Fund					82219
GRF	100-403	Public School Employee	\$	750,000	\$	0	82220
		Benefits					
GRF	100-404	CRP Procurement	\$	248,040	\$	268,040	82221

	Program				
GRF 100-405	Agency Audit Expenses	\$	329,000	\$	329,000 82222
GRF 100-406	County & University	\$	60,000	\$	60,000 82223
	Human Resources				
	Services				
GRF 100-410	Veterans' Records	\$	69,000	\$	48,600 82224
	Conversion				
GRF 100-418	Web Sites and Business	\$	3,275,280	\$	3,275,280 82225
	Gateway				
GRF 100-419	IT Security	\$	1,636,247	\$	1,636,247 82226
	Infrastructure				
GRF 100-421	OAKS Project	\$	484,000	\$	410,839 82227
	Implementation				
GRF 100-433	State of Ohio Computer	\$	4,991,719	\$	4,991,719 82228
	Center				
GRF 100-439	Equal Opportunity	\$	726,481	\$	728,384 82229
	Certification Programs				
GRF 100-447	OBA - Building Rent	\$	115,740,400	\$	116,091,300 82230
	Payments				
GRF 100-448	OBA - Building	\$	25,393,250	\$	25,647,183 82231
	Operating Payments				
GRF 100-449	DAS - Building	\$	4,160,383	\$	4,170,623 82232
	Operating Payments				
GRF 100-451	Minority Affairs	\$	47,000	\$	47,000 82233
GRF 100-734	Major Maintenance -	\$	50,000	\$	50,000 82234
	State Bldgs				
GRF 102-321	Construction	\$	1,190,959	\$	1,206,779 82235
	Compliance				
GRF 130-321	State Agency Support	\$	2,693,788	\$	2,668,986 82236
	Services				
TOTAL GRF	General Revenue Fund	\$	161,845,547	\$	161,629,980 82237
	General Services Fund Group				82238
112 100-616	DAS Administration	\$	5,221,393	\$	5,299,427 82239

115	100-632	Central Service Agency	\$	466,517	\$	485,178	82240
117	100-644	General Services	\$	6,834,247	\$	7,245,772	82241
		Division - Operating					
122	100-637	Fleet Management	\$	4,025,043	\$	4,032,968	82242
125	100-622	Human Resources	\$	18,864,179	\$	19,220,614	82243
		Division - Operating					
127	100-627	Vehicle Liability	\$	3,344,644	\$	3,344,644	82244
		Insurance					
128	100-620	Collective Bargaining	\$	3,410,952	\$	3,410,952	82245
130	100-606	Risk Management	\$	223,904	\$	223,904	82246
		Reserve					
131	100-639	State Architect's	\$	6,977,274	\$	7,047,427	82247
		Office					
132	100-631	DAS Building	\$	10,721,430	\$	11,066,228	82248
		Management					
133	100-607	IT Services Delivery	\$	81,418,432	\$	80,345,564	82249
188	100-649	Equal Opportunity	\$	993,378	\$	1,010,256	82250
		Division - Operating					
201	100-653	General Services	\$	1,553,000	\$	1,553,000	82251
		Resale Merchandise					
210	100-612	State Printing	\$	5,931,421	\$	5,931,421	82252
229	100-630	IT Governance	\$	18,531,812	\$	17,601,712	82253
4N6	100-617	Major IT Purchases	\$	10,617,166	\$	10,617,166	82254
4P3	100-603	DAS Information	\$	5,902,099	\$	6,117,004	82255
		Services					
427	100-602	Investment Recovery	\$	5,580,208	\$	5,683,564	82256
5C2	100-605	MARCS Administration	\$	9,268,178	\$	9,268,178	82257
5C3	100-608	Skilled Trades	\$	1,406,278	\$	1,434,982	82258
5D7	100-621	Workforce Development	\$	12,000,000	\$	12,000,000	82259
5L7	100-610	Professional	\$	2,700,000	\$	2,700,000	82260
		Development					
5V6	100-619	Employee Educational	\$	936,129	\$	936,129	82261
		Development					

TOTAL GSF General Services Fund				82262
Group	\$	216,927,684	\$ 216,576,090	82263
Federal Special Revenue Fund Group				82264
3AJ 100-623 Information Technology	\$	82,048	\$ 82,048	82265
Grants				
TOTAL FSR Federal Special Revenue	\$	82,048	\$ 82,048	82266
Fund Group				
Agency Fund Group				82267
124 100-629 Payroll Deductions	\$	2,050,000,000	\$ 2,050,000,000	82268
TOTAL AGY Agency Fund Group	\$	2,050,000,000	\$ 2,050,000,000	82269
Holding Account Redistribution Fund Group				82270
R08 100-646 General Services	\$	20,000	\$ 20,000	82271
Refunds				
TOTAL 090 Holding Account				82272
Redistribution Fund Group	\$	20,000	\$ 20,000	82273
TOTAL ALL BUDGET FUND GROUPS	\$	2,428,875,279	\$ 2,428,308,118	82274

Section 203.12.01. TRANSFERS OF STATE USE PROGRAM FROM THE 82276
DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 82277

Effective July 1, 2005, or the earliest date thereafter 82278
permitted by law, the State Committee for the Purchase of Products 82279
and Services Provided by Persons with Severe Disabilities created 82280
by sections 4115.31 to 4115.35 of the Revised Code is part of the 82281
Department of Administrative Services. The committee's functions, 82282
assets, and liabilities, including, but not limited to, records 82283
regardless of form or medium, are transferred to the Department of 82284
Administrative Services. The Department of Administrative Services 82285
is thereupon and thereafter successor to, assumes the obligations 82286
of, and otherwise constitutes the continuation of the State 82287
Committee for the Purchase of Products and Services Provided by 82288
Persons with Severe Disabilities. The functions of the Executive 82289
Director of the committee are thereupon and thereafter transferred 82290

to the Department of Administrative Services. 82291

Any business commenced but not completed by the committee on 82292
June 30, 2005, shall be completed by the Department of 82293
Administrative Services, in the same manner, and with the same 82294
effect, as if completed by the committee. No validation, cure, 82295
right, privilege, remedy, obligation, or liability is lost or 82296
impaired by reason of the transfer required under this section and 82297
shall be administered by the Department of Administrative 82298
Services. All of the committee's rules, orders, and determinations 82299
continue in effect as rules, orders, and determinations of the 82300
Department of Administrative Services, until modified or rescinded 82301
by the Department of Administrative Services. If necessary to 82302
ensure the integrity of the Administrative Code numbering system, 82303
the Director of the Legislative Service Commission shall renumber 82304
the committee's rules to reflect their transfer to the Department 82305
of Administrative Services. 82306

Employees of the Department of Mental Retardation and 82307
Developmental Disabilities designated as staff for the committee 82308
shall be transferred to the Department of Administrative Services 82309
as necessary. Subject to lay-off provisions of sections 124.321 to 82310
124.328 of the Revised Code, as well as provisions of the contract 82311
between the state and all bargaining units affected, those 82312
employees so transferred to the Department of Administrative 82313
Services retain their positions and all benefits accruing thereto. 82314

No judicial or administrative action or proceeding to which 82315
the committee is a party that is pending on July 1, 2005, is 82316
affected by the transfer of functions. Such action or proceeding 82317
shall be prosecuted or defended in the name of the Director of the 82318
Department of Administrative Services. On application to the court 82319
or other tribunal, the Director of Administrative Services shall 82320
be substituted for the Director of Mental Retardation and 82321
Developmental Disabilities as a party to such action or 82322

proceeding. 82323

On and after July 1, 2005, notwithstanding any provision of 82324
law to the contrary, the Director of Budget and Management shall 82325
take the actions with respect to budget changes made necessary by 82326
the transfer, including administrative reorganization, program 82327
transfers, the creation of new funds, and the consolidation of 82328
funds as authorized by this section. The Director may cancel 82329
encumbrances and re-establish encumbrances or parts of 82330
encumbrances as needed in fiscal year 2006 in the appropriate fund 82331
and appropriation item for the same purpose and to the same 82332
vendor. The Director, as determined necessary, may re-establish 82333
such encumbrances in fiscal year 2006 in a different fund or 82334
appropriation item within an agency or between agencies. The 82335
re-established encumbrances are here by appropriated. The Director 82336
shall reduce each year's appropriation balances by the amount of 82337
the encumbrance canceled in their respective funds and 82338
appropriation item. 82339

Not later than sixty days after the transfer of the committee 82340
to the Department of Administrative Services, the Director of 82341
Mental Retardation and Developmental Disabilities shall certify to 82342
the Director of Budget and Management the amount of any unexpended 82343
balance of General Revenue Fund appropriations made to GRF 82344
appropriation item 322-405, State Use Program. Upon receipt of the 82345
certification, the Director of Budget and Management shall 82346
transfer the appropriations from GRF appropriation item 322-405, 82347
State Use Program, to GRF appropriation item 100-404, CRP 82348
Procurement Program. 82349

Section 203.12.02. PUBLIC SCHOOL EMPLOYEE BENEFITS 82350

The foregoing appropriation item 100-403, Public School 82351
Employee Benefits, shall be used by the Department of 82352
Administrative Services to contract with a third party to 82353

investigate the most cost-effective method for funding school districts' health benefits pursuant to division (A) of Section 206.10.07 of this act. 82354
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Section 203.12.03. AGENCY AUDIT EXPENSES 82357

The foregoing appropriation item 100-405, Agency Audit Expenses, shall be used for auditing expenses designated in division (A)(1) of section 117.13 of the Revised Code for those state agencies audited on a biennial basis. 82358
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Section 203.12.06. OHIO BUILDING AUTHORITY 82362

The foregoing appropriation item 100-447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$231,831,700. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code. 82363
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The foregoing appropriation item 100-448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$51,040,433. 82372
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The payments to the Ohio Building Authority are for the purpose of paying the expenses of agencies that occupy space in the various state facilities. The Department of Administrative Services may enter into leases and agreements with the Ohio Building Authority providing for the payment of these expenses. 82379
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The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of a fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

Section 203.12.09. DAS - BUILDING OPERATING PAYMENTS 82393

The foregoing appropriation item 100-449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2006 and 2007.

The foregoing appropriation item, 100-449, DAS - Building Operating Payments, may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and the rent expenses of tenants that are relocated due to building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 132).

Section 203.12.12. CENTRAL SERVICE AGENCY FUND 82414

The Director of Budget and Management may transfer up to 82415
\$363,851 in fiscal year 2006 from the Occupational Licensing and 82416
Regulatory Fund (Fund 4K9) to the Central Service Agency Fund 82417
(Fund 115). The Director of Budget and Management may transfer up 82418
to \$45,184 in fiscal year 2006 from the State Medical Board 82419
Operating Fund (Fund 5C6) to the Central Service Agency Fund (Fund 82420
115). The Director of Budget and Management may transfer up to 82421
\$625 in fiscal year 2006 from the Motor Vehicle Collision Repair 82422
Registration Fund (Fund 5H9) to the Central Service Agency Fund 82423
(Fund 115). The appropriation item 100-632, Central Service 82424
Agency, shall be used to purchase the necessary equipment, 82425
products, and services to maintain an automated application for 82426
the professional licensing boards, and to support their licensing 82427
functions in fiscal year 2006. The amount of the cash transfers is 82428
appropriated to appropriation item 100-632, Central Service 82429
Agency. 82430

Section 203.12.15. COLLECTIVE BARGAINING ARBITRATION EXPENSES 82431

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With approval of the Director of Budget and Management, the 82433
Department of Administrative Services may seek reimbursement from 82434
state agencies for the actual costs and expenses the department 82435
incurs in the collective bargaining arbitration process. The 82436
reimbursements shall be processed through intrastate transfer 82437
vouchers and placed in the Collective Bargaining Fund (Fund 128). 82438

Section 203.12.18. OFFICE OF INFORMATION TECHNOLOGY 82439

The foregoing appropriation item 100-607, IT Service 82440
Delivery, shall be used by the Office of Information Technology to 82441
carry out its responsibilities under section 125.29 of the Revised 82442

Code. The foregoing appropriation item 100-630, IT Governance, 82443
shall be used by the Office of Information Technology to carry out 82444
its responsibilities under section 125.29 of the Revised Code. 82445

As soon as possible on or after July 1, 2005, the Director of 82446
Administrative Services shall certify to the Director of Budget 82447
and Management the amount of cash up to \$5,000,000 to be 82448
transferred from the IT Service Delivery Fund (Fund 133) to the IT 82449
Governance Fund (Fund 229). This amount represents a portion of 82450
the cash balance in the IT Service Delivery Fund attributable to 82451
IT Governance programs. The Director of Budget and Management 82452
shall transfer the certified amount. 82453

After final payments are made from fiscal year 2005 82454
encumbrances in the IT Service Delivery Fund (Fund 133), the 82455
Department of Administrative Services shall reconcile fiscal year 82456
2005 financial activity in the IT Service Delivery Fund and 82457
determine the amount of the fund cash balance due to the IT 82458
Governance Fund (Fund 229). The reconciliation shall be done in 82459
accordance with federal cost accounting regulations. Not later 82460
than June 30, 2006, the Director of Administrative Services shall 82461
make a determination of any additional transfers of cash necessary 82462
for reconciliation purposes. Upon concurrence with this 82463
determination, the Director of Budget and Management may transfer 82464
such cash between the IT Service Delivery Fund and the IT 82465
Governance Fund. 82466

Section 203.12.21. EQUAL OPPORTUNITY PROGRAM 82467

The Department of Administrative Services, with the approval 82468
of the Director of Budget and Management, shall establish charges 82469
for recovering the costs of administering the activities supported 82470
by the State EEO Fund (Fund 188). These charges shall be deposited 82471
to the credit of the State EEO Fund (Fund 188) upon payment made 82472
by state agencies, state-supported or state-assisted institutions 82473

of higher education, and tax-supported agencies, municipal 82474
corporations, and other political subdivisions of the state, for 82475
services rendered. 82476

Section 203.12.24. MERCHANDISE FOR RESALE 82477

The foregoing appropriation item 100-653, General Services 82478
Resale Merchandise, shall be used to account for merchandise for 82479
resale, which is administered by the General Services Division. 82480
Deposits to the fund may comprise the cost of merchandise for 82481
resale and shipping fees. 82482

Section 203.12.27. DAS INFORMATION SERVICES 82483

There is hereby established in the State Treasury the DAS 82484
Information Services Fund. The foregoing appropriation item 82485
100-603, DAS Information Services, shall be used to pay the costs 82486
of providing information systems and services in the Department of 82487
Administrative Services. 82488

The Department of Administrative Services shall establish 82489
user charges for all information systems and services that are 82490
allowable in the statewide indirect cost allocation plan submitted 82491
annually to the United States Department of Health and Human 82492
Services. These charges shall comply with federal regulations and 82493
shall be deposited to the credit of the DAS Information Services 82494
Fund (Fund 4P3). 82495

Section 203.12.30. INVESTMENT RECOVERY FUND 82496

Notwithstanding division (B) of section 125.14 of the Revised 82497
Code, cash balances in the Investment Recovery Fund (Fund 427) may 82498
be used to support the operating expenses of the Federal Surplus 82499
Operating Program created in sections 125.84 to 125.90 of the 82500
Revised Code. 82501

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the State Property Inventory and Fixed Assets Management System Program.

Of the foregoing appropriation item 100-602, Investment Recovery, up to \$2,147,024 in fiscal year 2006 and up to \$2,205,594 in fiscal year 2007 shall be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the State Property Inventory and Fixed Assets Management System Program under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100-602, Investment Recovery, \$3,433,184 in fiscal year 2006 and \$3,477,970 in fiscal year 2007 shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised Code. If it is determined by the Director of Administrative Services that additional appropriations are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to increase the amounts. Such amounts are hereby appropriated.

Notwithstanding division (B) of section 125.14 of the Revised Code, the Director of Budget and Management, at the request of the Director of Administrative Services, shall transfer up to \$500,000 of the amounts held for transfer to the General Revenue Fund from the Investment Recovery Fund to the State Architect's Fund (Fund 131) to provide operating cash.

Section 203.12.33. MULTI-AGENCY RADIO COMMUNICATIONS SYSTEM 82533

Effective with the implementation of the Multi-Agency Radio 82534
Communications System, the Director of Administrative Services 82535
shall collect user fees from participants in the system. The 82536
Director of Administrative Services, with the advice of the 82537
Multi-Agency Radio Communications System Steering Committee and 82538
the Director of Budget and Management, shall determine the amount 82539
of the fees and the manner by which the fees shall be collected. 82540
Such user charges shall comply with the applicable cost principles 82541
issued by the federal Office of Management and Budget. All moneys 82542
from user charges and fees shall be deposited in the state 82543
treasury to the credit of the Multi-Agency Radio Communications 82544
System Administration Fund (Fund 5C2), which is hereby established 82545
in the state treasury. All interest income derived from the 82546
investment of the fund shall accrue to the fund. 82547

Section 203.12.36. WORKFORCE DEVELOPMENT FUND 82548

There is hereby established in the state treasury the 82549
Workforce Development Fund (Fund 5D7). The foregoing appropriation 82550
item 100-621, Workforce Development, shall be used to make 82551
payments from the fund. The fund shall be under the supervision of 82552
the Department of Administrative Services, which may adopt rules 82553
with regard to administration of the fund. The fund shall be used 82554
to pay the costs of the Workforce Development Program, established 82555
by Article 37 of the contract between the State of Ohio and 82556
OCSEA/AFSCME, Local 11, effective March 1, 2003, and as modified 82557
by any successor labor contract between the State of Ohio and 82558
OCSEA/AFSCME. The program shall be administered in accordance with 82559
the contract. Revenues shall accrue to the fund as specified in 82560
the contract. The fund may be used to pay direct and indirect 82561
costs of the program that are attributable to staff, consultants, 82562

and service providers. All income derived from the investment of 82563
the fund shall accrue to the fund. 82564

If it is determined by the Director of Administrative 82565
Services that additional appropriation amounts are necessary, the 82566
Director of Administrative Services may request that the Director 82567
of Budget and Management increase such amounts. Such amounts are 82568
hereby appropriated. 82569

Section 203.12.39. PROFESSIONAL DEVELOPMENT FUND 82570

The foregoing appropriation item 100-610, Professional 82571
Development, shall be used to make payments from the Professional 82572
Development Fund (Fund 5L7) under section 124.182 of the Revised 82573
Code. 82574

Section 203.12.42. EMPLOYEE EDUCATIONAL DEVELOPMENT 82575

There is hereby established in the state treasury the 82576
Employee Educational Development Fund (Fund 5V6). The foregoing 82577
appropriation item 100-619, Employee Educational Development, 82578
shall be used to make payments from the fund. The fund shall be 82579
used to pay the costs of the administration of educational 82580
programs per existing collective bargaining agreements with 82581
District 1199, the Health Care and Social Service Union; State 82582
Council of Professional Educators; Ohio Education Association and 82583
National Education Association; the Fraternal Order of Police Ohio 82584
Labor Council, Unit 2; and the Ohio State Troopers Association, 82585
Units 1 and 15. The fund shall be under the supervision of the 82586
Department of Administrative Services, which may adopt rules with 82587
regard to administration of the fund. The fund shall be 82588
administered in accordance with the applicable sections of the 82589
collective bargaining agreements between the State and the 82590
aforementioned unions. The Department of Administrative Services, 82591
with the approval of the Director of Budget and Management, shall 82592

establish charges for recovering the costs of administering the 82593
educational programs. Receipts for these charges shall be 82594
deposited into the Employee Educational Development Fund. All 82595
income derived from the investment of the funds shall accrue to 82596
the fund. 82597

If it is determined by the Director of Administrative 82598
Services that additional appropriation amounts are necessary, the 82599
Director of Administrative Services may request that the Director 82600
of Budget and Management increase such amounts. Such amounts are 82601
hereby appropriated with the approval of the Director of Budget 82602
and Management. 82603

Section 203.12.45. MAJOR IT PURCHASES 82604

The Director of Administrative Services shall compute the 82605
amount of revenue attributable to the amortization of all 82606
equipment purchases and capitalized systems from appropriation 82607
item 100-607, IT Service Delivery; appropriation item 100-617, 82608
Major IT Purchases; and appropriation item CAP-837, Major IT 82609
Purchases, which is recovered by the Department of Administrative 82610
Services as part of the rates charged by the IT Service Delivery 82611
Fund (Fund 133) created in section 125.15 of the Revised Code. The 82612
Director of Budget and Management may transfer cash in an amount 82613
not to exceed the amount of amortization computed from the IT 82614
Service Delivery Fund (Fund 133) to the Major IT Purchases Fund 82615
(Fund 4N6). 82616

Section 203.12.48. INFORMATION TECHNOLOGY ASSESSMENT 82617

The Director of Administrative Services, with the approval of 82618
the Director of Budget and Management, may establish an 82619
information technology assessment for the purpose of recovering 82620
the cost of selected infrastructure and statewide programs. Such 82621
assessment shall comply with applicable cost principles issued by 82622

the federal Office of Management and Budget. The information 82623
technology assessment shall be charged to all organized bodies, 82624
offices, or agencies established by the laws of the state for the 82625
exercise of any function of state government except for the 82626
General Assembly, any legislative agency, the Supreme Court, the 82627
other courts of record in Ohio, or any judicial agency, the 82628
Adjutant General, the Bureau of Workers' Compensation, and 82629
institutions administered by a board of trustees. Any state-entity 82630
exempted by this section may utilize the infrastructure or 82631
statewide program by participating in the information technology 82632
assessment. All charges for the information technology assessment 82633
shall be deposited to the credit of the IT Service Delivery Fund 82634
(Fund 133) created in section 125.15 of the Revised Code. 82635

Section 203.12.51. UNEMPLOYMENT COMPENSATION FUND 82636

Within thirty days after the effective date of this section, 82637
or as soon as possible thereafter, the Director of Administrative 82638
Services shall certify the remaining cash in the Unemployment 82639
Compensation Fund (Fund 113) to the Director of Budget and 82640
Management who shall transfer that amount to the General Revenue 82641
Fund and abolish the Unemployment Compensation Fund (Fund 113). 82642

Section 203.12.54. PAYROLL WITHHOLDING FUND 82643

The foregoing appropriation item 100-629, Payroll Deductions, 82644
shall be used to make payments from the Payroll Withholding Fund 82645
(Fund 124). If it is determined by the Director of Budget and 82646
Management that additional appropriation amounts are necessary, 82647
such amounts are hereby appropriated. 82648

Section 203.12.57. GENERAL SERVICES REFUNDS 82649

The foregoing appropriation item 100-646, General Services 82650
Refunds, shall be used to hold bid guarantee and building plans 82651

and specifications deposits until they are refunded. The Director 82652
of Administrative Services may request that the Director of Budget 82653
and Management transfer cash received for the costs of providing 82654
the building plans and specifications to contractors from the 82655
General Services Refunds Fund to the State Architect's Office Fund 82656
(Fund 131). Prior to the transfer of cash, the Director of 82657
Administrative Services shall certify that such amounts are in 82658
excess of amounts required for refunding deposits and are directly 82659
related to costs of producing building plans and specifications. 82660
If it is determined that additional appropriations are necessary, 82661
such amounts are hereby appropriated. 82662

Section 203.12.60. MULTI-AGENCY RADIO COMMUNICATION SYSTEM 82663
DEBT SERVICE PAYMENTS 82664

The Director of Administrative Services, in consultation with 82665
the Multi-Agency Radio Communication System (MARCS) Steering 82666
Committee and the Director of Budget and Management, shall 82667
determine the share of debt service payments attributable to 82668
spending for MARCS components that are not specific to any one 82669
agency and that shall be charged to agencies supported by the 82670
motor fuel tax. Such share of debt service payments shall be 82671
calculated for MARCS capital disbursements made beginning July 1, 82672
1997. Within thirty days of any payment made from appropriation 82673
item 100-447, OBA - Building Rent Payments, the Director of 82674
Administrative Services shall certify to the Director of Budget 82675
and Management the amount of this share. The Director of Budget 82676
and Management shall transfer such amounts to the General Revenue 82677
Fund from the State Highway Safety Fund (Fund 036) established in 82678
section 4501.06 of the Revised Code. 82679

The Director of Administrative Services shall consider 82680
renting or leasing existing tower sites at reasonable or current 82681
market rates, so long as these existing sites are equipped with 82682

the technical capabilities to support the MARCS project.	82683
Section 203.12.63. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY	82684
Whenever the Director of Administrative Services declares a	82685
"public exigency," as provided in division (C) of section 123.15	82686
of the Revised Code, the Director shall also notify the members of	82687
the Controlling Board.	82688
Section 203.12.66. GENERAL SERVICE CHARGES	82689
The Department of Administrative Services, with the approval	82690
of the Director of Budget and Management, shall establish charges	82691
for recovering the costs of administering the programs in the	82692
General Services Fund (Fund 117) and the State Printing Fund (Fund	82693
210).	82694
Section 203.12.69. MEDICAID INFORMATION TECHNOLOGY SYSTEM	82695
(A) The Department of Administrative Services shall conduct a	82696
study to do both of the following:	82697
(1) Comprehensively analyze the technology needs of all	82698
governmental agencies that administer components of the Medicaid	82699
program.	82700
(2) Determine how to ensure that the technology needs of	82701
those governmental agencies can be integrated into a Medicaid	82702
information technology system.	82703
(B) The Department of Administrative Services shall seek the	82704
most federal participation available for the conduct of the study,	82705
and the Department of Job and Family Services shall seek the most	82706
federal participation available for the development and	82707
implementation of a Medicaid information technology system.	82708
Section 203.15. AAM COMMISSION ON AFRICAN AMERICAN MALES	82709

General Revenue Fund				82710
GRF 036-100 Personal Services	\$	220,091	\$ 220,091	82711
GRF 036-200 Maintenance	\$	39,909	\$ 39,909	82712
GRF 036-300 Equipment	\$	1,000	\$ 1,000	82713
GRF 036-501 CAAM Awards and Scholarships	\$	1,000	\$ 1,000	82714
GRF 036-502 Community Projects	\$	20,000	\$ 20,000	82715
TOTAL GRF General Revenue Fund	\$	282,000	\$ 282,000	82716
State Special Revenue Fund Group				82717
4H3 036-601 Commission on African American Males - Gifts/Grants	\$	10,000	\$ 10,000	82718
TOTAL SSR State Special Revenue Fund Group	\$	10,000	\$ 10,000	82719
TOTAL ALL BUDGET FUND GROUPS	\$	292,000	\$ 292,000	82720
COMMISSION ON AFRICAN AMERICAN MALES PROGRESS REVIEW				82721
Annually, not later than the thirty-first day of December,				82722
the Commission on African American Males shall internally prepare				82723
and submit to the chairperson and ranking minority member of the				82724
Human Services Subcommittee of the Finance and Appropriations				82725
Committee of the House of Representatives a report that				82726
demonstrates the progress that has been made toward meeting the				82727
Commission's mission statement.				82728
Section 203.18. JCR JOINT COMMITTEE ON AGENCY RULE REVIEW				82729
General Revenue Fund				82730
GRF 029-321 Operating Expenses	\$	379,769	\$ 387,364	82731
TOTAL GRF General Revenue Fund	\$	379,769	\$ 387,364	82732
TOTAL ALL BUDGET FUND GROUPS	\$	379,769	\$ 387,364	82733
OPERATING				82734
The Chief Administrative Officer of the House of				82735

Representatives and the Clerk of the Senate shall determine, by 82736
mutual agreement, which of them shall act as fiscal agent for the 82737
Joint Committee on Agency Rule Review. 82738

OPERATING EXPENSES 82739

The unencumbered balance of appropriation item 029-321, 82740
Operating Expenses, at the end of fiscal year 2006 shall be 82741
transferred to fiscal year 2007 for use under the same 82742
appropriation item. 82743

Section 203.21. AGE DEPARTMENT OF AGING 82744

General Revenue Fund 82745

GRF 490-321 Operating Expenses \$ 2,579,867 \$ 2,308,867 82746

GRF 490-403 PASSPORT \$ 112,045,715 \$ 121,009,372 82747

GRF 490-405 Golden Buckeye Card \$ 467,614 \$ 467,614 82748

GRF 490-406 Senior Olympics \$ 15,638 \$ 15,638 82749

GRF 490-409 Ohio Community Service \$ 203,647 \$ 193,465 82750

Council Operations

GRF 490-410 Long-Term Care \$ 689,437 \$ 689,437 82751

Ombudsman

GRF 490-411 Senior Community \$ 10,630,988 \$ 10,630,988 82752

Services

GRF 490-412 Residential State \$ 9,156,771 \$ 9,156,771 82753

Supplement

GRF 490-414 Alzheimers Respite \$ 4,085,888 \$ 4,085,888 82754

GRF 490-416 JCFS Elderly \$ 100,000 \$ 100,000 82755

Transportation

GRF 490-421 PACE \$ 11,354,145 \$ 10,214,809 82756

GRF 490-422 Assisted Living Waiver \$ 0 \$ 359,919 82757

GRF 490-506 National Senior \$ 352,943 \$ 352,943 82758

Service Corps

TOTAL GRF General Revenue Fund \$ 151,682,653 \$ 159,585,711 82759

General Services Fund Group				82760
480 490-606 Senior Community	\$	372,677	\$ 372,677	82761
Outreach and Education				
TOTAL GSF General Services Fund				82762
Group	\$	372,677	\$ 372,677	82763
Federal Special Revenue Fund Group				82764
3C4 490-607 PASSPORT	\$	198,683,143	\$ 218,196,387	82765
3C4 490-621 PACE-Federal	\$	10,854,083	\$ 14,586,135	82766
3C4 490-622 Assisted	\$	0	\$ 5,687,374	82767
Living-Federal				
3M3 490-611 Federal Aging	\$	27,622,693	\$ 28,037,034	82768
Nutrition				
3M4 490-612 Federal Independence	\$	27,907,287	\$ 28,325,896	82769
Services				
3R7 490-617 Ohio Community Service	\$	9,170,000	\$ 9,170,000	82770
Council Programs				
322 490-618 Federal Aging Grants	\$	14,834,354	\$ 15,014,494	82771
TOTAL FED Federal Special Revenue				82772
Fund Group	\$	289,071,560	\$ 319,017,320	82773
State Special Revenue Fund Group				82774
4C4 490-609 Regional Long-Term	\$	910,000	\$ 935,000	82775
Care Ombudsman Program				
4J4 490-610 PASSPORT/Residential	\$	33,263,984	\$ 33,263,984	82776
State Supplement				
4U9 490-602 PASSPORT Fund	\$	4,424,969	\$ 4,424,969	82777
5BA 490-620 Ombudsman Support	\$	615,000	\$ 0	82778
5CE 490-624 Special Projects	\$	350,000	\$ 0	82779
5K9 490-613 Long Term Care	\$	298,400	\$ 820,400	82780
Consumers Guide				
5W1 490-616 Resident Services	\$	262,500	\$ 262,500	82781
Coordinator Program				
624 490-604 OCSC Community Support	\$	2,500	\$ 2,500	82782

TOTAL SSR State Special Revenue				82783	
Fund Group	\$	40,127,353	\$	39,709,353	82784
TOTAL ALL BUDGET FUND GROUPS	\$	481,254,243	\$	518,685,061	82785

Section 203.21.03. PRE-ADMISSION REVIEW FOR NURSING FACILITY 82787
ADMISSION 82788

Pursuant to an interagency agreement, the Department of Job 82789
and Family Services shall designate the Department of Aging to 82790
perform assessments under sections 173.42 and 5111.204 of the 82791
Revised Code. Of the foregoing appropriation item 490-403, 82792
PASSPORT, the Department of Aging may use not more than \$2,586,648 82793
in fiscal year 2006 and \$2,651,315 in fiscal year 2007 to perform 82794
the assessments for persons not eligible for Medicaid under the 82795
department's interagency agreement with the Department of Job and 82796
Family Services and to assist individuals in planning for their 82797
long-term health care needs. 82798

Section 203.21.06. PASSPORT 82799

Of the foregoing appropriation item 490-607, PASSPORT, Fund 82800
3C4, up to \$125,000 per fiscal year shall be used for an 82801
evaluation of the PASSPORT Program. 82802

(A) There is hereby created the PASSPORT Evaluation Panel to 82803
oversee the performance of an evaluation of the PASSPORT Home and 82804
Community Based Waiver Program conducted by an independent 82805
contractor. The Panel shall be composed of the following members: 82806

(1) The Director of Aging or the Director's designee; 82807

(2) The Director of Job and Family Services or the Director's 82808
designee; 82809

(3) A representative of the Central Ohio Area Agency on 82810
Aging, appointed by the Agency; 82811

(4) A representative of the Ohio Association of Area Agencies 82812

on Aging, appointed by the Agency;	82813
(5) A representative of PASSPORT providers, appointed by the Director of Aging;	82814 82815
(6) A representative of the Ohio Academy of Nursing Homes, appointed by the Academy;	82816 82817
(7) A representative of the Ohio Health Care Association, appointed by the Association;	82818 82819
(8) A representative of the Association for Ohio Philanthropic Homes and Housing for the Aging, appointed by the Association;	82820 82821 82822
(9) A representative of the Ohio Council for Home Care, appointed by the Council;	82823 82824
(10) A representative of the Ohio Association of Adult Day Services, appointed by the Association;	82825 82826
(11) The State Long-Term Care Ombudsperson or the Ombudsperson's designee;	82827 82828
(12) A representative of the Ohio Association of Regional Long-Term Care Ombudsman, appointed by the Association;	82829 82830
(13) A representative of the American Association of Retired Persons, appointed by the Association;	82831 82832
(14) The Chair of the Long-Term Care Committee of the Ohio Commission to Reform Medicaid;	82833 82834
(15) Three individuals to represent PASSPORT program participants, appointed by the Director of Aging.	82835 82836
Panel members shall serve without compensation. The Department of Aging shall provide assistance to the PASSPORT Evaluation Panel, including support services and meeting space. The Panel shall convene not later than sixty days after the effective date of this section.	82837 82838 82839 82840 82841

(B) The Panel shall do all of the following:	82842
(1) Establish criteria to be used in selecting an independent contractor to evaluate the PASSPORT Program. The criteria shall specify that the independent contractor must not be affiliated with any state agency.	82843 82844 82845 82846
(2) In accordance with the request for proposal process administered by the Department of Administrative Services, accept and evaluate bids from potential contractors;	82847 82848 82849
(3) Select to evaluate the PASSPORT Program an independent contractor that meets the criteria established by the Panel and the Department.	82850 82851 82852
(C) The independent contractor selected by the PASSPORT Evaluation Panel shall, in conducting the evaluation of the PASSPORT Program, do all of the following:	82853 82854 82855
(1) Examine the implementation by the existing PASSPORT system of the long-term care recommendations of the Ohio Commission to Reform Medicaid and coordinate the work of the PASSPORT evaluation with the Medicaid Transition Council and the Medicaid Care Management Work Group;	82856 82857 82858 82859 82860
(2) Evaluate the cost-effectiveness of services provided under the program;	82861 82862
(3) Evaluate the population served and the appropriateness of the program for that population;	82863 82864
(4) Evaluate program outcomes to determine the program's effectiveness in preventing nursing home admissions;	82865 82866
(5) Evaluate the effectiveness of area agencies on aging in efficiently linking older Ohioans to the appropriate level of assistance based on the screening and assessment activities of the PASSPORT system;	82867 82868 82869 82870
(6) Examine the cost effectiveness of increasing the care	82871

management responsibilities of area agencies on aging to include	82872
the management of the Medicaid state plan services;	82873
(7) Evaluate the effectiveness of client-to-case management	82874
ratios of area agencies on aging to assess whether clients receive	82875
quality outcomes in a cost-effective manner;	82876
(8) Evaluate and assess the effectiveness of the PASSPORT	82877
program's authority to provide interventions that increase	82878
enrollment and decrease disenrollment and increase flexibility to	82879
provide quality, timely service to clients with special service	82880
needs;	82881
(9) Evaluate the PASSPORT program's rate structure and	82882
contracting process to determine fair market rates and quality	82883
incentive indicators;	82884
(10) Evaluate the effectiveness of the PASSPORT program's	82885
current provider procurement process;	82886
(11) Determine elements of the program that may be vulnerable	82887
to fraud;	82888
(12) Any additional action requested by the PASSPORT	82889
Evaluation Panel.	82890
The independent contractor shall issue to the Panel quarterly	82891
reports and, by not later than May 15, 2007, a final report, of	82892
its findings. By not later than June 30, 2007, the PASSPORT	82893
Evaluation Panel shall approve a final report.	82894
Appropriation item 490-403, PASSPORT, and the amounts set	82895
aside for the PASSPORT Waiver Program in appropriation item	82896
490-610, PASSPORT/Residential State Supplement, may be used to	82897
assess clients regardless of Medicaid eligibility.	82898
The Director of Aging shall adopt rules under section 111.15	82899
of the Revised Code governing the nonwaiver funded PASSPORT	82900
program, including client eligibility.	82901

The Department of Aging shall administer the Medicaid 82902
waiver-funded PASSPORT Home Care Program as delegated by the 82903
Department of Job and Family Services in an interagency agreement. 82904
The foregoing appropriation item 490-403, PASSPORT, and the 82905
amounts set aside for the PASSPORT Waiver Program in appropriation 82906
item 490-610, PASSPORT/Residential State Supplement, shall be used 82907
to provide the required state match for federal Medicaid funds 82908
supporting the Medicaid Waiver-funded PASSPORT Home Care Program. 82909
Appropriation item 490-403, PASSPORT, and the amounts set aside 82910
for the PASSPORT Waiver Program in appropriation item 490-610, 82911
PASSPORT/Residential State Supplement, may also be used to support 82912
the Department of Aging's administrative costs associated with 82913
operating the PASSPORT program. 82914

The foregoing appropriation item 490-607, PASSPORT, shall be 82915
used to provide the federal matching share for all PASSPORT 82916
program costs determined by the Department of Job and Family 82917
Services to be eligible for Medicaid reimbursement. 82918

OHIO COMMUNITY SERVICE COUNCIL 82919

The foregoing appropriation items 490-409, Ohio Community 82920
Service Council Operations, and 490-617, Ohio Community Service 82921
Council Programs, shall be used in accordance with section 121.40 82922
of the Revised Code. 82923

TRANSFER OF RESIDENT PROTECTION FUNDS 82924

The Director of Budget and Management shall transfer, by 82925
intrastate transfer voucher, in fiscal year 2006, \$615,000 from 82926
Fund 4E3, Resident Protection Fund, in the Department of Job and 82927
Family Services, to Fund 5BA in the Department of Aging, to be 82928
used for program management for the Office of the State Long-Term 82929
Care Ombudsman created by the Department of Aging under division 82930
(M) of section 173.01 of the Revised Code. 82931

The Director of Budget and Management shall transfer, by 82932

intrastate transfer voucher, in fiscal year 2006, \$350,000 from 82933
Fund 4E3, Resident Protection Fund, in the Department of Job and 82934
Family Services to Fund 5CE in the Department of Aging to be used 82935
by the Alzheimer's Association to develop a pilot training program 82936
on person-centered dementia care for long term care staff who 82937
interact with people with dementia. 82938

SENIOR COMMUNITY SERVICES 82939

Appropriation item 490-411, Senior Community Services, shall 82940
be used for services designated by the Department of Aging, 82941
including, but not limited to, home-delivered and congregate 82942
meals, transportation services, personal care services, respite 82943
services, adult day services, home repair, care coordination, and 82944
decision support systems. Service priority shall be given to low 82945
income, frail, and cognitively impaired persons 60 years of age 82946
and over. The department shall promote cost sharing by service 82947
recipients for those services funded with block grant funds, 82948
including, when possible, sliding-fee scale payment systems based 82949
on the income of service recipients. 82950

ALZHEIMERS RESPITE 82951

The foregoing appropriation item 490-414, Alzheimers Respite, 82952
shall be used to fund only Alzheimer's disease services under 82953
section 173.04 of the Revised Code. 82954

JCFS ELDERLY TRANSPORTATION 82955

The foregoing appropriation item 490-416, JCFS Elderly 82956
Transportation, shall be used for noncapital expenses related to 82957
transportation services for the elderly that provide access to 82958
such things as healthcare services, congregate meals, 82959
socialization programs, and grocery shopping. The funds shall pass 82960
through and shall be administered by the Area Agencies on Aging. 82961

Agencies receiving funding from appropriation item 490-416, 82962

JCFS Elderly Transportation, shall coordinate services with other	82963
local service agencies. The appropriation shall be allocated to	82964
the following agencies:	82965
(A) \$30,000 in both fiscal years to Cincinnati Jewish	82966
Vocational Services;	82967
(B) \$20,000 in both fiscal years to Wexner Heritage Village;	82968
(C) \$20,000 in both fiscal years to Yassenoff Jewish	82969
Community Center;	82970
(D) \$30,000 in both fiscal years to Cleveland Jewish	82971
Community Center.	82972
RESIDENTIAL STATE SUPPLEMENT	82973
Under the Residential State Supplement Program, the amount	82974
used to determine whether a resident is eligible for payment and	82975
for determining the amount per month the eligible resident will	82976
receive shall be as follows:	82977
(A) \$900 for a residential care facility, as defined in	82978
section 3721.01 of the Revised Code;	82979
(B) \$900 for an adult group home, as defined in Chapter 3722.	82980
of the Revised Code;	82981
(C) \$800 for an adult foster home, as defined in Chapter 173.	82982
of the Revised Code;	82983
(D) \$800 for an adult family home, as defined in Chapter	82984
3722. of the Revised Code;	82985
(E) \$800 for an adult community alternative home, as defined	82986
in Chapter 3724. of the Revised Code;	82987
(F) \$800 for an adult residential facility, as defined in	82988
Chapter 5119. of the Revised Code;	82989
(G) \$600 for adult community mental health housing services,	82990
as defined in division (B)(5) of section 173.35 of the Revised	82991

Code.	82992
The Departments of Aging and Job and Family Services shall reflect these amounts in any applicable rules the departments adopt under section 173.35 of the Revised Code.	82993 82994 82995
LONG-TERM CARE OMBUDSMAN	82996
The foregoing appropriation item 490-410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities in nursing homes, adult care facilities, boarding homes, and home and community care services.	82997 82998 82999 83000
TRANSFER OF RESIDENTIAL STATE SUPPLEMENT APPROPRIATIONS	83001
The Department of Aging may transfer cash by intrastate transfer vouchers from the foregoing appropriation items 490-412, Residential State Supplement, and 490-610, PASSPORT/Residential State Supplement, to the Department of Job and Family Services' Fund 4J5, Home and Community-Based Services for the Aged Fund. The funds shall be used to make benefit payments to Residential State Supplement recipients.	83002 83003 83004 83005 83006 83007 83008
TRANSFER OF APPROPRIATIONS - FEDERAL AGING NUTRITION, FEDERAL INDEPENDENCE SERVICES, AND FEDERAL AGING GRANTS	83009 83010
Upon written request of the Director of Aging, the Director of Budget and Management may transfer appropriation authority among appropriation items 490-611, Federal Aging Nutrition, 490-612, Federal Independence Services, and 490-618, Federal Aging Grants, in amounts not to exceed 30 per cent of the appropriation from which the transfer is made. The Department of Aging shall report a transfer to the Controlling Board at the next regularly scheduled meeting of the board.	83011 83012 83013 83014 83015 83016 83017 83018
REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM	83019
The foregoing appropriation item 490-609, Regional Long-Term Care Ombudsman Program, shall be used solely to pay the costs of	83020 83021

operating the regional long-term care ombudsman programs. 83022

PASSPORT/RESIDENTIAL STATE SUPPLEMENT 83023

Of the foregoing appropriation item 490-610, 83024

PASSPORT/Residential State Supplement, up to \$2,835,000 each 83025

fiscal year may be used to fund the Residential State Supplement 83026

Program. The remaining available funds shall be used to fund the 83027

PASSPORT program. 83028

TRANSITION PLAN FOR RESIDENTIAL STATE SUPPLEMENT 83029

Subject to approval by the Social Security Administration, of 83030

the foregoing appropriation items 490-412, Residential State 83031

Supplement, and 490-610, PASSPORT/Residential State Supplement, 83032

Fund 4J4, in fiscal year 2007 the Department of Aging shall 83033

transfer to the Ohio Department of Mental Health sufficient funds 83034

to make benefit payments for all Residential State Supplement 83035

recipients who are less than 60 years of age diagnosed with mental 83036

illness, mental retardation, or a developmental disability and are 83037

enrolled in the program on June 30, 2006. Upon the request of the 83038

Directors of Aging and of Mental Health, the Director of Budget 83039

and Management may transfer appropriations from GRF appropriation 83040

item 490-412, Residential State Supplement, in the Department of 83041

Aging to GRF appropriation item 335-505, Local Mental Health 83042

Systems of Care, in the Department of Mental Health. In addition, 83043

upon the request of the Directors of Aging and Mental Health, the 83044

Director of Budget and Management may transfer cash from Fund 4J4, 83045

PASSPORT Fund, into the General Revenue Fund and increase the 83046

appropriation in Department of Mental Health GRF appropriation 83047

item 335-505, Local Mental Health Systems of Care, by an equal 83048

amount. 83049

The departments of Aging and Mental Health shall jointly 83050

petition the Social Security Administration to approve changes to 83051

the Residential State Supplement program. Changes proposed by the 83052

two departments shall ensure that Residential State Supplement 83053
program recipients on June 30, 2006, continue to receive benefit 83054
payments as long as they remain in the program. Changes proposed 83055
by the departments of Aging and Mental Health may include 83056
provisions that improve local accountability to county boards of 83057
mental health, maximize available funding, and improve the quality 83058
of residential settings approved for recipients. If the Social 83059
Security Administration does not approve these changes, the 83060
Department of Aging shall continue to be responsible for the 83061
Residential State Supplement Program. 83062

Section 203.21.09. AGING AND DISABILITY RESOURCE CENTERS 83063

The Department of Aging shall apply for the 2005 Aging and 83064
Disability Resource Center Grant Initiative of the Administration 83065
on Aging and the Centers for Medicare and Medicaid Services. If 83066
the application is accepted, the Department shall create an Aging 83067
and Disability Resource Center beginning in fiscal year 2006. The 83068
Department of Job and Family Services shall endorse the 83069
Department's application to the extent required by the invitation 83070
to apply. 83071

Section 203.24. AGR DEPARTMENT OF AGRICULTURE 83072

General Revenue Fund 83073

GRF 700-321 Operating Expenses	\$	2,605,330	\$	2,605,330	83074
GRF 700-401 Animal Disease Control	\$	3,574,506	\$	3,574,506	83075
GRF 700-403 Dairy Division	\$	1,304,504	\$	1,304,504	83076
GRF 700-404 Ohio Proud	\$	185,395	\$	185,395	83077
GRF 700-405 Animal Damage Control	\$	60,000	\$	60,000	83078
GRF 700-406 Consumer Analytical	\$	819,907	\$	819,907	83079
Lab					
GRF 700-407 Food Safety	\$	939,099	\$	939,099	83080
GRF 700-409 Farmland Preservation	\$	241,573	\$	241,573	83081

GRF 700-410	Plant Industry	\$	391,216	\$	50,000	83082
GRF 700-411	International Trade	\$	617,524	\$	517,524	83083
	and Market Development					
GRF 700-412	Weights and Measures	\$	1,100,000	\$	1,300,000	83084
GRF 700-413	Gypsy Moth Prevention	\$	200,000	\$	200,000	83085
GRF 700-415	Poultry Inspection	\$	325,000	\$	325,000	83086
GRF 700-418	Livestock Regulation	\$	1,428,496	\$	1,428,496	83087
	Program					
GRF 700-424	Livestock Testing and	\$	115,946	\$	115,946	83088
	Inspections					
GRF 700-499	Meat Inspection	\$	4,696,889	\$	4,696,889	83089
	Program - State Share					
GRF 700-501	County Agricultural	\$	358,226	\$	358,226	83090
	Societies					
TOTAL GRF	General Revenue Fund	\$	18,963,611	\$	18,722,395	83091
	Federal Special Revenue Fund Group					83092
3J4 700-607	Indirect Cost	\$	1,500,027	\$	1,500,027	83093
3R2 700-614	Federal Plant Industry	\$	4,800,000	\$	4,800,000	83094
326 700-618	Meat Inspection	\$	5,201,291	\$	5,201,291	83095
	Program - Federal					
	Share					
336 700-617	Ohio Farm Loan	\$	43,793	\$	44,679	83096
	Revolving Fund					
382 700-601	Cooperative Contracts	\$	4,300,000	\$	4,300,000	83097
TOTAL FED	Federal Special Revenue					83098
Fund Group		\$	15,845,111	\$	15,845,997	83099
	State Special Revenue Fund Group					83100
4C9 700-605	Feed, Fertilizer,	\$	1,922,857	\$	1,891,395	83101
	Seed, and Lime					
	Inspection					
4D2 700-609	Auction Education	\$	23,885	\$	24,601	83102
4E4 700-606	Utility Radiological	\$	73,059	\$	73,059	83103

		Safety					
4P7	700-610	Food Safety Inspection	\$	816,096	\$	858,096	83104
4R0	700-636	Ohio Proud Marketing	\$	38,300	\$	38,300	83105
4R2	700-637	Dairy Industry	\$	1,541,466	\$	1,621,460	83106
		Inspection					
4T6	700-611	Poultry and Meat	\$	47,294	\$	47,294	83107
		Inspection					
4T7	700-613	International Trade	\$	52,000	\$	54,000	83108
		and Market Development					
494	700-612	Agricultural Commodity	\$	170,220	\$	170,220	83109
		Marketing Program					
496	700-626	Ohio Grape Industries	\$	1,071,099	\$	1,071,054	83110
497	700-627	Commodity Handlers	\$	515,820	\$	529,978	83111
		Regulatory Program					
5B8	700-629	Auctioneers	\$	365,390	\$	365,390	83112
5H2	700-608	Metrology Lab and	\$	351,526	\$	362,526	83113
		Scale Certification					
5L8	700-604	Livestock Management	\$	30,000	\$	30,000	83114
		Program					
578	700-620	Ride Inspection Fees	\$	1,105,436	\$	1,115,436	83115
652	700-634	Animal Health and Food	\$	1,876,624	\$	1,831,232	83116
		Safety					
669	700-635	Pesticide Program	\$	2,993,232	\$	3,354,448	83117
TOTAL SSR		State Special Revenue					83118
Fund Group			\$	12,994,304	\$	13,438,489	83119
Clean Ohio Fund Group							83120
057	700-632	Clean Ohio	\$	149,000	\$	149,000	83121
		Agricultural Easement					
TOTAL CLR		Clean Ohio Fund Group	\$	149,000	\$	149,000	83122
TOTAL ALL BUDGET FUND GROUPS			\$	47,952,026	\$	48,155,881	83123
		OHIO - ISRAEL AGRICULTURAL INITIATIVE					83124
		Of the foregoing General Revenue Fund appropriation item					83125

700-411, International Trade and Market Development, \$100,000	83126
shall be used in fiscal year 2006 for the Ohio - Israel	83127
Agricultural Initiative.	83128
FAMILY FARM LOAN PROGRAM	83129
Notwithstanding Chapter 166. of the Revised Code, up to	83130
\$1,000,000 in each fiscal year shall be transferred from moneys in	83131
the Facilities Establishment Fund (Fund 037) to the Family Farm	83132
Loan Fund (Fund 5H1) in the Department of Development. These	83133
moneys shall be used for loan guarantees. The transfer is subject	83134
to Controlling Board approval.	83135
Financial assistance from the Family Farm Loan Fund (Fund	83136
5H1) shall be repaid to Fund 5H1. This fund is established in	83137
accordance with sections 166.031, 901.80, 901.81, 901.82, and	83138
901.83 of the Revised Code.	83139
When the Family Farm Loan Fund (Fund 5H1) ceases to exist,	83140
all outstanding balances, all loan repayments, and any other	83141
outstanding obligations shall revert to the Facilities	83142
Establishment Fund (Fund 037).	83143
Section 203.24.03. FERTILIZER-RELATED LICENSURE AND	83144
REGISTRATION	83145
To facilitate implementation of the new schedule for	83146
fertilizer-related licensure, registration, and reporting	83147
established under sections 905.32, 905.33, 905.331, and 905.36 of	83148
the Revised Code, as amended by this act, all of the following	83149
apply:	83150
(A) With regard to licenses for which applications for the	83151
license period beginning July 1, 2005, have been submitted under	83152
sections 905.32 and 905.331 of the Revised Code as those sections	83153
existed prior to their amendment by this act, a license shall be	83154
issued for a period beginning on July 1, 2005, and ending on	83155

November 30, 2005, and shall expire on November 30, 2005. 83156

(B) With regard to registrations of a specialty fertilizer 83157
for which applications for the registration period beginning July 83158
1, 2005, have been submitted under section 905.33 of the Revised 83159
Code as that section existed prior to its amendment by this act, a 83160
registration shall be issued for the period beginning on July 1, 83161
2005, and ending on November 30, 2005, and shall expire on 83162
November 30, 2005. 83163

(C) A person who is required to submit a tonnage report 83164
within thirty days of June 30, 2005, under section 905.36 of the 83165
Revised Code as that section existed prior to its amendments by 83166
this act shall submit the report by that date. However, the person 83167
also shall submit a tonnage report by November 30, 2005, for the 83168
period beginning on July 1, 2005, and ending on October 31, 2005 83169
as required by section 905.36 of the Revised Code as amended by 83170
this act. 83171

COMMERCIAL FEED, FERTILIZER, SEED, AND LIME INSPECTION AND 83172
LABORATORY FUND 83173

The Commercial Feed, Fertilizer, Seed, and Lime Inspection 83174
and Laboratory Fund created in section 905.38 of the Revised Code, 83175
as amended by this act, is a continuation of the Commerical Feed, 83176
Fertilizer, and Lime Inspection and Laboratory Fund that was 83177
created in that section prior to its amendment by this act. 83178
Notwithstanding any other provision of law to the contrary, the 83179
Seed Fund (5Z4) created in section 907.16 of the Revised Code 83180
shall cease to exist, effective July 1, 2005. All assets, 83181
liabilities, revenues, and obligations associated with the Seed 83182
Fund (5Z4) are hereby transferred to the Commerical Feed, 83183
Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 83184
4C9) on July 1, 2005. 83185

Effective July 1, 2005, or as soon thereafter as possible, 83186

the Director of Agriculture shall certify to the Director of
Budget and Management the cash balance in the Seed Fund (5Z4),
which was merged in section 907.16 of the Revised Code, as amended
by this act. The Director of Budget and Management shall transfer
the certified amount to the Commercial Feed, Fertilizer, Seed, and
Lime Inspection and Laboratory Fund (Fund 4C9), which is created
in section 907.16 of the Revised Code, formerly named the Seed
Fund. The Director shall cancel any existing encumbrances against
appropriation item 700-642, Seed Program, and re-establish them
against appropriation item 700-605, Feed, Fertilizer, Seed, and
Lime Inspection. The amounts of the re-established encumbrances
are hereby appropriated.

METROLOGY LAB AND SCALE CERTIFICATION FUND

The Metrology and Scale Certification Fund created in section
1327.511 of the Revised Code, as amended by this act, is a
continuation of the Scale Certification Fund that was created in
that section prior to its amendment by this act. Notwithstanding
any other provision of law to the contrary, the Scale
Certification Fund (Fund 579) created in section 1327.511 of the
Revised Code shall cease to exist, effective July 1, 2005. All
assets, liabilities, revenues, and obligations associated with the
Scale Certification Fund (Fund 579) are hereby transferred to the
Metrology Lab and Scale Certification Fund (Fund 5H2) on July 1,
2005.

Effective July 1, 2005, or as soon thereafter as possible,
the Director of Agriculture shall certify to the Director of
Budget and Management the cash balance in the Scale Certification
Fund (Fund 579), which was merged in section 1327.511 of the
Revised Code, as amended by this act. The Director of Budget and
Management shall transfer the certified amount to the Metrology
Laboratory and Scale Certification Fund (Fund 5H2) which is
created in section 1327.511 of the Revised Code, formerly named

the Scale Certification Laboratory Fund. The Director shall cancel 83219
any existing encumbrances against appropriation item 700-630, 83220
Scale Certification, and re-establish them against appropriation 83221
item 700-608, Metrology Lab. The amounts of the re-established 83222
encumbrances are hereby appropriated. 83223

ANIMAL HEALTH AND FOOD SAFETY 83224

Notwithstanding any other provision of law to the contrary, 83225
the Animal Industry Laboratory Fees Fund (Fund 4V5) created in 83226
division (E)(1) of section 901.43 of the Revised Code shall cease 83227
to exist, effective July 1, 2005. All assets, liabilities, 83228
revenues, and obligations associated with the Animal Industry 83229
Laboratory Fund (Fund 4V5) are hereby transferred to the Animal 83230
Health and Food Safety Fund (Fund 652) on July 1, 2005. 83231

Effective July 1, 2005, or as soon thereafter as possible, 83232
the Director of Agriculture shall certify to the Director of 83233
Budget and Management the cash balance in the Animal Industry 83234
Laboratory Fund (Fund 4V5), which was merged in division (E)(1) of 83235
section 901.43 of the Revised Code, as amended by this act. The 83236
Director of Budget and Management shall transfer the certified 83237
amount to the Animal Health and Food Safety Fund (Fund 652) which 83238
is created in division (E)(2) of section 901.43 of the Revised 83239
Code, formerly named the Animal Industry Laboratory Fund. The 83240
Director of Budget and Management shall cancel any existing 83241
encumbrances against appropriation item 700-615, Animal Industry 83242
Lab Fees, and re-establish them against appropriation item 83243
700-634, Laboratory Services. The amounts of the re-established 83244
encumbrances are hereby appropriated. 83245

PESTICIDE REGISTRATION AND INSPECTION FEE 83246

The registration and inspection fee established in rules 83247
adopted under section 921.16 of Revised Code for the purposes of 83248
section 921.02 of the Revised Code, as that section existed prior 83249

to its amendment by this act, that are in effect on January 1, 2005, shall remain in effect until the new fees established in section 921.02 of the Revised Code as amended by this act take effect on January 1, 2007.

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700-632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

TRANSFER BETWEEN FUNDS

For fiscal years 2006 and 2007, if the cash credited to the Commercial Feed, Fertilizer, Seed, and Lime Inspection and Laboratory Fund (Fund 4C9) or the Pesticide Program Fund (Fund 669) exceeds the amount necessary to administer the programs for which they were intended, the Director of Agriculture may certify the amount to the Director of Budget and Management. The Director of Budget and Management may transfer the cash to any other fund administered by the Director of Agriculture.

UNCLAIMED FUNDS TRANSFER

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the Food Safety Fund (Fund 4P7) up to \$21,790 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described in that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the Food Safety Fund (Fund 4P7) up to \$21,790 of the unclaimed

funds that have been reported by the holders of unclaimed funds 83280
under section 169.05 of the Revised Code, regardless of the 83281
allocation of the unclaimed funds described in that section. 83282

Section 203.27. AIR AIR QUALITY DEVELOPMENT AUTHORITY 83283

General Revenue Fund 83284

GRF 898-402 Coal Development \$ 568,814 \$ 573,814 83285
Office

GRF 898-901 Coal R&D General \$ 7,071,100 \$ 8,980,800 83286
Obligation Debt
Service

TOTAL GRF General Revenue Fund \$ 7,639,914 \$ 9,554,614 83287

Agency Fund Group 83288

429 898-602 Small Business \$ 263,165 \$ 264,196 83289
Ombudsman

5A0 898-603 Small Business \$ 71,087 \$ 71,087 83290
Assistance

570 898-601 Operating Expenses \$ 256,875 \$ 263,693 83291

TOTAL AGY Agency Fund Group \$ 591,127 \$ 598,976 83292

Coal Research/Development Fund 83293

046 898-604 Coal Research and \$ 10,000,000 \$ 10,000,000 83294
Development Fund

TOTAL 046 Coal \$ 10,000,000 \$ 10,000,000 83295

Research/Development Fund

TOTAL ALL BUDGET FUND GROUPS \$ 18,231,041 \$ 20,153,590 83296

COAL DEVELOPMENT OFFICE 83297

The foregoing appropriation item GRF 898-402, Coal 83298
Development Office, shall be used for the administrative costs of 83299
the Coal Development Office. 83300

COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE 83301

The foregoing appropriation item GRF 898-901, Coal R & D 83302

General Obligation Debt Service, shall be used to pay all debt 83303
service and related financing costs at the times they are required 83304
to be made under sections 151.01 and 151.07 of the Revised Code 83305
during the period from July 1, 2005, to June 30, 2007. The Office 83306
of the Sinking Fund or the Director of Budget and Management shall 83307
effectuate the required payments by intrastate transfer voucher. 83308

SCIENCE AND TECHNOLOGY COLLABORATION 83309

The Air Quality Development Authority shall work in close 83310
collaboration with the Department of Development, the Board of 83311
Regents, and the Third Frontier Commission in relation to 83312
appropriation items and programs referred to as Alignment Programs 83313
in the following paragraph, and other technology-related 83314
appropriations and programs in the Department of Development, Air 83315
Quality Development Authority, and the Board of Regents as those 83316
agencies may designate, to ensure implementation of a coherent 83317
state strategy with respect to science and technology. 83318

To the extent permitted by law, the Air Quality Development 83319
Authority shall assure that coal research and development 83320
programs, proposals, and projects consider or incorporate 83321
appropriate collaborations with Third Frontier Project programs 83322
and grantees and with Alignment Programs and grantees. 83323

"Alignment Programs" means: appropriation items 195-401, 83324
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 83325
Third Frontier Action Fund; 898-604, Coal Research and Development 83326
Fund; 235-433, Economic Growth Challenge; 235-508, Air Force 83327
Institute of Technology; 235-510, Ohio Supercomputer Center; 83328
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute; 83329
235-535, Ohio Agricultural Research and Development Center; 83330
235-553, Dayton Area Graduate Studies Institute; 235-554, 83331
Priorities in Collaborative Graduate Education; 235-556, Ohio 83332
Academic Resources Network; and 195-435, Biomedical Research and 83333

Technology Transfer Trust. 83334

Consistent with the recommendations of the Governor's 83335
Commission on Higher Education and the Economy, Alignment Programs 83336
shall be managed and administered (1) to build on existing 83337
competitive research strengths, (2) to encourage new and emerging 83338
discoveries and commercialization of ideas and products that will 83339
benefit the Ohio economy, and (3) to assure improved collaboration 83340
among Alignment Programs, with programs administered by the Third 83341
Frontier Commission, and with other state programs that are 83342
intended to improve economic growth and job creation. 83343

As directed by the Third Frontier Commission, Alignment 83344
Program managers shall report to the Commission or to the Third 83345
Frontier Advisory Board on the contributions of their programs to 83346
achieving the objectives stated in the preceding paragraph. 83347

Each alignment program shall be reviewed annually by the 83348
Third Frontier Commission with respect to its development of 83349
complementary relationships within a combined state science and 83350
technology investment portfolio and its overall contribution to 83351
the state's science and technology strategy, including the 83352
adoption of appropriately consistent criteria for: (1) the 83353
scientific merit of activities supported by the program; (2) the 83354
relevance of the program's activities to commercial opportunities 83355
in the private sector; (3) the private sector's involvement in a 83356
process that continually evaluates commercial opportunities to use 83357
the work supported by the program; and (4) the ability of the 83358
program and recipients of grant funding from the program to engage 83359
in activities that are collaborative, complementary, and efficient 83360
with respect to the expenditure of state funds. Each alignment 83361
program shall provide annual reports to the Third Frontier 83362
Commission discussing existing, planned, or possible 83363
collaborations between programs and recipients of grant funding 83364
related to technology, development, commercialization, and 83365

supporting Ohio's economic development. The annual review by the 83366
Third Frontier Commission shall be a comprehensive review of the 83367
entire state science and technology program portfolio rather than 83368
a review of individual programs. 83369

Applicants for Third Frontier and Alignment Program funding 83370
shall identify their requirements for high-performance computing 83371
facilities and services, including both hardware and software, in 83372
all proposals. If an applicant's requirements exceed approximately 83373
\$100,000 for a proposal, the Ohio Supercomputer Center shall 83374
convene a panel of experts. The panel shall review the proposal to 83375
determine whether the proposal's requirements can be met through 83376
Ohio Supercomputer Center facilities or through other means and 83377
report its conclusion to the Third Frontier Commission. 83378

To ensure that the state receives the maximum benefit from 83379
its investment in the Third Frontier Project and the Third 83380
Frontier Network, organizations receiving Third Frontier awards 83381
and Alignment Program awards shall, as appropriate, be expected to 83382
have a connection to the Third Frontier Network that enables them 83383
and their collaborators to achieve award objectives through the 83384
Third Frontier Network. 83385

Section 203.30. ADA DEPARTMENT OF ALCOHOL AND DRUG ADDICTION 83386
SERVICES 83387

General Revenue Fund 83388

GRF 038-321 Operating Expenses	\$	1,128,275	\$	1,128,275	83389
GRF 038-401 Treatment Services	\$	35,593,265	\$	36,661,063	83390
GRF 038-404 Prevention Services	\$	1,021,483	\$	1,052,127	83391
TOTAL GRF General Revenue Fund	\$	37,743,023	\$	38,841,465	83392

General Services Fund 83393

5T9 038-616 Problem Gambling	\$	285,000	\$	285,000	83394
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Services

TOTAL GSF General Services Fund	\$	285,000	\$	285,000	83395
Group					
Federal Special Revenue Fund Group					83396
3G3 038-603 Drug Free Schools	\$	3,500,000	\$	3,500,000	83397
3G4 038-614 Substance Abuse Block	\$	73,000,000	\$	73,000,000	83398
Grant					
3H8 038-609 Demonstration Grants	\$	7,093,075	\$	7,093,075	83399
3J8 038-610 Medicaid	\$	42,000,000	\$	46,000,000	83400
3N8 038-611 Administrative	\$	500,000	\$	500,000	83401
Reimbursement					
TOTAL FED Federal Special Revenue					83402
Fund Group	\$	126,093,075	\$	130,093,075	83403
State Special Revenue Fund Group					83404
475 038-621 Statewide Treatment	\$	17,500,000	\$	18,000,000	83405
and Prevention					
5BR 038-406 Tobacco Use Prevention	\$	265,000	\$	205,000	83406
and Control Program					
689 038-604 Education and	\$	350,000	\$	350,000	83407
Conferences					
TOTAL SSR State Special Revenue					83408
Fund Group	\$	18,115,000	\$	18,555,000	83409
TOTAL ALL BUDGET FUND GROUPS	\$	182,236,098	\$	187,774,540	83410
TREATMENT SERVICES					83411
Of the foregoing appropriation item 038-401, Treatment					83412
Services, not more than \$8,190,000 shall be used by the Department					83413
of Alcohol and Drug Addiction Services for program grants for					83414
priority populations in each year of the biennium.					83415
SUBSTANCE ABUSE SERVICES FOR FAMILIES OF AT RISK CHILDREN					83416
Of the foregoing appropriation item 038-401, Treatment					83417
Services, \$4 million in each fiscal year shall be used to provide					83418
substance abuse services to families involved in the child welfare					83419

system under the requirements of Am. Sub. H.B. 484 of the 122nd				83420
General Assembly.				83421
SERVICES FOR TANF-ELIGIBLE INDIVIDUALS				83422
Of the foregoing appropriation item 038-401, Treatment				83423
Services, \$5 million each year shall be used to fund TANF-eligible				83424
expenditures for substance abuse prevention and treatment services				83425
to children, or their families, whose income is at or below 200				83426
per cent of the official income poverty guideline. The Director of				83427
Alcohol and Drug Addiction Services and the Director of Job and				83428
Family Services shall develop operating and reporting guidelines				83429
for these programs.				83430
THERAPEUTIC COMMUNITIES				83431
Of the foregoing appropriation item 038-401, Treatment				83432
Services, \$750,000 shall be used in each fiscal year for expansion				83433
of the Therapeutic Communities Program in the Department of				83434
Rehabilitation and Correction.				83435
PARENT AWARENESS TASK FORCE				83436
The Parent Awareness Task Force shall study ways to engage				83437
more parents in activities, coalitions, and educational programs				83438
in Ohio relating to alcohol and other drug abuse prevention. Of				83439
the foregoing appropriation item 038-404, Prevention Services,				83440
\$30,000 in each fiscal year may be used to support the functions				83441
of the Parent Awareness Task Force.				83442
Section 203.36. ARC STATE BOARD OF EXAMINERS OF ARCHITECTS				83443
General Services Fund Group				83444
4K9 891-609 Operating Expenses	\$	489,197	\$ 489,197	83445
TOTAL GSF General Services Fund				83446
Group	\$	489,197	\$ 489,197	83447
TOTAL ALL BUDGET FUND GROUPS				83448

Section 203.39. ART OHIO ARTS COUNCIL				83450
General Revenue Fund				83451
GRF 370-100 Personal Services	\$	1,798,235	\$ 1,798,235	83452
GRF 370-200 Maintenance	\$	459,746	\$ 459,746	83453
GRF 370-300 Equipment	\$	4,700	\$ 4,700	83454
GRF 370-502 Program Subsidies	\$	8,975,480	\$ 8,975,480	83455
TOTAL GRF General Revenue Fund	\$	11,238,161	\$ 11,238,161	83456
General Services Fund Group				83457
4B7 370-603 Per Cent for Art	\$	86,366	\$ 86,366	83458
Acquisitions				
460 370-602 Gifts and Donations	\$	400,000	\$ 400,000	83459
TOTAL GSF General Services Fund	\$	486,366	\$ 486,366	83460
Group				
Federal Special Revenue Fund Group				83461
314 370-601 Federal Programs	\$	1,537,200	\$ 1,537,200	83462
TOTAL FED Federal Special Revenue	\$	1,537,200	\$ 1,537,200	83463
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	13,261,727	\$ 13,261,727	83464
PROGRAM SUBSIDIES				83465
A museum is not eligible to receive funds from appropriation				83466
item 370-502, Program Subsidies, if \$8,000,000 or more in capital				83467
appropriations were appropriated by the state for the museum				83468
between January 1, 1986, and December 31, 2002.				83469
Section 203.45. ATH ATHLETIC COMMISSION				83470
General Services Fund Group				83471
4K9 175-609 Operating Expenses	\$	248,150	\$ 0	83472
TOTAL GSF General Services Fund	\$	248,150	\$ 0	83473
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	248,150	\$ 0	83474

Section 203.48. AGO ATTORNEY GENERAL				83476
General Revenue Fund				83477
GRF 055-321	Operating Expenses	\$ 42,118,150	\$ 52,610,156	83478
GRF 055-411	County Sheriffs' Pay	\$ 760,495	\$ 779,509	83479
Supplement				
GRF 055-415	County Prosecutors'	\$ 740,704	\$ 759,222	83480
Pay Supplement				
TOTAL GRF	General Revenue Fund	\$ 43,619,349	\$ 54,148,887	83481
General Services Fund Group				83482
106 055-612	General Reimbursement	\$ 21,370,196	\$ 21,370,196	83483
107 055-624	Employment Services	\$ 850,000	\$ 850,000	83484
195 055-660	Workers' Compensation	\$ 7,769,628	\$ 7,769,628	83485
Section				
4Y7 055-608	Title Defect	\$ 250,000	\$ 250,000	83486
Rescission				
4Z2 055-609	BCI Asset Forfeiture	\$ 1,332,109	\$ 1,332,109	83487
and Cost Reimbursement				
418 055-615	Charitable Foundations	\$ 4,899,066	\$ 4,899,066	83488
420 055-603	Attorney General	\$ 446,449	\$ 446,449	83489
Antitrust				
421 055-617	Police Officers'	\$ 1,693,213	\$ 1,693,213	83490
Training Academy Fee				
5A9 055-618	Telemarketing Fraud	\$ 7,500	\$ 7,500	83491
Enforcement				
590 055-633	Peace Officer Private	\$ 98,370	\$ 98,370	83492
Security Fund				
629 055-636	Corrupt Activity	\$ 15,000	\$ 15,000	83493
Investigation and				
Prosecution				
631 055-637	Consumer Protection	\$ 1,373,832	\$ 1,373,832	83494
Enforcement				

TOTAL GSF General Services Fund				83495
Group	\$	40,105,363	\$ 40,105,363	83496
Federal Special Revenue Fund Group				83497
3E5 055-638 Attorney General	\$	1,981,102	\$ 1,981,102	83498
Pass-Through Funds				
3R6 055-613 Attorney General	\$	3,842,097	\$ 3,842,097	83499
Federal Funds				
306 055-620 Medicaid Fraud Control	\$	2,799,000	\$ 2,799,000	83500
381 055-611 Civil Rights Legal	\$	390,815	\$ 390,815	83501
Service				
383 055-634 Crime Victims	\$	18,439,313	\$ 18,439,313	83502
Assistance				
TOTAL FED Federal Special Revenue				83503
Fund Group	\$	27,452,327	\$ 27,452,327	83504
State Special Revenue Fund Group				83505
4L6 055-606 DARE	\$	3,927,962	\$ 3,927,962	83506
402 055-616 Victims of Crime	\$	30,000,000	\$ 30,000,000	83507
419 055-623 Claims Section	\$	23,671,954	\$ 15,149,954	83508
659 055-641 Solid and Hazardous	\$	621,159	\$ 621,159	83509
Waste Background				
Investigations				
TOTAL SSR State Special Revenue				83510
Fund Group	\$	58,221,075	\$ 49,699,075	83511
Holding Account Redistribution Fund Group				83512
R04 055-631 General Holding	\$	275,000	\$ 275,000	83513
Account				
R05 055-632 Antitrust Settlements	\$	1,000	\$ 1,000	83514
R18 055-630 Consumer Frauds	\$	300,000	\$ 300,000	83515
R42 055-601 Organized Crime	\$	25,025	\$ 25,025	83516
Commission Account				
TOTAL 090 Holding Account				83517
Redistribution Fund Group	\$	601,025	\$ 601,025	83518

TOTAL ALL BUDGET FUND GROUPS	\$ 169,999,139	\$ 172,006,677	83519
COUNTY SHERIFFS' PAY SUPPLEMENT			83520
The foregoing appropriation item 055-411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.			83521 83522 83523 83524
COUNTY PROSECUTORS' PAY SUPPLEMENT			83525
The foregoing appropriation item 055-415, County Prosecutors' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.			83526 83527 83528 83529
WORKERS' COMPENSATION SECTION			83530
The Workers' Compensation Section Fund (Fund 195) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.			83531 83532 83533 83534 83535 83536 83537
In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.			83538 83539 83540
All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.			83541 83542 83543
CORRUPT ACTIVITY INVESTIGATION AND PROSECUTION			83544
The foregoing appropriation item 055-636, Corrupt Activity Investigation and Prosecution, shall be used as provided by division (D)(2) of section 2923.35 of the Revised Code to dispose of the proceeds, fines, and penalties credited to the Corrupt			83545 83546 83547 83548

Activity Investigation and Prosecution Fund, which is created in 83549
division (D)(1)(b) of section 2923.35 of the Revised Code. If it 83550
is determined that additional amounts are necessary for this 83551
purpose, the amounts are hereby appropriated. 83552

ATTORNEY GENERAL PASS-THROUGH FUNDS 83553

The foregoing appropriation item 055-638, Attorney General 83554
Pass-Through Funds, shall be used to receive federal grant funds 83555
provided to the Attorney General by other state agencies, 83556
including, but not limited to, the Department of Youth Services 83557
and the Department of Public Safety. 83558

ANTITRUST SETTLEMENTS 83559

The foregoing appropriation item 055-632, Antitrust 83560
Settlements, shall be used to distribute court-ordered antitrust 83561
settlements in which the Office of Attorney General represents the 83562
state or a political subdivision under section 109.81 of the 83563
Revised Code. If it is determined that additional amounts are 83564
necessary for this purpose, the amounts are hereby appropriated. 83565

CONSUMER FRAUDS 83566

The foregoing appropriation item 055-630, Consumer Frauds, 83567
shall be used for distribution of moneys from court-ordered 83568
judgments against sellers in actions brought by the Office of 83569
Attorney General under sections 1334.08 and 4549.48 and division 83570
(B) of section 1345.07 of the Revised Code. These moneys shall be 83571
used to provide restitution to consumers victimized by the fraud 83572
that generated the court-ordered judgments. If it is determined 83573
that additional amounts are necessary for this purpose, the 83574
amounts are hereby appropriated. 83575

ORGANIZED CRIME COMMISSION ACCOUNT 83576

The foregoing appropriation item 055-601, Organized Crime 83577
Commission Account, shall be used by the Organized Crime 83578

Investigations Commission, as provided by section 177.011 of the
 Revised Code, to reimburse political subdivisions for the expenses
 the political subdivisions incur when their law enforcement
 officers participate in an organized crime task force. If it is
 determined that additional amounts are necessary for this purpose,
 the amounts are hereby appropriated.

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Section 203.51. AUD AUDITOR OF STATE

83585

General Revenue Fund

83586

GRF 070-321 Operating Expenses \$ 29,014,425 \$ 28,964,425 83587

GRF 070-403 Fiscal Watch/Emergency \$ 500,000 \$ 500,000 83588

Technical Assistance

GRF 070-405 Electronic Data \$ 823,193 \$ 823,193 83589

Processing - Auditing
 and Administration

GRF 070-406 Uniform Accounting \$ 1,588,538 \$ 1,588,538 83590

Network/Technology
 Improvements Fund

TOTAL GRF General Revenue Fund \$ 31,926,156 \$ 31,876,156 83591

Auditor of State Fund Group

83592

R06 070-604 Continuous Receipts \$ 35,000 \$ 35,000 83593

109 070-601 Public Audit Expense - \$ 9,300,000 \$ 9,300,000 83594

Intra-State

422 070-601 Public Audit Expense - \$ 31,104,840 \$ 31,104,840 83595

Local Government

584 070-603 Training Program \$ 131,250 \$ 131,250 83596

675 070-605 Uniform Accounting \$ 3,317,336 \$ 3,317,336 83597

Network

TOTAL AUS Auditor of State Fund 83598

Group \$ 43,888,426 \$ 43,888,426 83599

TOTAL ALL BUDGET FUND GROUPS \$ 75,814,582 \$ 75,764,582 83600

BILLING PRACTICES PILOT REVIEW

83601

Of the foregoing appropriation item 070-321, Operating 83602
Expenses, \$50,000 shall be used by the Auditor of State to conduct 83603
a pilot review of the billing practices of facilities licensed by 83604
the Department of Mental Health and the Department of Job and 83605
Family Services that serve children in a residential setting for 83606
whom mental health treatment services are provided. In conducting 83607
this review, the Auditor of State shall have access to any 83608
information, records, or other data that would otherwise be 83609
available to any federal, state, or local public agency that 83610
provides funding to the facility. 83611

The Auditor of State shall prepare a report on the 83612
conclusions of the pilot review, and shall furnish copies of the 83613
report to the Governor, the Speaker of the House of 83614
Representatives, and the President of the Senate, as well as to 83615
the majority and minority leaders of the House of Representatives 83616
and the Senate, by June 30, 2006. 83617

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE 83618

The foregoing appropriation item 070-403, Fiscal 83619
Watch/Emergency Technical Assistance, shall be used for all 83620
expenses incurred by the Office of the Auditor of State in its 83621
role relating to fiscal watch or fiscal emergency activities under 83622
Chapters 118. and 3316. of the Revised Code. Expenses include, but 83623
are not limited to, the following: duties related to the 83624
determination or termination of fiscal watch or fiscal emergency 83625
of municipal corporations, counties, or townships as outlined in 83626
Chapter 118. of the Revised Code and of school districts as 83627
outlined in Chapter 3316. of the Revised Code; development of 83628
preliminary accounting reports; performance of annual forecasts; 83629
provision of performance audits; and supervisory, accounting, or 83630
auditing services for the mentioned public entities and school 83631
districts. The unencumbered balance of appropriation item 070-403, 83632
Fiscal Watch/Emergency Technical Assistance, at the end of fiscal 83633

year 2006 is transferred to fiscal year 2007 for use under the				83634
same appropriation item.				83635
ELECTRONIC DATA PROCESSING				83636
The unencumbered balance of appropriation item 070-405,				83637
Electronic Data Processing - Auditing and Administration, at the				83638
end of fiscal year 2006 is transferred to fiscal year 2007 for use				83639
under the same appropriation item.				83640
UNIFORM ACCOUNTING NETWORK/TECHNOLOGY IMPROVEMENTS FUND				83641
The foregoing appropriation item 070-406, Uniform Accounting				83642
Network/Technology Improvements Fund, shall be used to pay the				83643
costs of developing and implementing the Uniform Accounting				83644
Network and technology improvements for the Office of the Auditor				83645
of State. The unencumbered balance of the appropriation at the end				83646
of fiscal year 2006 is transferred to fiscal year 2007 to pay the				83647
costs of developing and implementing the Uniform Accounting				83648
Network and technology improvements for the Office of the Auditor				83649
of State.				83650
Section 203.54. BRB BOARD OF BARBER EXAMINERS				83651
General Services Fund Group				83652
4K9 877-609 Operating Expenses	\$	568,126	\$ 0	83653
TOTAL GSF General Services Fund				83654
Group	\$	568,126	\$ 0	83655
TOTAL ALL BUDGET FUND GROUPS				83656
Section 203.57. OBM OFFICE OF BUDGET AND MANAGEMENT				83658
General Revenue Fund				83659
GRF 042-321 Budget Development and	\$	2,143,886	\$ 2,143,886	83660
Implementation				
GRF 042-410 National Association	\$	27,089	\$ 28,173	83661
Dues				

GRF 042-412	Audit of Auditor of State	\$	55,900	\$	58,700	83662
GRF 042-435	Gubernatorial Transition	\$	0	\$	250,000	83663
TOTAL GRF	General Revenue Fund	\$	2,226,875	\$	2,480,759	83664
	General Services Fund Group					83665
105 042-603	Accounting and Budgeting	\$	9,781,085	\$	9,976,689	83666
TOTAL GSF	General Services Fund Group	\$	9,781,085	\$	9,976,689	83667
	State Special Revenue Fund Group					83668
5N4 042-602	OAKS Project Implementation	\$	2,262,441	\$	2,272,595	83669
TOTAL SSR	State Special Revenue Fund Group	\$	2,262,441	\$	2,272,595	83670
TOTAL ALL BUDGET FUND GROUPS		\$	14,270,401	\$	14,730,043	83671
	AUDIT COSTS					83672
	Of the foregoing appropriation item 042-603, Accounting and Budgeting, not more than \$420,000 in fiscal year 2006 and \$425,000 in fiscal year 2007 shall be used to pay for centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted accounting principles for the state.					83673 83674 83675 83676 83677 83678
	OAKS PROJECT IMPLEMENTATION					83679
	Notwithstanding section 126.25 of the Revised Code, in fiscal years 2006 and 2007, rebates or revenue shares received from any state payment card program established under division (B) of section 126.21 of the Revised Code may be deposited into the OAKS Project Implementation Fund (Fund 5N4).					83680 83681 83682 83683 83684
	Section 203.60. CSR CAPITOL SQUARE REVIEW AND ADVISORY BOARD					83685

General Revenue Fund				83686
GRF 874-100 Personal Services	\$	1,900,000	\$ 1,900,000	83687
GRF 874-320 Maintenance and Equipment	\$	992,269	\$ 952,269	83688
TOTAL GRF General Revenue Fund	\$	2,892,269	\$ 2,852,269	83689
General Services Fund Group				83690
4G5 874-603 Capitol Square Maintenance Expenses	\$	15,000	\$ 15,000	83691
4S7 874-602 Statehouse Gift Shop/Events	\$	770,484	\$ 770,484	83692
TOTAL GSF General Services Fund Group	\$	785,484	\$ 785,484	83693 83694
Underground Parking Garage				83695
208 874-601 Underground Parking Garage Operating	\$	2,959,721	\$ 2,959,721	83696
TOTAL UPG Underground Parking Garage	\$	2,959,721	\$ 2,959,721	83697 83698
TOTAL ALL BUDGET FUND GROUPS	\$	6,637,474	\$ 6,597,474	83699
EXPANSION OF COMMITTEE HEARING ROOMS				83700
Of the foregoing appropriation item 874-320, Maintenance and Equipment, \$40,000 in fiscal year 2006 shall be used to expand the House of Representatives committee hearing rooms, numbers 119 and 121.				83701 83702 83703 83704
Section 203.63. SCR STATE BOARD OF CAREER COLLEGES AND SCHOOLS				83705 83706
General Services Fund Group				83707
4K9 233-601 Operating Expenses	\$	486,700	\$ 508,600	83708
TOTAL GSF General Services Fund Group	\$	486,700	\$ 508,600	83709
TOTAL ALL BUDGET FUND GROUPS	\$	486,700	\$ 508,600	83710

Section 203.66. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD				83712
General Services Fund Group				83713
4K9 930-609 Operating Expenses	\$	452,976	\$	0 83714
TOTAL GSF General Services Fund	\$	452,976	\$	0 83715
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	452,976	\$	0 83716
 Section 203.69. CHR STATE CHIROPRACTIC BOARD				83718
General Services Fund Group				83719
4K9 878-609 Operating Expenses	\$	605,278	\$	0 83720
TOTAL GSF General Services Fund				83721
Group	\$	605,278	\$	0 83722
TOTAL ALL BUDGET FUND GROUPS	\$	605,278	\$	0 83723
 Section 203.72. CIV OHIO CIVIL RIGHTS COMMISSION				83725
General Revenue Fund				83726
GRF 876-321 Operating Expenses	\$	7,253,075	\$ 7,470,667	83727
TOTAL GRF General Revenue Fund	\$	7,253,075	\$ 7,470,667	83728
Federal Special Revenue Fund Group				83729
334 876-601 Investigations	\$	3,760,000	\$ 3,560,000	83730
TOTAL FED Federal Special Revenue				83731
Fund Group	\$	3,760,000	\$ 3,560,000	83732
State Special Revenue Fund Group				83733
217 876-604 Operations Support	\$	50,951	\$ 50,951	83734
TOTAL SSR State Special				83735
Revenue Fund Group	\$	50,951	\$ 50,951	83736
TOTAL ALL BUDGET FUND GROUPS	\$	11,064,026	\$ 11,081,618	83737
 Section 203.75. COM DEPARTMENT OF COMMERCE				83739
General Revenue Fund				83740

GRF 800-410	Labor and Worker	\$	2,086,477	\$	2,032,397	83741
	Safety					
Total GRF	General Revenue Fund	\$	2,086,477	\$	2,032,397	83742
General Services Fund Group						83743
163 800-620	Division of	\$	4,262,314	\$	4,368,037	83744
	Administration					
163 800-637	Information Technology	\$	2,733,853	\$	2,785,045	83745
5F1 800-635	Small Government Fire	\$	250,000	\$	250,000	83746
	Departments					
543 800-602	Unclaimed	\$	7,351,051	\$	7,351,051	83747
	Funds-Operating					
543 800-625	Unclaimed Funds-Claims	\$	52,000,000	\$	55,000,000	83748
TOTAL GSF General Services Fund						83749
Group		\$	66,597,218	\$	69,754,133	83750
Federal Special Revenue Fund Group						83751
348 800-622	Underground Storage	\$	195,008	\$	195,008	83752
	Tanks					
348 800-624	Leaking Underground	\$	1,850,000	\$	1,850,000	83753
	Storage Tanks					
TOTAL FED Federal Special Revenue						83754
Fund Group		\$	2,045,008	\$	2,045,008	83755
State Special Revenue Fund Group						83756
4B2 800-631	Real Estate Appraisal	\$	35,000	\$	35,000	83757
	Recovery					
4H9 800-608	Cemeteries	\$	273,465	\$	273,465	83758
4X2 800-619	Financial Institutions	\$	2,400,843	\$	2,400,843	83759
5K7 800-621	Penalty Enforcement	\$	50,000	\$	50,000	83760
544 800-612	Banks	\$	6,757,197	\$	6,759,197	83761
545 800-613	Savings Institutions	\$	2,678,248	\$	2,669,774	83762
546 800-610	Fire Marshal	\$	12,187,994	\$	12,292,994	83763
546 800-639	Fire Department Grants	\$	1,647,140	\$	1,647,140	83764
547 800-603	Real Estate	\$	250,000	\$	250,000	83765

Education/Research				
548 800-611	Real Estate Recovery	\$ 50,000	\$ 50,000	83766
549 800-614	Real Estate	\$ 3,605,892	\$ 3,605,892	83767
550 800-617	Securities	\$ 4,300,000	\$ 4,400,000	83768
552 800-604	Credit Union	\$ 2,936,852	\$ 2,941,852	83769
553 800-607	Consumer Finance	\$ 4,300,445	\$ 4,300,445	83770
556 800-615	Industrial Compliance	\$ 25,037,257	\$ 25,037,257	83771
6A4 800-630	Real Estate	\$ 664,006	\$ 664,006	83772
Appraiser-Operating				
653 800-629	UST Registration/Permit	\$ 1,249,632	\$ 1,249,632	83773
Fee				
TOTAL SSR State Special Revenue				83774
Fund Group		\$ 68,423,971	\$ 68,627,497	83775
Liquor Control Fund Group				83776
043 800-601	Merchandising	\$ 382,595,409	\$ 397,839,347	83777
043 800-627	Liquor Control	\$ 16,873,183	\$ 15,981,346	83778
Operating				
043 800-633	Development Assistance	\$ 32,158,300	\$ 39,230,000	83779
Debt Service				
043 800-636	Revitalization Debt	\$ 9,740,500	\$ 13,485,800	83780
Service				
TOTAL LCF Liquor Control				83781
Fund Group		\$ 441,367,392	\$ 466,536,493	83782
TOTAL ALL BUDGET FUND GROUPS				83783
SMALL GOVERNMENT FIRE DEPARTMENTS				83784
Notwithstanding section 3737.17 of the Revised Code, the				83785
foregoing appropriation item 800-635, Small Government Fire				83786
Departments, may be used to provide loans to private fire				83787
departments.				83788
PENALTY ENFORCEMENT				83789
The foregoing appropriation item 800-621, Penalty				83790

Enforcement, shall be used to enforce sections 4115.03 to 4115.16 83791
of the Revised Code. 83792

UNCLAIMED FUNDS PAYMENTS 83793

The foregoing appropriation item 800-625, Unclaimed 83794
Funds-Claims, shall be used to pay claims under section 169.08 of 83795
the Revised Code. If it is determined that additional amounts are 83796
necessary, the amounts are hereby appropriated. 83797

UNCLAIMED FUNDS TRANSFERS 83798

Notwithstanding division (A) of section 169.05 of the Revised 83799
Code, prior to June 30, 2006, and upon the request of the Director 83800
of Budget and Management, the Director of Commerce shall transfer 83801
to the General Revenue Fund up to \$50,000,000 of unclaimed funds 83802
that have been reported by holders of unclaimed funds under 83803
section 169.05 of the Revised Code, irrespective of the allocation 83804
of the unclaimed funds under that section. 83805

Notwithstanding division (A) of section 169.05 of the Revised 83806
Code, prior to June 30, 2007, and upon the request of the Director 83807
of Budget and Management, the Director of Commerce shall transfer 83808
to the General Revenue Fund up to \$50,000,000 of unclaimed funds 83809
that have been reported by holders of unclaimed funds under 83810
section 169.05 of the Revised Code, irrespective of the allocation 83811
of the unclaimed funds under that section. 83812

CASH TRANSFER TO STATE FIRE MARSHAL FUND (FUND 546) 83813

Effective July 1, 2005, or as soon thereafter as possible, 83814
the Director of Budget and Management shall transfer the cash 83815
balance in the Fire Marshal's Fireworks Training and Education 83816
Fund (Fund 4L5), which is abolished in division (B) of section 83817
3743.57 of the Revised Code as amended by this act, to the State 83818
Fire Marshal's Fund (Fund 546), which is created in section 83819
3737.71 of the Revised Code. The director shall cancel any 83820

existing encumbrances against appropriation item 800-609, 83821
Fireworks Training and Education, in Fund 4L5, and re-establish 83822
them against appropriation item 800-610, Fire Marshal, in Fund 83823
546. The amounts of the re-established encumbrances are hereby 83824
appropriated. 83825

CASH TRANSFER TO BUDGET STABILIZATION FUND 83826

Notwithstanding any other law to the contrary, the Director 83827
of Budget and Management shall transfer up to \$1,700,000 in cash 83828
in fiscal year 2006 and up to \$1,600,000 in cash in fiscal year 83829
2007 from the State Fire Marshal Fund (Fund 546) to the Budget 83830
Stabilization Fund. 83831

FIRE DEPARTMENT GRANTS 83832

Of the foregoing appropriation item 800-639, Fire Department 83833
Grants, up to \$760,000 in each fiscal year shall be used to make 83834
annual grants to volunteer fire departments of up to \$10,000, or 83835
up to \$25,000 if the volunteer fire department provides service 83836
for an area affected by a natural disaster. The grant program 83837
shall be administered by the Fire Marshal under the Department of 83838
Commerce. The Fire Marshal shall adopt rules as are necessary for 83839
the administration and operation of the grant program. 83840

Of the foregoing appropriation item 800-639, Fire Department 83841
Grants, up to \$687,140 in each fiscal year shall be used as full 83842
or partial reimbursement to local units of government and fire 83843
departments for the cost of firefighter training and equipment or 83844
gear. Under rules that the department shall adopt, a local unit of 83845
government or fire department may apply to the department for a 83846
grant to cover all documented costs that are incurred to provide 83847
firefighter training and equipment or gear. The department shall 83848
make grants within the limits of the funding provided, with 83849
priority given to fire departments that serve small villages and 83850
townships. 83851

Of the foregoing appropriation item 800-639, Fire Department 83852
Grants, up to \$200,000 in each fiscal year shall be used to make 83853
grants to fire departments to assist in the conversion of existing 83854
data systems to the NFIRS 5 electronic fire reporting system. 83855
Under rules that the department shall adopt, awards shall have a 83856
maximum of \$50,000 per fire department and shall be based on a 83857
point system that includes factors such as consideration of the 83858
fire department's information technology and operating budgets, 83859
population and area served, number of incidents, data conversion 83860
and implementation methods, and readiness. 83861

CASH TRANSFER TO REAL ESTATE OPERATING FUND 83862

At the request of the Director of Commerce, the Director of 83863
Budget and Management may transfer up to \$100,000 in cash from the 83864
Real Estate Recovery Fund (Fund 548) and up to \$350,000 in cash 83865
from the Real Estate Appraiser Recovery Fund (Fund 4B2) to the 83866
Real Estate Operating Fund (Fund 549) during the 2005-2007 83867
biennium. 83868

INCREASED APPROPRIATION AUTHORITY - MERCHANDISING 83869

The foregoing appropriation item 800-601, Merchandising, 83870
shall be used under section 4301.12 of the Revised Code. If it is 83871
determined that additional amounts are necessary, the amounts are 83872
hereby appropriated. 83873

DEVELOPMENT ASSISTANCE DEBT SERVICE 83874

The foregoing appropriation item 800-633, Development 83875
Assistance Debt Service, shall be used to meet all payments at the 83876
times they are required to be made during the period from July 1, 83877
2005, to June 30, 2007, for bond service charges on obligations 83878
issued under Chapter 166. of the Revised Code. If it is determined 83879
that additional appropriations are necessary for this purpose, 83880
such amounts are hereby appropriated, subject to the limitations 83881
set forth in section 166.11 of the Revised Code. The General 83882

Assembly acknowledges that an appropriation for this purpose is 83883
not required, but is made in this form and in this act for record 83884
purposes only. 83885

REVITALIZATION DEBT SERVICE 83886

The foregoing appropriation item 800-636, Revitalization Debt 83887
Service, shall be used to pay debt service and related financing 83888
costs under sections 151.01 and 151.40 of the Revised Code during 83889
the period from July 1, 2005, to June 30, 2007. If it is 83890
determined that additional appropriations are necessary for this 83891
purpose, such amounts are hereby appropriated. The General 83892
Assembly acknowledges the priority of the pledge of a portion of 83893
receipts from that source to obligations issued and to be issued 83894
under Chapter 166. of the Revised Code. 83895

ADMINISTRATIVE ASSESSMENTS 83896

Notwithstanding any other provision of law to the contrary, 83897
Fund 163, Division of Administration, is entitled to receive 83898
assessments from all operating funds of the department in 83899
accordance with procedures prescribed by the Director of Commerce 83900
and approved by the Director of Budget and Management. 83901

Section 203.78. OCC OFFICE OF CONSUMERS' COUNSEL 83902

General Services Fund Group 83903

5F5 053-601 Operating Expenses \$ 7,770,000 \$ 7,770,000 83904

TOTAL GSF General Services Fund \$ 7,770,000 \$ 7,770,000 83905

Group

TOTAL ALL BUDGET FUND GROUPS \$ 7,770,000 \$ 7,770,000 83906

Section 203.81. CEB CONTROLLING BOARD 83908

General Revenue Fund 83909

GRF 911-401 Emergency \$ 5,000,000 \$ 5,000,000 83910

Purposes/Contingencies

GRF 911-404 Mandate Assistance	\$	650,000	\$	650,000	83911
GRF 911-441 Ballot Advertising	\$	300,000	\$	300,000	83912
Costs					
TOTAL GRF General Revenue Fund	\$	5,950,000	\$	5,950,000	83913
TOTAL ALL BUDGET FUND GROUPS	\$	5,950,000	\$	5,950,000	83914

FEDERAL SHARE 83915

In transferring appropriations to or from appropriation items 83916
that have federal shares identified in this act, the Controlling 83917
Board shall add or subtract corresponding amounts of federal 83918
matching funds at the percentages indicated by the state and 83919
federal division of the appropriations in this act. Such changes 83920
are hereby appropriated. 83921

DISASTER ASSISTANCE 83922

Pursuant to requests submitted by the Department of Public 83923
Safety, the Controlling Board may approve transfers from 83924
appropriation item 911-401, Emergency Purposes/Contingencies, to 83925
Department of Public Safety appropriation items to provide funding 83926
for assistance to political subdivisions and individuals made 83927
necessary by natural disasters or emergencies. Such transfers may 83928
be requested and approved prior to or following the occurrence of 83929
any specific natural disasters or emergencies in order to 83930
facilitate the provision of timely assistance. 83931

DISASTER SERVICES 83932

Pursuant to requests submitted by the Department of Public 83933
Safety, the Controlling Board may approve transfers from the 83934
Disaster Services Fund (5E2) to a Department of Public Safety 83935
General Revenue Fund appropriation item to provide for assistance 83936
to political subdivisions made necessary by natural disasters or 83937
emergencies. These transfers may be requested and approved prior 83938
to the occurrence of any specific natural disasters or emergencies 83939
in order to facilitate the provision of timely assistance. The 83940

Emergency Management Agency of the Department of Public Safety 83941
shall use the funding for disaster aid requests that meet the 83942
Emergency Management Agency's criteria for assistance. 83943

The Disaster Services Fund (5E2) shall be used by the 83944
Controlling Board, pursuant to requests submitted by state 83945
agencies, to transfer cash and appropriation authority to any fund 83946
and appropriation item for the payment of state agency program 83947
expenses as follows: 83948

(A) The Southern Ohio flooding, referred to as 83949
FEMA-DR-1164-OH; 83950

(B) The flood and storm disaster referred to as 83951
FEMA-DR-1227-OH; 83952

(C) The Southern Ohio flooding, referred to as 83953
FEMA-DR-1321-OH; 83954

(D) The flooding referred to as FEMA-DR-1339-OH; 83955

(E) The tornado and storms referred to as FEMA-DR-1343-OH; 83956

(F) Other disasters declared by the Governor, if the Director 83957
of Budget and Management determines that sufficient funds exist 83958
beyond the expected program costs of these other disasters. 83959

The unencumbered balance of the Disaster Services Fund (5E2) 83960
at the end of fiscal year 2006 is transferred to fiscal year 2007 83961
for use for the same purposes as in fiscal year 2006. 83962

SOUTHERN OHIO CORRECTIONAL FACILITY COST 83963

The Division of Criminal Justice Services in the Department 83964
of Public Safety and the Public Defender Commission may each 83965
request, upon approval of the Director of Budget and Management, 83966
additional funds from appropriation item 911-401, Emergency 83967
Purposes/Contingencies, for costs related to the disturbance that 83968
occurred on April 11, 1993, at the Southern Ohio Correctional 83969
Facility in Lucasville, Ohio. 83970

MANDATE ASSISTANCE 83971

(A) The foregoing appropriation item 911-404, Mandate Assistance, shall be used to provide financial assistance to local units of government and school districts for the cost of the following two unfunded state mandates: 83972
83973
83974
83975

(1) The cost to county prosecutors for prosecuting certain felonies that occur on the grounds of state institutions operated by the Department of Rehabilitation and Correction and the Department of Youth Services; 83976
83977
83978
83979

(2) The cost to school districts of in-service training for child abuse detection. 83980
83981

(B) The Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may prepare and submit to the Controlling Board one or more requests to transfer appropriations from appropriation item 911-404, Mandate Assistance. The state agencies charged with this administrative responsibility are listed below, as well as the estimated annual amounts that may be used for each program of state financial assistance. 83982
83983
83984
83985
83986
83987
83988
83989

	ADMINISTERING	ESTIMATED ANNUAL	
PROGRAM	AGENCY	AMOUNT	
Prosecution Costs	Division of Criminal Justice Services	\$150,000	83992 83993
Child Abuse Detection Training Costs	Department of Education	\$500,000	83994

(C) Subject to the total amount appropriated in each fiscal year for appropriation item 911-404, Mandate Assistance, the Division of Criminal Justice Services in the Department of Public Safety and the Department of Education may request from the Controlling Board that amounts smaller or larger than these estimated annual amounts be transferred to each program. 83995
83996
83997
83998
83999
84000

(D) In addition to making the initial transfers requested by 84001
the Division of Criminal Justice Services in the Department of 84002
Public Safety and the Department of Education, the Controlling 84003
Board may transfer appropriations received by a state agency under 84004
this section back to appropriation item 911-404, Mandate 84005
Assistance, or to the other program of state financial assistance 84006
identified under this section. 84007

(E) It is expected that not all costs incurred by local units 84008
of government and school districts under each of the two programs 84009
of state financial assistance identified in this section will be 84010
fully reimbursed by the state. Reimbursement levels may vary by 84011
program and shall be based on: the relationship between the 84012
appropriation transfers requested by the Division of Criminal 84013
Justice Services in the Department of Public Safety and the 84014
Department of Education and provided by the Controlling Board for 84015
each of the programs; the rules and procedures established for 84016
each program by the administering state agency; and the actual 84017
costs incurred by local units of government and school districts. 84018

(F) Each of these programs of state financial assistance 84019
shall be carried out as follows: 84020

(1) PROSECUTION COSTS 84021

(a) Appropriations may be transferred to the Division of 84022
Criminal Justice Services in the Department of Public Safety to 84023
cover local prosecution costs for aggravated murder, murder, 84024
felonies of the first degree, and felonies of the second degree 84025
that occur on the grounds of institutions operated by the 84026
Department of Rehabilitation and Correction and the Department of 84027
Youth Services. 84028

(b) Upon a delinquency filing in juvenile court or the return 84029
of an indictment for aggravated murder, murder, or any felony of 84030
the first or second degree that was committed at a Department of 84031

Youth Services or a Department of Rehabilitation and Correction 84032
institution, the affected county may, in accordance with rules 84033
that the Division of Criminal Justice Services in the Department 84034
of Public Safety shall adopt, apply to the Division of Criminal 84035
Justice Services for a grant to cover all documented costs that 84036
are incurred by the county prosecutor's office. 84037

(c) Twice each year, the Division of Criminal Justice 84038
Services in the Department of Public Safety shall designate 84039
counties to receive grants from those counties that have submitted 84040
one or more applications in compliance with the rules that have 84041
been adopted by the Division of Criminal Justice Services for the 84042
receipt of such grants. In each year's first round of grant 84043
awards, if sufficient appropriations have been made, up to a total 84044
of \$100,000 may be awarded. In each year's second round of grant 84045
awards, the remaining appropriations available for this purpose 84046
may be awarded. 84047

(d) If for a given round of grants there are insufficient 84048
appropriations to make grant awards to all the eligible counties, 84049
the first priority shall be given to counties with cases involving 84050
aggravated murder and murder; second priority shall be given to 84051
counties with cases involving a felony of the first degree; and 84052
third priority shall be given to counties with cases involving a 84053
felony of the second degree. Within these priorities, the grant 84054
awards shall be based on the order in which the applications were 84055
received, except that applications for cases involving a felony of 84056
the first or second degree shall not be considered in more than 84057
two consecutive rounds of grant awards. 84058

(2) CHILD ABUSE DETECTION TRAINING COSTS 84059

Appropriations may be transferred to the Department of 84060
Education for disbursement to local school districts as full or 84061
partial reimbursement for the cost of providing in-service 84062

training for child abuse detection. In accordance with rules that 84063
the department shall adopt, a local school district may apply to 84064
the department for a grant to cover all documented costs that are 84065
incurred to provide in-service training for child abuse detection. 84066
The department shall make grants within the limits of the funding 84067
provided. 84068

(G) Any moneys allocated within appropriation item 911-404, 84069
Mandate Assistance, not fully utilized may, upon application of 84070
the Ohio Public Defender Commission, and with the approval of the 84071
Controlling Board, be disbursed to boards of county commissioners 84072
to provide additional reimbursement for the costs incurred by 84073
counties in providing defense to indigent defendants pursuant to 84074
Chapter 120. of the Revised Code. Application for the unutilized 84075
funds shall be made by the Ohio Public Defender Commission at the 84076
first June meeting of the Controlling Board. 84077

The amount to be disbursed to each county shall be allocated 84078
proportionately on the basis of the total amount of reimbursement 84079
paid to each county as a percentage of the amount of reimbursement 84080
paid to all of the counties during the most recent state fiscal 84081
year for which data is available and as calculated by the Ohio 84082
Public Defender Commission. 84083

BALLOT ADVERTISING COSTS 84084

Pursuant to requests submitted by the Ohio Ballot Board, the 84085
Controlling Board shall approve transfers from the foregoing 84086
appropriation item 911-441, Ballot Advertising Costs, to an Ohio 84087
Ballot Board appropriation item in order to reimburse county 84088
boards of elections for the cost of public notices associated with 84089
statewide ballot initiatives. 84090

Section 203.84. COS STATE BOARD OF COSMETOLOGY 84091

General Services Fund Group 84092

4K9 879-609 Operating Expenses	\$	2,929,630	\$	0	84093
TOTAL GSF General Services Fund					84094
Group	\$	2,929,630	\$	0	84095
TOTAL ALL BUDGET FUND GROUPS	\$	2,929,630	\$	0	84096

Section 203.87. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE 84098
AND FAMILY THERAPIST BOARD 84099

General Services Fund Group					84100
4K9 899-609 Operating Expenses	\$	1,058,445	\$	0	84101
TOTAL GSF General Services Fund					84102
Group	\$	1,058,445	\$	0	84103
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,445	\$	0	84104

Section 203.90. CLA COURT OF CLAIMS 84106

General Revenue Fund					84107
GRF 015-321 Operating Expenses	\$	2,598,040	\$	2,678,331	84108
TOTAL GRF General Revenue Fund	\$	2,598,040	\$	2,678,331	84109
State Special Revenue Fund Group					84110
5K2 015-603 CLA Victims of Crime	\$	1,582,684	\$	1,582,684	84111
TOTAL SSR State Special Revenue					84112
Fund Group	\$	1,582,684	\$	1,582,684	84113
TOTAL ALL BUDGET FUND GROUPS	\$	4,180,724	\$	4,261,015	84114

Section 203.91. AFC OHIO CULTURAL FACILITIES COMMISSION 84116

General Revenue Fund					84117
GRF 371-321 Operating Expenses	\$	198,406	\$	195,707	84118
GRF 371-401 Lease Rental Payments	\$	38,126,600	\$	38,246,500	84119
TOTAL GRF General Revenue Fund	\$	38,325,006	\$	38,442,207	84120
State Special Revenue Fund Group					84121
4T8 371-601 Riffe Theatre	\$	81,000	\$	81,000	84122
Equipment Maintenance					
4T8 371-603 Project Administration	\$	920,448	\$	983,295	84123

paid on each issuance to be transferred from the Ohio Cultural and 84154
Sports Facilities Building Fund (Fund 030) to the AFC 84155
Administration Fund (Fund 4T8). 84156

Section 203.93. DEN STATE DENTAL BOARD 84157

General Services Fund Group 84158
4K9 880-609 Operating Expenses \$ 1,424,791 \$ 1,424,791 84159
TOTAL GSF General Services Fund 84160
Group \$ 1,424,791 \$ 1,424,791 84161
TOTAL ALL BUDGET FUND GROUPS \$ 1,424,791 \$ 1,424,791 84162

Section 203.96. BDP BOARD OF DEPOSIT 84164

General Services Fund Group 84165
4M2 974-601 Board of Deposit \$ 1,676,000 \$ 1,676,000 84166
TOTAL GSF General Services Fund 84167
Group \$ 1,676,000 \$ 1,676,000 84168
TOTAL ALL BUDGET FUND GROUPS \$ 1,676,000 \$ 1,676,000 84169

BOARD OF DEPOSIT EXPENSE FUND 84170

Upon receiving certification of expenses from the Treasurer 84171
of State, the Director of Budget and Management shall transfer 84172
cash from the Investment Earnings Redistribution Fund (Fund 608) 84173
to the Board of Deposit Expense Fund (Fund 4M2). The latter fund 84174
shall be used to pay for banking charges and fees required for the 84175
operation of the State of Ohio Regular Account. 84176

Section 203.99. DEV DEPARTMENT OF DEVELOPMENT 84177

General Revenue Fund 84178
GRF 195-321 Operating Expenses \$ 2,688,908 \$ 2,688,908 84179
GRF 195-401 Thomas Edison Program \$ 15,554,838 \$ 15,454,838 84180
GRF 195-404 Small Business \$ 1,740,722 \$ 1,740,722 84181
Development

GRF 195-405	Minority Business Development Division	\$ 1,580,291	\$ 1,580,291	84182
GRF 195-407	Travel and Tourism	\$ 6,812,845	\$ 6,712,845	84183
GRF 195-410	Defense Conversion Assistance	\$ 300,000	\$ 200,000	84184
GRF 195-412	Business Development Grants	\$ 10,000,000	\$ 10,000,000	84185
GRF 195-415	Economic Development Division and Regional Offices	\$ 5,794,975	\$ 5,894,975	84186
GRF 195-416	Governor's Office of Appalachia	\$ 4,122,372	\$ 4,122,372	84187
GRF 195-422	Third Frontier Action Fund	\$ 16,790,000	\$ 16,790,000	84188
GRF 195-426	Clean Ohio Implementation	\$ 300,000	\$ 300,000	84189
GRF 195-432	International Trade	\$ 4,223,787	\$ 4,223,787	84190
GRF 195-434	Investment in Training Grants	\$ 12,227,500	\$ 12,227,500	84191
GRF 195-436	Labor/Management Cooperation	\$ 811,869	\$ 811,869	84192
GRF 195-497	CDBG Operating Match	\$ 1,040,956	\$ 1,040,956	84193
GRF 195-498	State Match Energy	\$ 94,000	\$ 94,000	84194
GRF 195-501	Appalachian Local Development Districts	\$ 380,080	\$ 380,080	84195
GRF 195-502	Appalachian Regional Commission Dues	\$ 246,803	\$ 246,803	84196
GRF 195-507	Travel and Tourism Grants	\$ 1,282,500	\$ 1,157,500	84197
GRF 195-515	Economic Development Contingency	\$ 10,000,000	\$ 0	84198
GRF 195-905	Third Frontier Research &	\$ 0	\$ 13,910,000	84199

	Commercialization				
	General Obligation				
	Debt Service				
TOTAL GRF	General Revenue Fund	\$	95,992,446	\$	99,577,446
					84200
	General Services Fund Group				84201
135	195-605 Supportive Services	\$	7,450,000	\$	7,539,686
					84202
5AD	195-667 Investment in Training	\$	5,000,000	\$	5,000,000
					84203
	Expansion				
5AD	195-668 Worker Guarantee	\$	3,000,000	\$	3,000,000
					84204
	Program				
5AD	195-677 Economic Development	\$	0	\$	10,000,000
					84205
	Contingency				
685	195-636 General Reimbursements	\$	1,000,000	\$	1,000,000
					84206
TOTAL GSF	General Services Fund				84207
Group		\$	16,450,000	\$	26,539,686
					84208
	Federal Special Revenue Fund Group				84209
3AE	195-643 Workforce Development	\$	5,800,000	\$	5,800,000
					84210
	Initiatives				
3K8	195-613 Community Development	\$	65,000,000	\$	65,000,000
					84211
	Block Grant				
3K9	195-611 Home Energy Assistance	\$	90,500,000	\$	90,500,000
					84212
	Block Grant				
3K9	195-614 HEAP Weatherization	\$	16,219,478	\$	16,219,478
					84213
3L0	195-612 Community Services	\$	25,235,000	\$	25,235,000
					84214
	Block Grant				
3V1	195-601 HOME Program	\$	40,000,000	\$	40,000,000
					84215
308	195-602 Appalachian Regional	\$	600,660	\$	600,660
					84216
	Commission				
308	195-603 Housing and Urban	\$	5,000,000	\$	5,000,000
					84217
	Development				
308	195-605 Federal Projects	\$	15,300,249	\$	15,300,249
					84218
308	195-609 Small Business	\$	4,296,381	\$	4,296,381
					84219

		Administration					
308	195-618	Energy Federal Grants	\$	3,397,659	\$	3,397,659	84220
335	195-610	Oil Overcharge	\$	3,000,000	\$	3,000,000	84221
		TOTAL FED Federal Special Revenue					84222
		Fund Group	\$	274,349,427	\$	274,349,427	84223
		State Special Revenue Fund Group					84224
4F2	195-639	State Special Projects	\$	290,183	\$	290,183	84225
4F2	195-676	Promote Ohio	\$	4,978,210	\$	4,978,210	84226
4S0	195-630	Enterprise Zone	\$	275,000	\$	275,000	84227
		Operating					
4S1	195-634	Job Creation Tax	\$	375,800	\$	375,800	84228
		Credit Operating					
4W1	195-646	Minority Business	\$	2,580,597	\$	2,580,597	84229
		Enterprise Loan					
444	195-607	Water and Sewer	\$	523,775	\$	523,775	84230
		Commission Loans					
450	195-624	Minority Business	\$	53,967	\$	53,967	84231
		Bonding Program					
		Administration					
451	195-625	Economic Development	\$	2,358,311	\$	2,358,311	84232
		Financing Operating					
5CA	195-678	Shovel Ready Sites	\$	5,000,000	\$	5,000,000	84233
5CG	195-679	Alternative Fuel	\$	150,000	\$	150,000	84234
		Transportation					
XXX	195-XXX	Defense Conversion	\$	1,000,000	\$	0	84235
		Assistance					
5M4	195-659	Universal Service	\$	210,000,000	\$	210,000,000	84236
5M5	195-660	Energy Efficiency Loan	\$	12,000,000	\$	12,000,000	84237
		and Grant					
5X1	195-651	Exempt Facility	\$	25,000	\$	25,000	84238
		Inspection					
611	195-631	Water and Sewer	\$	15,713	\$	15,713	84239
		Administration					

617	195-654	Volume Cap Administration	\$	200,000	\$	200,000	84240
646	195-638	Low- and Moderate- Income Housing Trust Fund	\$	53,000,000	\$	53,000,000	84241
TOTAL SSR State Special Revenue							84242
Fund Group			\$	292,826,556	\$	291,826,556	84243
Facilities Establishment Fund Group							84244
009	195-664	Innovation Ohio	\$	50,000,000	\$	50,000,000	84245
010	195-665	Research and Development	\$	50,000,000	\$	50,000,000	84246
037	195-615	Facilities Establishment	\$	63,931,149	\$	63,931,149	84247
4Z6	195-647	Rural Industrial Park Loan	\$	3,000,000	\$	3,000,000	84248
5D2	195-650	Urban Redevelopment Loans	\$	5,475,000	\$	5,475,000	84249
5H1	195-652	Family Farm Loan Guarantee	\$	1,000,000	\$	1,000,000	84250
5S8	195-627	Rural Development Initiative	\$	3,000,000	\$	3,000,000	84251
5S9	195-628	Capital Access Loan Program	\$	3,000,000	\$	3,000,000	84252
TOTAL 037 Facilities Establishment Fund Group							84253
			\$	179,406,149	\$	179,406,149	84254
Clean Ohio Revitalization Fund							84255
003	195-663	Clean Ohio Operating	\$	350,000	\$	350,000	84256
TOTAL 003 Clean Ohio Revitalization Fund							84257
TOTAL ALL BUDGET FUND GROUPS			\$	859,374,578	\$	872,049,264	84258
Section 203.99.03. THOMAS EDISON PROGRAM							84260

The foregoing appropriation item 195-401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code in order to provide funds for cooperative public and private efforts in technological innovation to promote the development and transfer of technology by and to Ohio businesses that will lead to the creation of jobs, and to provide for the administration of the program by the Technology Division. 84261
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Of the foregoing appropriation item 195-401, Thomas Edison Program, not more than \$2,000,000 in fiscal year 2006 and \$2,300,000 in fiscal year 2007 shall be used for operating expenditures in administering the programs of the Technology Division. 84269
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The Department of Development, in consultation with the Third Frontier Commission, shall develop a plan providing for appropriate, value-added participation of Edison Centers and Incubators in Third Frontier Project proposals and grants. 84274
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The Department of Development shall work with Edison Centers and Incubators and the Third Frontier Network, when appropriate, to provide for Third Frontier Network connections to Edison Centers and Incubators and their tenants and, as appropriate, clients. 84278
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Of the foregoing appropriation item 195-401, Thomas Edison Program, \$100,000 in fiscal year 2006 shall be used for technology recruitment, development, and construction. 84283
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Section 203.99.06. SMALL BUSINESS DEVELOPMENT 84286

The foregoing appropriation item 195-404, Small Business Development, shall be used to ensure that the unique needs and concerns of small businesses are addressed. 84287
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The foregoing appropriation item 195-404, Small Business 84290

Development, may be used to provide grants to local organizations 84291
to support the operation of Small Business Development Centers and 84292
other local economic development activity promoting small 84293
business, and for the cost of administering the small business 84294
development center program. The centers shall provide technical, 84295
financial, and management consultation for small business and 84296
shall facilitate access to state and federal programs. These funds 84297
shall be used as matching funds for grants from the United States 84298
Small Business Administration and other federal agencies, pursuant 84299
to Public Law No. 96-302 (1980) as amended by Public Law No. 84300
98-395 (1984), and regulations and policy guidelines for the 84301
programs under this law. 84302

In addition, the Office of Small Business may operate the 84303
1st-Stop Business Connection and implement and coordinate the 84304
duties imposed on the Department of Development by Am. Sub. S.B. 84305
239 of the 115th General Assembly. 84306

MINORITY BUSINESS DEVELOPMENT DIVISION 84307

Of the foregoing appropriation item 195-405, Minority 84308
Business Development Division, up to \$1,060,000 but not less than 84309
\$954,000 in each fiscal year shall be used to fund minority 84310
contractors and business assistance organizations. The Minority 84311
Business Development Division shall determine which cities need 84312
minority contractors and business assistance organizations by 84313
utilizing United States Census Bureau data and zip codes to locate 84314
the highest concentrations of minority businesses. The Minority 84315
Business Development Division also shall determine the numbers of 84316
minority contractors and business assistance organizations 84317
necessary and the amount of funding to be provided each. In 84318
addition, the Minority Business Development Division shall 84319
continue to plan and implement business conferences. 84320

Section 203.99.09. BUSINESS DEVELOPMENT 84321

The foregoing appropriation item 195-412, Business 84322
Development Grants, shall be used as an incentive for attracting 84323
and retaining business opportunities for the state. Any such 84324
business opportunity, whether new, expanding, or relocating in 84325
Ohio, is eligible for funding. The project must create or retain a 84326
significant number of jobs for Ohioans. Grant awards may be 84327
considered only when (1) the project's viability hinges on an 84328
award of funds from appropriation item 195-412, Business 84329
Development Grants; (2) all other public or private sources of 84330
financing have been considered; or (3) the funds act as a catalyst 84331
for the infusion into the project of other financing sources. 84332

The department's primary goal shall be to award funds to 84333
political subdivisions of the state for off-site infrastructure 84334
improvements. In order to meet the particular needs of economic 84335
development in a region, the department may elect to award funds 84336
directly to a business for on-site infrastructure improvements. 84337
"Infrastructure improvements" mean improvements to water system 84338
facilities, sewer and sewage treatment facilities, electric or gas 84339
service facilities, fiber optic facilities, rail facilities, site 84340
preparation, and parking facilities. The Director of Development 84341
may recommend the funds be used in an alternative manner when 84342
considered appropriate to meet an extraordinary economic 84343
development opportunity or need. 84344

The foregoing appropriation item 195-412, Business 84345
Development Grants, may be expended only after the submission of a 84346
request to the Controlling Board by the Department of Development 84347
outlining the planned use of the funds, and the subsequent 84348
approval of the request by the Controlling Board. 84349

The foregoing appropriation item 195-412, Business 84350
Development Grants, may be used for, but is not limited to, 84351
construction, rehabilitation, and acquisition projects for rail 84352
freight assistance as requested by the Department of 84353

Transportation. The Director of Transportation shall submit the 84354
proposed projects to the Director of Development for an evaluation 84355
of potential economic benefit. 84356

Section 203.99.12. ECONOMIC DEVELOPMENT DIVISION AND REGIONAL 84357
OFFICES 84358

The foregoing appropriation item 195-415, Economic 84359
Development Division and Regional Offices, shall be used for the 84360
operating expenses of the Economic Development Division and the 84361
regional economic development offices and for grants for 84362
cooperative economic development ventures. 84363

Section 203.99.15. GOVERNOR'S OFFICE OF APPALACHIA 84364

The foregoing appropriation item 195-416, Governor's Office 84365
of Appalachia, shall be used for the administrative costs of 84366
planning and liaison activities for the Governor's Office of 84367
Appalachia. Funds not expended for planning and liaison activities 84368
may be expended for special project grants within the Appalachian 84369
Region. 84370

Of the foregoing appropriation item 195-416, Governor's 84371
Office of Appalachia, up to \$250,000 each fiscal year shall be 84372
used to match federal funds from the Appalachian Regional 84373
Commission to provide job training to impact the Appalachian 84374
Region. 84375

Of the foregoing appropriation item 195-416, Governor's 84376
Office of Appalachia, up to \$4,122,372 in each fiscal year shall 84377
be used in conjunction with other federal and state funds to 84378
provide financial assistance to projects in Ohio's Appalachian 84379
counties in order to further the goals of the Appalachian Regional 84380
Commission. The projects and project sponsors shall meet 84381
Appalachian Regional Commission eligibility requirements. Grants 84382
shall be administered by the Department of Development. 84383

Section 203.99.18. THIRD FRONTIER ACTION FUND 84384

The foregoing appropriation item 195-422, Third Frontier 84385
Action Fund, shall be used to make grants under sections 184.01 84386
and 184.02 of the Revised Code. Prior to the release of funds from 84387
appropriation item 195-422, Third Frontier Action Fund, each grant 84388
award shall be recommended for funding by the Third Frontier 84389
Commission and obtain approval from the Controlling Board. 84390

Of the foregoing appropriation item 195-422, Third Frontier 84391
Action Fund, not more than six per cent in each fiscal year shall 84392
be used for operating expenditures in administering the program. 84393

In addition to the six per cent for operating expenditures, 84394
an additional administrative amount, not to exceed \$1,500,000 84395
within the biennium, shall be available for proposal evaluation, 84396
research and analyses, and marketing efforts considered necessary 84397
to receive and disseminate information about science and 84398
technology-related opportunities in the state. 84399

SCIENCE AND TECHNOLOGY COLLABORATION 84400

The Department of Development shall work in close 84401
collaboration with the Board of Regents, the Air Quality 84402
Development Authority, and the Third Frontier Commission in 84403
relation to appropriation items and programs referred to as 84404
Alignment Programs in the following paragraph, and other 84405
technology-related appropriations and programs in the Department 84406
of Development, Air Quality Development Authority, and the Board 84407
of Regents as these agencies may designate, to ensure 84408
implementation of a coherent state strategy with respect to 84409
science and technology. 84410

"Alignment Programs" means appropriation items 195-401, 84411
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 84412
Third Frontier Action Fund; 898-604, Coal Research and Development 84413

Fund; 235-433, Economic Growth Challenge; 235-508, Air Force
Institute of Technology; 235-510, Ohio Supercomputer Center;
235-451, Eminent Scholars; 235-527, Ohio Aerospace Institute;
235-535, Ohio Agricultural Research and Development Center;
235-553, Dayton Area Graduate Studies Institute; 235-554,
Priorities in Collaborative Graduate Education; 235-556, Ohio
Academic Resources Network; and 195-435, Biomedical Research and
Technology Transfer Trust.

Consistent with the recommendations of the Governor's
Commission on Higher Education and the Economy, Alignment Programs
shall be managed and administered in accordance with the following
objectives: (1) to build on existing competitive research
strengths; (2) to encourage new and emerging discoveries and
commercialization of products and ideas that will benefit the Ohio
economy; (3) and to assure improved collaboration among Alignment
Programs with programs administered by the Third Frontier
Commission and with other state programs that are intended to
improve economic growth and job creation. As directed by the Third
Frontier Commission, Alignment Program managers shall report to
the Commission or the Third Frontier Advisory Board regarding the
contributions of their programs to achieving these objectives.

Each Alignment Program shall be reviewed annually by the
Third Frontier Commission with respect to its development of
complementary relationships within a combined state science and
technology investment portfolio, and with respect to its overall
contribution to the state's science and technology strategy,
including the adoption of appropriately consistent criteria for:
(1) the scientific merit of activities supported by the program;
(2) the relevance of the program's activities to commercial
opportunities in the private sector; (3) the private sector's
involvement in a process that continually evaluates commercial
opportunities to use the work supported by the program; and (4)

the ability of the program and recipients of grant funding from 84446
the program to engage in activities that are collaborative, 84447
complementary, and efficient with respect to the expenditures of 84448
state funds. Each Alignment Program shall provide an annual report 84449
to the Third Frontier Commission that discusses existing, planned, 84450
or possible collaborations between programs and between recipients 84451
of grant funding related to technology, development, 84452
commercialization, and the support of Ohio's economic development. 84453
The annual review conducted by the Third Frontier Commission shall 84454
be a comprehensive review of the entire state science and 84455
technology program portfolio rather than a review of individual 84456
programs. 84457

Applicants for Third Frontier and Alignment Programs funding 84458
shall identify their requirements for high-performance computing 84459
facilities and services, including both hardware and software, in 84460
all proposals. If an applicant's requirements exceed approximately 84461
\$100,000 for a proposal, the Ohio Supercomputer Center shall 84462
convene a panel of experts. The panel shall review the proposal to 84463
determine whether the proposal's requirements can be met through 84464
Ohio Supercomputer Center facilities or through other means and 84465
report such information to the Third Frontier Commission. 84466

To ensure that the state receives the maximum benefit from 84467
its investment in the Third Frontier Project and the Third 84468
Frontier Network, organizations receiving Third Frontier awards 84469
and Alignment Programs awards shall, as appropriate, be expected 84470
to have a connection to the Third Frontier Network that enables 84471
them and their collaborators to achieve award objectives through 84472
the Third Frontier Network. 84473

Section 203.99.21. INTERNATIONAL TRADE 84474

The foregoing appropriation item 195-432, International 84475
Trade, shall be used to operate and to maintain Ohio's 84476

out-of-state trade offices.	84477
The Director of Development may enter into contracts with foreign nationals to staff foreign offices. The contracts may be paid in local currency or United States currency and shall be exempt from section 127.16 of the Revised Code. The director also may establish foreign currency accounts under section 122.05 of the Revised Code for the payment of expenses related to the operation and maintenance of the foreign trade offices.	84478 84479 84480 84481 84482 84483 84484
The foregoing appropriation item 195-432, International Trade, shall be used to fund the International Trade Division and to assist Ohio manufacturers and agricultural producers in exporting to foreign countries in conjunction with the Department of Agriculture.	84485 84486 84487 84488 84489
Of the foregoing appropriation item 195-432, International Trade, up to \$35,000 may be used to purchase gifts for representatives of foreign governments or dignitaries of foreign countries.	84490 84491 84492 84493
Section 203.99.24. OHIO INVESTMENT IN TRAINING PROGRAM	84494
The foregoing appropriation items 195-434, Investment in Training Grants, and 195-667, Investment in Training Expansion, shall be used to promote training through grants for the reimbursement of eligible training expenses.	84495 84496 84497 84498
Section 203.99.27. CDBG OPERATING MATCH	84499
The foregoing appropriation item 195-497, CDBG Operating Match, shall be used to provide matching funds as requested by the United States Department of Housing and Urban Development to administer the federally funded Community Development Block Grant (CDBG) program.	84500 84501 84502 84503 84504
STATE OPERATING MATCH	84505

The foregoing appropriation item 195-498, State Match Energy, 84506
shall be used to provide matching funds as required by the United 84507
States Department of Energy to administer the federally funded 84508
State Energy Plan. 84509

Section 203.99.30. TRAVEL AND TOURISM GRANTS 84510

The foregoing appropriation item 195-507, Travel and Tourism 84511
Grants, shall be used to provide grants to local organizations to 84512
support various local travel and tourism events in Ohio. 84513

Of the foregoing appropriation item 195-507, Travel and 84514
Tourism Grants, \$25,000 in each fiscal year shall be used for the 84515
Lorain County Visitors Bureau. 84516

Of the foregoing appropriation item 195-507, Travel and 84517
Tourism Grants, \$25,000 in each fiscal year shall be used for the 84518
Sandusky/Erie County Visitors and Convention Bureau. 84519

Of the foregoing appropriation item 195-507, Travel and 84520
Tourism Grants, \$25,000 in each fiscal year shall be used for the 84521
Ottawa County Convention and Visitors Bureau. 84522

Of the foregoing appropriation item 195-507, Travel and 84523
Tourism Grants, \$50,000 in each fiscal year shall be used for the 84524
Greene County Convention and Visitors Bureau. 84525

Of the foregoing appropriation item 195-507, Travel and 84526
Tourism Grants, \$45,000 in each fiscal year shall be used for the 84527
Warren County Convention and Visitors Bureau. 84528

Of the foregoing appropriation item 195-507, Travel and 84529
Tourism Grants, \$25,000 in each fiscal year shall be used for 84530
grants to the Wood County Economic Development Commission. 84531

Of the foregoing appropriation item 195-507, Travel and 84532
Tourism Grants, \$50,000 in each fiscal year shall be used for the 84533
Wright Dunbar Historical Site. 84534

Of the foregoing appropriation item 195-507, Travel and 84535
Tourism Grants, up to \$120,000 in each fiscal year may be used to 84536
support the outdoor dramas "Trumpet in the Land," "Blue Jacket," 84537
and "Tecumseh!". 84538

Of the foregoing appropriation item 195-507, Travel and 84539
Tourism Grants, \$40,000 in each fiscal year shall be used for the 84540
Cincinnati Film Commission and \$40,000 in each fiscal year shall 84541
be used for the Cleveland Film Commission. 84542

Of the foregoing appropriation item 195-507, Travel and 84543
Tourism Grants, \$100,000 in each fiscal year shall be used for the 84544
Cleveland Institute of Art. 84545

Of the foregoing appropriation item 195-507, Travel and 84546
Tourism Grants, up to \$500,000 in each fiscal year shall be used 84547
for grants to The International Center for the Preservation of 84548
Wild Animals. 84549

Of the foregoing appropriation item 195-507, Travel and 84550
Tourism Grants, \$50,000 in each fiscal year shall be used for the 84551
Lake Shore Railway Association, Inc. 84552

Of the foregoing appropriation item 195-507, Travel and 84553
Tourism Grants, \$50,000 in each fiscal year shall be used for the 84554
Ohio River Trails program. 84555

Of the foregoing appropriation item 195-507, Travel and 84556
Tourism Grants, \$12,500 in each fiscal year shall be used for the 84557
Morgan County Community Improvement Corporation. 84558

Of the foregoing appropriation item 195-507, Travel and 84559
Tourism Grants, \$25,000 in fiscal year 2006 shall be used for the 84560
Ohio Buckeye Junior Hereford Association. 84561

Of the foregoing appropriation item 195-507, Travel and 84562
Tourism Grants, \$100,000 in fiscal year 2006 shall be used for 84563
grants to the NCR U.S. Senior Open. 84564

Section 203.99.33. THIRD FRONTIER RESEARCH & 84565
COMMERCIALIZATION GENERAL OBLIGATION DEBT SERVICE 84566

The foregoing appropriation item 195-905, Third Frontier 84567
Research & Commercialization General Obligation Debt Service, 84568
shall be used to pay all debt service and related financing costs 84569
during the period from July 1, 2005, to June 30, 2007, on 84570
obligations to be issued for research and development purposes, as 84571
authorized by the Ohio Constitution and implementing statutes. The 84572
Office of the Sinking Fund or the Director of Budget and 84573
Management shall effectuate the required payments by intrastate 84574
transfer voucher. 84575

Section 203.99.36. SUPPORTIVE SERVICES 84576

The Director of Development may assess divisions of the 84577
department for the cost of central service operations. An 84578
assessment shall be based on a plan submitted to and approved by 84579
the Office of Budget and Management by August 1, 2005, and shall 84580
contain the characteristics of administrative ease and uniform 84581
application. 84582

A division's payments shall be credited to the Supportive 84583
Services Fund (Fund 135) using an intrastate transfer voucher. 84584

GENERAL REIMBURSEMENT 84585

The foregoing appropriation item 195-636, General 84586
Reimbursements, shall be used for conference and subscription fees 84587
and other reimbursable costs. Revenues to the General 84588
Reimbursement Fund (Fund 685) shall consist of fees and other 84589
moneys charged for conferences, subscriptions, and other 84590
administrative costs that are not central service costs. 84591

WORKER GUARANTEE PROGRAM 84592

The foregoing appropriation item 195-668, Worker Guarantee 84593

Program, shall be used for the Worker Guarantee Program. 84594

Benefited employers must create at least 100 high-paying, 84595
full-time jobs over a three-year period and must demonstrate prior 84596
to the commitment of state funds that the availability of those 84597
skilled workers is a major factor in the employer's decision to 84598
locate or expand in Ohio. Activities eligible for funding through 84599
the Worker Guarantee Program include job assessment services, 84600
screening and testing of potential employees, customized training 84601
activities, and any other training or related service determined 84602
by the Director. 84603

A local workforce development service provider may include, 84604
but is not limited to, a community college, technical or 84605
vocational school, one-stop center, or any other entity designated 84606
by the Director of Development to provide services under the 84607
program. 84608

State matching funds totaling one-third of a project's cost 84609
shall be provided for each approved project when an employer and 84610
any local workforce development service provider, in conjunction 84611
with the local community, contracts with the Department of 84612
Development to provide services under the program. The employer 84613
and the local community each shall provide matching funds totaling 84614
one-third of a project's cost, and each portion of the matching 84615
funds shall be equal to state funding, which also shall be 84616
one-third of a project's cost. 84617

The state shall count in-kind contributions when determining 84618
a contribution from entities associated with the local community. 84619

The Director of Development, under Chapter 119. of the 84620
Revised Code, shall adopt, and may amend or rescind, rules the 84621
Director finds necessary for the implementation and successful 84622
operation of the Worker Guarantee Program. 84623

Section 203.99.37. TRAINING SERVICES 84624

Of the foregoing appropriation item 195-605, Federal 84625
Projects, \$400,000 in each fiscal year shall be used for grants to 84626
the Ohio Weatherization Training Center, administered by the 84627
Corporation for Ohio Appalachian Development, for training and 84628
technical assistance services. 84629

Section 203.99.39. HEAP WEATHERIZATION 84630

Fifteen per cent of the federal funds received by the state 84631
for the Home Energy Assistance Block Grant shall be deposited in 84632
appropriation item 195-614, HEAP Weatherization (Fund 3K9), and 84633
shall be used to provide home weatherization services in the 84634
state. 84635

Of the foregoing appropriation item 195-614, HEAP 84636
Weatherization, \$200,000 in each fiscal year shall be used for 84637
grants to the Ohio Weatherization Training Center, administered by 84638
the Corporation for Ohio Appalachian Development, for training and 84639
technical assistance services. 84640

STATE SPECIAL PROJECTS 84641

The foregoing fund, Fund 4F2, State Special Projects, shall 84642
be used for the deposit of private-sector funds from utility 84643
companies and for the deposit of other miscellaneous state funds. 84644
Private-sector moneys shall be used to (1) pay the expenses of 84645
verifying the income-eligibility of HEAP applicants, (2) market 84646
economic development opportunities in the state, and (3) leverage 84647
additional federal funds. State funds shall be used to match 84648
federal housing grants for the homeless and to market economic 84649
development opportunities in the state. 84650

Section 203.99.42. MINORITY BUSINESS ENTERPRISE LOAN 84651

All repayments from the Minority Development Financing
Advisory Board Loan Program and the Ohio Mini-Loan Guarantee
Program shall be deposited in the State Treasury to the credit of
the Minority Business Enterprise Loan Fund (Fund 4W1).

All operating costs of administering the Minority Business
Enterprise Loan Fund shall be paid from the Minority Business
Enterprise Loan Fund (Fund 4WI).

MINORITY BUSINESS BONDING FUND 84659

Notwithstanding Chapters 122., 169., and 175. of the Revised
Code and other provisions of Am. Sub. H.B. 283 of the 123rd
General Assembly, the Director of Development may, upon the
recommendation of the Minority Development Financing Advisory
Board, pledge up to \$10,000,000 in the FY 2006-2007 biennium of
unclaimed funds administered by the Director of Commerce and
allocated to the Minority Business Bonding Program under section
169.05 of the Revised Code. The transfer of any cash by the
Director of Budget and Management from the Department of
Commerce's Unclaimed Funds Fund (Fund 543) to the Department of
Development's Minority Business Bonding Fund (Fund 449) shall
occur, if requested by the Director of Development, only if such
funds are needed for payment of losses arising from the Minority
Business Bonding Program, and only after proceeds of the initial
transfer of \$2,700,000 by the Controlling Board to the Minority
Business Bonding Program has been used for that purpose. Moneys
transferred by the Director of Budget and Management from the
Department of Commerce for this purpose may be moneys in custodial
funds held by the Treasurer of State. If expenditures are required
for payment of losses arising from the Minority Business Bonding
Program, such expenditures shall be made from appropriation item
195-623, Minority Business Bonding Contingency in the Minority
Business Bonding Fund, and such amounts are appropriated.

Section 203.99.45. ECONOMIC DEVELOPMENT FINANCING OPERATING	84683
The foregoing appropriation item 195-625, Economic	84684
Development Financing Operating, shall be used for the operating	84685
expenses of financial assistance programs authorized under Chapter	84686
166. of the Revised Code and under sections 122.43 and 122.45 of	84687
the Revised Code.	84688
VOLUME CAP ADMINISTRATION	84689
The foregoing appropriation item 195-654, Volume Cap	84690
Administration, shall be used for expenses related to the	84691
administration of the Volume Cap Program. Revenues received by the	84692
Volume Cap Administration Fund (Fund 617) shall consist of	84693
application fees, forfeited deposits, and interest earned from the	84694
custodial account held by the Treasurer of State.	84695
UNIVERSAL SERVICE FUND	84696
The foregoing appropriation item 195-659, Universal Service,	84697
shall be used to provide payments to regulated electric utility	84698
companies for low-income customers enrolled in Percentage of	84699
Income Payment Plan (PIPP) electric accounts, to fund targeted	84700
energy efficiency and customer education services to PIPP	84701
customers, and to cover the department's administrative costs	84702
related to Universal Service Fund Programs.	84703
SHOVEL READY SITES	84704
The foregoing appropriation item 195-678, Shovel Ready Sites,	84705
shall be used to administer the Shovel Ready Sites Program under	84706
section 122.083 of the Revised Code.	84707
ALTERNATIVE FUEL TRANSPORTATION	84708
The foregoing appropriation item 195-679, Alternative Fuel	84709
Transportation, shall be used by the Director of Development to	84710
make grants under the Alternative Fuel Transportation Grant Fund	84711

Program in accordance with section 122.075 of the Revised Code, 84712
and for administrative costs associated with the program. 84713

TRANSFER OF UNCLAIMED FUNDS TO THE DEFENSE CONVERSION 84714
ASSISTANCE FUND FOR BASE REALIGNMENT AND CLOSURE GRANTS 84715

(A) There is hereby created in the State Treasury the Defense 84716
Conversion Assistance Fund (Fund XXX). The fund shall consist of 84717
all cash deposited to it pursuant to division (C) of this section. 84718

(B) The foregoing appropriation item 195-XXX, Defense 84719
Conversion Assistance, shall be used by the Director of 84720
Development to provide grants to local communities for costs 84721
associated with the preparation and redevelopment of military 84722
installations in Ohio that are slated for realignment or closure 84723
under the United States Department of Defense Base Realignment and 84724
Closure Program. 84725

(C) Notwithstanding division (A) of section 169.05 of the 84726
Revised Code, upon the request of the Director of Budget and 84727
Management, the Director of Commerce, prior to June 30, 2006, 84728
shall transfer to the Defense Conversion Assistance Fund (Fund 84729
XXX) \$1,000,000 of the unclaimed funds that have been reported by 84730
the holders of unclaimed funds under section 169.05 of the Revised 84731
Code regardless of the allocation of the unclaimed funds described 84732
in that section. 84733

(D) On or before June 30, 2006, the unencumbered balance of 84734
the foregoing appropriation item 195-XXX, Defense Conversion 84735
Assistance, for fiscal year 2006 is hereby appropriated for the 84736
same purpose for fiscal year 2007. 84737

ENERGY EFFICIENCY REVOLVING LOAN FUND 84738

The foregoing appropriation item 195-660, Energy Efficiency 84739
Loan and Grant, shall be used to provide financial assistance to 84740
customers for eligible energy efficiency projects for residential, 84741

commercial and industrial business, local government, educational 84742
institution, nonprofit, and agriculture customers, and to pay for 84743
the program's administrative costs as provided in the Revised Code 84744
and rules adopted by the Director of Development. 84745

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 84746
THE INDUSTRIAL SITE IMPROVEMENTS FUND 84747

Notwithstanding Chapters 122. and 4928. of the Revised Code 84748
and any other law to the contrary, the Director of Budget and 84749
Management shall transfer \$2,500,000 in cash in fiscal year 2006 84750
and \$2,500,000 in cash in fiscal year 2007 from the Energy 84751
Efficiency Revolving Loan Fund (Fund 5M5) to the Industrial Site 84752
Improvements Fund (Fund 5AR). 84753

Moneys in Fund 5AR, Industrial Site Improvements, shall be 84754
used by the Director of Development to make grants to eligible 84755
counties for the improvement of commercial or industrial areas 84756
within those counties under section 122.951 of the Revised Code. 84757

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 84758
THE RAIL TRANSLOAD FACILITIES FUND 84759

Notwithstanding Chapters 122. and 4928. of the Revised Code 84760
and any other law to the contrary, the Director of Budget and 84761
Management shall transfer \$500,000 in cash in fiscal year 2006 84762
from the Energy Efficiency Revolving Loan Fund (Fund 5M5) in the 84763
Department of Development to the Rail Transload Facilities Fund 84764
(Fund 5CF) in the Department of Transportation. 84765

TRANSFER FROM THE ENERGY EFFICIENCY REVOLVING LOAN FUND TO 84766
THE ALTERNATIVE FUEL TRANSPORTATION GRANT FUND 84767

Notwithstanding Chapter 4928. of the Revised Code and any 84768
other law to the contrary, the Director of Budget and Management 84769
shall transfer \$150,000 in cash in fiscal year 2006 and \$150,000 84770
in cash in fiscal year 2007 from the Energy Efficiency Revolving 84771

Loan Fund (Fund 5M5) to the Alternative Fuel Transportation Grant Fund (Fund 5CG).	84772 84773
GLOBAL ANALYST SETTLEMENT AGREEMENTS PAYMENTS	84774
All payments received by the state pursuant to a series of settlements with ten brokerage firms reached with the United States Securities and Exchange Commission, the National Association of Securities Dealers, the New York Stock Exchange, the New York Attorney General, and other state regulators (henceforth referred to as the "Global Analysts Settlement Agreements"), shall be deposited into the state treasury to the credit of the Economic Development Contingency Fund (Fund 5Y6), which is hereby created in the state treasury. The fund shall be used by the Director of Development to support economic development projects for which appropriations would not otherwise be available, and shall be subject to the submission of a request to the Controlling Board by the Director outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.	84775 84776 84777 84778 84779 84780 84781 84782 84783 84784 84785 84786 84787 84788 84789
Section 203.99.46. TRANSFER FROM THE LOW- AND MODERATE-INCOME HOUSING TRUST FUND TO THE RESIDENTIAL STATE SUPPLEMENT FUND	84790 84791
Notwithstanding Chapter 175. of the Revised Code and any other law to the contrary, the Director of Budget and Management shall transfer \$1,500,000 in cash in fiscal year 2006 and \$1,500,000 in cash in fiscal year 2007 from the Low- and Moderate-Income Housing Trust Fund (Fund 646) in the Department of Development to the Residential State Supplement Fund (Fund 5CH) in the Department of Mental Health.	84792 84793 84794 84795 84796 84797 84798
Section 203.99.48. FACILITIES ESTABLISHMENT FUND	84799
The foregoing appropriation item 195-615, Facilities Establishment (Fund 037), shall be used for the purposes of the	84800 84801

Facilities Establishment Fund under Chapter 166. of the Revised	84802
Code.	84803
Notwithstanding Chapter 166. of the Revised Code, up to	84804
\$1,800,000 in cash each fiscal year may be transferred from the	84805
Facilities Establishment Fund (Fund 037) to the Economic	84806
Development Financing Operating Fund (Fund 451). The transfer is	84807
subject to Controlling Board approval under division (B) of	84808
section 166.03 of the Revised Code.	84809
Notwithstanding Chapter 166. of the Revised Code, up to	84810
\$5,000,000 in cash each fiscal year may be transferred from the	84811
Facilities Establishment Fund (Fund 037) to the Shovel Ready Sites	84812
Fund (Fund 5CA). The transfer is subject to Controlling Board	84813
approval under division (B) of section 166.03 of the Revised Code.	84814
Notwithstanding Chapter 166. of the Revised Code, up to	84815
\$10,950,000 in cash may be transferred during the biennium from	84816
the Facilities Establishment Fund (Fund 037) to the Urban	84817
Redevelopment Loans Fund (Fund 5D2) for the purpose of removing	84818
barriers to urban core redevelopment. The Director of Development	84819
shall develop program guidelines for the transfer and release of	84820
funds, including, but not limited to, the completion of all	84821
appropriate environmental assessments before state assistance is	84822
committed to a project.	84823
Notwithstanding Chapter 166. of the Revised Code, up to	84824
\$3,000,000 each fiscal year in cash may be transferred from the	84825
Facilities Establishment Fund (Fund 037) to the Rural Industrial	84826
Park Loan Fund (Fund 4Z6). The transfer is subject to Controlling	84827
Board approval under section 166.03 of the Revised Code.	84828
FAMILY FARM LOAN PROGRAM	84829
Notwithstanding Chapter 166. of the Revised Code, up to	84830
\$1,000,000 in each fiscal year shall be transferred from moneys in	84831
the Facilities Establishment Fund (Fund 037) to the Family Farm	84832

Loan Guarantee Fund (Fund 5H1) in the Department of Development. 84833
The moneys shall be used for loan guarantees. The transfer is 84834
subject to Controlling Board approval. 84835

Financial assistance from the Family Farm Loan Guarantee Fund 84836
(Fund 5H1) shall be repaid to Fund 5H1. This fund is established 84837
under sections 166.031, 901.80, 901.81, 901.82, and 901.83 of the 84838
Revised Code. 84839

When the Family Farm Loan Guarantee Fund (Fund 5H1) ceases to 84840
exist, all outstanding balances, all loan repayments, and any 84841
other outstanding obligations shall revert to the Facilities 84842
Establishment Fund (Fund 037). 84843

RURAL DEVELOPMENT INITIATIVE FUND 84844

(A)(1) The Rural Development Initiative Fund (Fund 5S8) is 84845
entitled to receive moneys from the Facilities Establishment Fund 84846
(Fund 037). The Director of Development may make grants from the 84847
Rural Development Initiative Fund as specified in division (A)(2) 84848
of this section to eligible applicants in Appalachian counties and 84849
in rural counties in the state that are designated as distressed 84850
under section 122.25 of the Revised Code. Preference shall be 84851
given to eligible applicants located in Appalachian counties 84852
designated as distressed by the federal Appalachian Regional 84853
Commission. The Rural Development Initiative Fund (Fund 5S8) shall 84854
cease to exist after June 30, 2007. All moneys remaining in the 84855
Fund after that date shall revert to the Facilities Establishment 84856
Fund (Fund 037). 84857

(2) The Director of Development shall make grants from the 84858
Rural Development Initiative Fund (Fund 5S8) only to eligible 84859
applicants who also qualify for and receive funding under the 84860
Rural Industrial Park Loan Program as specified in sections 122.23 84861
to 122.27 of the Revised Code. Eligible applicants shall use the 84862
grants for the purposes specified in section 122.24 of the Revised 84863

Code. All projects supported by grants from the fund are subject
to Chapter 4115. of the Revised Code as specified in division (E)
of section 166.02 of the Revised Code. The Director shall develop
program guidelines for the transfer and release of funds. The
release of grant moneys to an eligible applicant is subject to
Controlling Board approval.

(B) Notwithstanding Chapter 166. of the Revised Code, the
Director of Budget and Management may transfer up to \$3,000,000
each fiscal year in cash on an as needed basis at the request of
the Director of Development from the Facilities Establishment Fund
(Fund 037) to the Rural Development Initiative Fund (Fund 5S8).
The transfer is subject to Controlling Board approval under
section 166.03 of the Revised Code.

CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195-628, Capital Access Loan
Program, shall be used for operating, program, and administrative
expenses of the program. Funds of the Capital Access Loan Program
shall be used to assist participating financial institutions in
making program loans to eligible businesses that face barriers in
accessing working capital and obtaining fixed asset financing.

Notwithstanding Chapter 166. of the Revised Code, the
Director of Budget and Management may transfer up to \$3,000,000
each fiscal year in cash on an as needed basis at the request of
the Director of Development from the Facilities Establishment Fund
(Fund 037) to the Capital Access Loan Program Fund (Fund 5S9). The
transfer is subject to Controlling Board approval under section
166.03 of the Revised Code.

INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195-664, Innovation Ohio,
shall be used to provide for innovation Ohio purposes, including
loan guarantees and loans under Chapter 166. and particularly

sections 166.12 to 166.16 of the Revised Code.	84895
RESEARCH AND DEVELOPMENT	84896
The foregoing appropriation item 195-665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.	84897 84898 84899 84900
Section 203.99.51. CLEAN OHIO OPERATING EXPENSES	84901
The foregoing appropriation item 195-663, Clean Ohio Operating, shall be used by the Department of Development in administering sections 122.65 to 122.658 of the Revised Code.	84902 84903 84904
Section 203.99.54. UNCLAIMED FUNDS TRANSFER	84905
(A) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2006, shall transfer to the Job Development Initiatives Fund (Fund 5AD) up to \$8,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.	84906 84907 84908 84909 84910 84911 84912 84913
Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, prior to June 30, 2007, shall transfer to the Job Development Initiatives Fund (Fund 5AD) up to \$18,000,000 of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.	84914 84915 84916 84917 84918 84919 84920 84921
(B) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and	84922 84923

Management, the Director of Commerce, prior to June 30, 2006, 84924
 shall transfer to the State Special Projects Fund (Fund 4F2) up to 84925
 \$4,978,210 of the unclaimed funds that have been reported by the 84926
 holders of unclaimed funds under section 169.05 of the Revised 84927
 Code, regardless of the allocation of the unclaimed funds 84928
 described under that section. 84929

Notwithstanding division (A) of section 169.05 of the Revised 84930
 Code, upon the request of the Director of Budget and Management, 84931
 the Director of Commerce, prior to June 30, 2007, shall transfer 84932
 to the State Special Projects Fund (Fund 4F2) up to \$4,978,210 of 84933
 the unclaimed funds that have been reported by the holders of 84934
 unclaimed funds under section 169.05 of the Revised Code, 84935
 regardless of the allocation of the unclaimed funds described 84936
 under that section. 84937

Section 206.03. OBD OHIO BOARD OF DIETETICS 84938

General Services Fund Group 84939
 4K9 860-609 Operating Expenses \$ 332,495 \$ 0 84940
 TOTAL GSF General Services Fund 84941
 Group \$ 332,495 \$ 0 84942
 TOTAL ALL BUDGET FUND GROUPS \$ 332,495 \$ 0 84943

Section 206.06. CDR COMMISSION ON DISPUTE RESOLUTION AND 84945
CONFLICT MANAGEMENT 84946

General Revenue Fund 84947
 GRF 145-401 Commission on Dispute \$ 470,000 \$ 470,000 84948
 Resolution/Management
 TOTAL GRF General Revenue Fund \$ 470,000 \$ 470,000 84949
 General Services Fund Group 84950
 4B6 145-601 Gifts and Grants \$ 140,000 \$ 140,000 84951
 TOTAL GSF General Services Fund \$ 140,000 \$ 140,000 84952
 Group

Federal Special Revenue Fund Group				84953
3S6 145-602 Dispute Resolution:	\$	140,000	\$ 140,000	84954
Federal				
TOTAL FED Federal Special Revenue	\$	140,000	\$ 140,000	84955
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	750,000	\$ 750,000	84956
Section 206.09. EDU DEPARTMENT OF EDUCATION				84958
General Revenue Fund				84959
GRF 200-100 Personal Services	\$	9,880,406	\$ 10,880,655	84960
GRF 200-320 Maintenance and	\$	4,344,235	\$ 4,344,235	84961
Equipment				
GRF 200-408 Early Childhood	\$	19,002,195	\$ 19,002,195	84962
Education				
GRF 200-410 Educator Training	\$	19,513,057	\$ 20,088,057	84963
GRF 200-416 Career-Technical	\$	2,233,195	\$ 2,233,195	84964
Education Match				
GRF 200-420 Computer/Application/	\$	5,361,525	\$ 5,361,525	84965
Network Development				
GRF 200-421 Alternative Education	\$	13,907,665	\$ 13,732,665	84966
Programs				
GRF 200-422 School Management	\$	2,683,208	\$ 2,710,572	84967
Assistance				
GRF 200-424 Policy Analysis	\$	556,687	\$ 556,687	84968
GRF 200-425 Tech Prep Consortia	\$	2,069,217	\$ 2,069,217	84969
Support				
GRF 200-426 Ohio Educational	\$	30,446,197	\$ 30,446,197	84970
Computer Network				
GRF 200-427 Academic Standards	\$	11,607,753	\$ 11,679,181	84971
GRF 200-431 School Improvement	\$	20,763,649	\$ 23,792,828	84972
Initiatives				
GRF 200-433 Reading/Writing	\$	16,165,000	\$ 16,165,000	84973

		Improvement-Professional Development			
GRF 200-437	Student Assessment	\$ 54,445,234	\$ 60,011,935	84974	
GRF 200-439	Accountability/Report Cards	\$ 3,878,850	\$ 7,457,290	84975	
GRF 200-442	Child Care Licensing	\$ 1,302,495	\$ 1,302,495	84976	
GRF 200-445	OhioReads Volunteer Support	\$ 3,905,000	\$ 3,905,000	84977	
GRF 200-446	Education Management Information System	\$ 15,674,805	\$ 15,674,805	84978	
GRF 200-447	GED Testing	\$ 1,544,360	\$ 1,544,360	84979	
GRF 200-448	Educator Preparation	\$ 1,651,000	\$ 1,651,000	84980	
GRF 200-455	Community Schools	\$ 2,942,094	\$ 2,942,094	84981	
GRF 200-502	Pupil Transportation	\$ 412,330,728	\$ 420,577,343	84982	
GRF 200-503	Bus Purchase Allowance	\$ 8,600,000	\$ 14,000,000	84983	
GRF 200-505	School Lunch Match	\$ 8,998,025	\$ 8,998,025	84984	
GRF 200-509	Adult Literacy Education	\$ 8,669,738	\$ 8,669,738	84985	
GRF 200-511	Auxiliary Services	\$ 127,903,356	\$ 127,903,356	84986	
GRF 200-514	Postsecondary Adult Career-Technical Education	\$ 19,481,875	\$ 19,481,875	84987	
GRF 200-521	Gifted Pupil Program	\$ 46,910,068	\$ 47,157,293	84988	
GRF 200-532	Nonpublic Administrative Cost Reimbursement	\$ 56,762,916	\$ 58,068,463	84989	
GRF 200-540	Special Education Enhancements	\$ 133,754,606	\$ 135,015,125	84990	
GRF 200-545	Career-Technical Education Enhancements	\$ 10,169,442	\$ 9,225,569	84991	
GRF 200-550	Foundation Funding	\$ 5,585,820,663	\$ 5,701,771,366	84992	
GRF 200-558	Emergency Loan Interest Subsidy	\$ 1,388,164	\$ 651,404	84993	

GRF 200-566	Reading/Writing Improvement-Classroom Grants	\$ 12,062,336	\$ 12,062,336	84994
GRF 200-578	Safe and Supportive Schools	\$ 1,218,555	\$ 1,218,555	84995
GRF 200-901	Property Tax Allocation - Education	\$ 764,626,987	\$ 728,793,318	84996
GRF 200-906	Tangible Tax Exemption - Education	\$ 42,830,487	\$ 32,122,865	84997
TOTAL GRF	General Revenue Fund	\$ 7,485,405,773	\$ 7,583,267,819	84998
	General Services Fund Group			84999
138 200-606	Computer Services-Operational Support	\$ 7,600,091	\$ 7,600,091	85000
4D1 200-602	Ohio Prevention/Education Resource Center	\$ 832,000	\$ 832,000	85001
4L2 200-681	Teacher Certification and Licensure	\$ 5,497,158	\$ 5,628,332	85002
452 200-638	Miscellaneous Educational Services	\$ 400,000	\$ 400,000	85003
5H3 200-687	School District Solvency Assistance	\$ 18,000,000	\$ 18,000,000	85004
596 200-656	Ohio Career Information System	\$ 529,761	\$ 529,761	85005
TOTAL GSF	General Services Fund Group	\$ 32,859,010	\$ 32,990,184	85006 85007
	Federal Special Revenue Fund Group			85008
3AF 200-603	Schools Medicaid Administrative Claims	\$ 1,000,000	\$ 1,000,000	85009
3C5 200-661	Early Childhood Education	\$ 23,874,338	\$ 23,874,338	85010

3D1	200-664	Drug Free Schools	\$	13,347,966	\$	13,347,966	85011
3D2	200-667	Honors Scholarship Program	\$	5,812,903	\$	5,833,965	85012
3H9	200-605	Head Start Collaboration Project	\$	275,000	\$	275,000	85013
3L6	200-617	Federal School Lunch	\$	220,256,132	\$	227,583,653	85014
3L7	200-618	Federal School Breakfast	\$	56,382,851	\$	58,405,608	85015
3L8	200-619	Child/Adult Food Programs	\$	66,590,622	\$	67,915,843	85016
3L9	200-621	Career-Technical Education Basic Grant	\$	48,029,701	\$	48,029,701	85017
3M0	200-623	ESEA Title 1A	\$	440,260,178	\$	461,026,070	85018
3M1	200-678	Innovative Education	\$	11,800,000	\$	11,800,000	85019
3M2	200-680	Individuals with Disabilities Education Act	\$	513,058,569	\$	605,581,547	85020
3S2	200-641	Education Technology	\$	20,800,000	\$	20,800,000	85021
3T4	200-613	Public Charter Schools	\$	22,000,000	\$	22,000,000	85022
3U2	200-662	Teacher Quality Enhancement Grants	\$	795,280	\$	795,280	85023
3X5	200-684	School Renovation/IDEA	\$	2,200,000	\$	0	85024
3Y2	200-688	21st Century Community Learning Centers	\$	30,681,554	\$	30,681,554	85025
3Y4	200-632	Reading First	\$	50,775,637	\$	31,215,798	85026
3Y5	200-634	Community Service Grants	\$	1,000,000	\$	0	85027
3Y6	200-635	Improving Teacher Quality	\$	107,000,000	\$	107,000,000	85028
3Y7	200-689	English Language Acquisition	\$	8,500,000	\$	9,000,000	85029
3Y8	200-639	Rural and Low Income	\$	1,700,000	\$	1,700,000	85030
3Z2	200-690	State Assessments	\$	12,681,031	\$	12,883,799	85031

3Z3	200-645	Consolidated USDE Administration	\$	9,200,000	\$	9,200,000	85032
309	200-601	Educationally Disadvantaged	\$	19,658,846	\$	19,658,846	85033
366	200-604	Adult Basic Education	\$	18,500,000	\$	18,500,000	85034
367	200-607	School Food Services	\$	11,383,637	\$	11,666,732	85035
368	200-614	Veterans' Training	\$	672,961	\$	691,130	85036
369	200-616	Career-Technical Education Federal Enhancement	\$	6,500,000	\$	6,500,000	85037
370	200-624	Education of Exceptional Children	\$	2,386,610	\$	2,386,610	85038
371	200-631	Immigrant Education Opportunities	\$	400,000	\$	400,000	85039
374	200-647	Troops to Teachers	\$	1,600,000	\$	0	85040
378	200-660	Learn and Serve	\$	1,200,000	\$	1,200,000	85041
TOTAL FED Federal Special							85042
Revenue Fund Group			\$	1,730,323,816	\$	1,830,953,440	85043
State Special Revenue Fund Group							85044
4R7	200-695	Indirect Operational Support	\$	5,382,864	\$	5,449,748	85045
4V7	200-633	Interagency Operational Support	\$	500,000	\$	500,000	85046
454	200-610	Guidance and Testing	\$	400,000	\$	400,000	85047
455	200-608	Commodity Foods	\$	24,000,000	\$	24,000,000	85048
5BB	200-696	State Action for Education Leadership	\$	1,200,000	\$	1,200,000	85049
5BJ	200-626	Half-Mill Maintenance Equalization	\$	0	\$	10,700,000	85050
5U2	200-685	National Education Statistics	\$	300,000	\$	300,000	85051
5W2	200-663	Early Learning Initiative	\$	106,580,000	\$	127,456,000	85052

598	200-659	Auxiliary Services	\$	1,328,910	\$	1,328,910	85053
		Reimbursement					
620	200-615	Educational	\$	1,000,000	\$	1,000,000	85054
		Improvement Grants					
TOTAL SSR State Special Revenue							85055
Fund Group			\$	140,691,774	\$	172,334,658	85056
Lottery Profits Education Fund Group							85057
017	200-612	Foundation Funding	\$	606,208,300	\$	606,296,800	85058
017	200-682	Lease Rental Payment	\$	31,691,700	\$	31,603,200	85059
		Reimbursement					
TOTAL LPE Lottery Profits							85060
Education Fund Group			\$	637,900,000	\$	637,900,000	85061
Revenue Distribution Fund Group							85062
047	200-900	School District	\$	38,810,000	\$	291,010,000	85063
		Property Tax					
		Replacement-Business					
053	200-900	School District	\$	116,647,522	\$	101,647,522	85064
		Property Tax					
		Replacement-Utility					
TOTAL RDF Revenue Distribution							85065
Fund Group			\$	155,457,522	\$	392,657,522	85066
TOTAL ALL BUDGET FUND GROUPS			\$	10,182,637,895	\$	10,650,103,623	85067

Section 206.09.03. MAINTENANCE AND EQUIPMENT 85069

Of the foregoing appropriation item 200-320, Maintenance and 85070
Equipment, up to \$25,000 may be expended in each fiscal year for 85071
State Board of Education out-of-state travel. 85072

Section 206.09.06. EARLY CHILDHOOD EDUCATION 85073

The Department of Education shall distribute the foregoing 85074
appropriation item 200-408, Early Childhood Education, to pay the 85075
costs of comprehensive early childhood education programs. As used 85076

in this section, "provider" means a city, local, exempted village, 85077
or joint vocational school district, or an educational service 85078
center. 85079

(A) In each fiscal year, up to two per cent of the total 85080
appropriation may be used by the Department for program support 85081
and technical assistance. The Department shall distribute the 85082
remainder of the appropriation in each fiscal year to serve 85083
children from families earning not more than 200 per cent of the 85084
federal poverty guidelines. 85085

(B) The Department shall provide an annual report to the 85086
Governor, the Speaker of the House of Representatives, and the 85087
President of the Senate and post the report to the Department's 85088
web site, regarding early childhood education programs operated 85089
under this section and the early learning program guidelines for 85090
school readiness. 85091

(C) For purposes of this section, "eligible child" means a 85092
child who is at least three years of age, is not of the age to be 85093
eligible for kindergarten, and whose family earns not more than 85094
200 per cent of the federal poverty guidelines. 85095

(D) After setting aside the amounts to make payments due from 85096
the previous fiscal year, in fiscal year 2006, the Department 85097
shall distribute funds first to recipients of funds for public 85098
preschool programs under Section 41.02 of Am. Sub. H.B. 95 of the 85099
125th General Assembly in the previous fiscal year and the balance 85100
to new providers of early childhood education programs under this 85101
section. After setting aside the amounts to make payments due from 85102
the previous fiscal year, in fiscal year 2007, the Department 85103
shall distribute funds first to providers of early childhood 85104
education programs under this section in the previous fiscal year 85105
and the balance to new providers. Awards under this section shall 85106
be distributed on a per-pupil basis, which the Department may 85107

adjust so that the per-pupil amount multiplied by the number of
eligible children enrolled and receiving services, as defined by
the Department, reported on the first day of December or the first
business day following that date equals the amount allocated under
division (A) of this section. The Department may increase the
per-pupil amount by a reasonable percentage for inflation, to be
determined by the Department.

The Department may reallocate unobligated or unspent money to
participating providers for purposes of program expansion,
improvement, or special projects to promote quality and
innovation.

(E) Costs for developing and administering an early childhood
education program may not exceed fifteen per cent of the total
approved costs of the program.

All providers shall maintain such fiscal control and
accounting procedures as may be necessary to ensure the
disbursement of, and accounting for, these funds. The control of
funds provided in this program, and title to property obtained
therefrom, shall be under the authority of the approved provider
for purposes provided in the program unless, as described in
division (I) of this section, the program waives its right for
funding or a program's funding is eliminated or reduced due to its
inability to meet financial or early learning program guidelines
for school readiness. The approved provider shall administer and
use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and
program records. If the financial practices of the program are not
in accordance with standard accounting principles or do not meet
financial standards outlined under division (E) of this section,
or if the program fails to substantially meet the early learning
program guidelines for school readiness or exhibits below average

performance as measured against the guidelines, the early 85139
childhood education program shall propose and implement a 85140
corrective action plan that has been approved by the Department. 85141
The approved corrective action plan shall be signed by the chief 85142
executive officer and the executive of the official governing body 85143
of the provider. The corrective action plan shall include a 85144
schedule for monitoring by the Department. Such monitoring may 85145
include monthly reports, inspections, a timeline for correction of 85146
deficiencies, and technical assistance to be provided by the 85147
Department or obtained by the early childhood education program. 85148
The Department may withhold funding pending corrective action. If 85149
an early childhood education program fails to satisfactorily 85150
complete a corrective action plan, the Department may deny 85151
expansion funding to the program or withdraw all or part of the 85152
funding to the program and establish a new provider through a 85153
competitive bidding process established by the Department. 85154

(G) Each early childhood education program shall do all of 85155
the following: 85156

(1) Meet teacher qualification requirements prescribed by 85157
section 3301.311 of the Revised Code; 85158

(2) Align curriculum to the early learning program guidelines 85159
for school readiness; 85160

(3) Meet any assessment requirements prescribed by section 85161
3301.0715 of the Revised Code that are applicable to the program; 85162

(4) Require teachers, including teachers enrolled and working 85163
to obtain a degree pursuant to section 3301.311 of the Revised 85164
Code, to attend a minimum of twenty hours per year of professional 85165
development as prescribed by the Department regarding the 85166
implementation of content standards and assessments; 85167

(5) Document and report child progress in meeting the early 85168
learning program guidelines for school readiness. 85169

(H) Each provider shall develop a sliding fee scale based on 85170
family incomes and shall charge families who earn more than the 85171
federal poverty guidelines for the early childhood education 85172
program. 85173

(I) If an early childhood education program voluntarily 85174
waives its right for funding, or has its funding eliminated for 85175
not meeting financial standards or the early learning program 85176
guidelines for school readiness, the provider shall transfer 85177
control of title to property, equipment, and remaining supplies 85178
obtained through the program to providers designated by the 85179
Department and return any unexpended funds to the Department along 85180
with any reports prescribed by the Department. The funding made 85181
available from a program that waives its right for funding or has 85182
its funding eliminated or reduced may be used by the Department 85183
for new grant awards or expansion grants. The Department may award 85184
new grants or expansion grants to eligible providers who apply. 85185
The eligible providers who apply must do so in accordance with the 85186
competitive bidding process established by the Department. 85187

(J) As used in this section, "early learning program 85188
guidelines for school readiness" means the guidelines established 85189
by the Department pursuant to division (C)(3) of Section 206.09.54 85190
of this act. 85191

Section 206.09.09. EDUCATOR TRAINING 85192

The foregoing appropriation item 200-410, Educator Training, 85193
shall be used to fund professional development programs in Ohio. 85194
The Department of Education shall, when possible, incorporate 85195
cultural competency as a component of professional development and 85196
actively promote the development of cultural competency in the 85197
operation of its professional development programs. As used in 85198
this section, "cultural competency" has the meaning specified by 85199
the Educator Standards Board under section 3319.61 of the Revised 85200

Code. 85201

Of the foregoing appropriation item 200-410, Educator 85202
Training, up to \$7,850,000 in fiscal year 2006 and up to 85203
\$8,250,000 in fiscal year 2007 shall be used by the Department of 85204
Education to provide grants to pay \$2,000 of the application fee 85205
in order to assist teachers from public and chartered nonpublic 85206
schools applying for the first time to the National Board for 85207
Professional Teaching Standards for professional teaching 85208
certificates or licenses that the board offers. This set aside 85209
shall also be used to recognize and reward teachers who become 85210
certified by the National Board for Professional Teaching 85211
Standards under section 3319.55 of the Revised Code. Up to 85212
\$300,000 in each fiscal year of this set aside may be used by the 85213
Department to pay for costs associated with activities to support 85214
candidates through the application and certification process. 85215

These moneys shall be used to pay up to the first 400 85216
applications in each fiscal year received by the Department. 85217

Of the foregoing appropriation item 200-410, Educator 85218
Training, up to \$9,515,817 in each fiscal year shall be allocated 85219
for entry year programs. These funds shall be used to support 85220
mentoring services and performance assessments of beginning 85221
teachers in school districts and chartered nonpublic schools. 85222

Of the foregoing appropriation item 200-410, Educator 85223
Training, up to \$200,000 in each fiscal year shall be used to 85224
provide technical assistance and grants for districts to develop 85225
local knowledge/skills-based compensation systems (Teacher 85226
Advancement Program). Each district receiving grants shall issue 85227
an annual report to the Department of Education detailing the use 85228
of the funds and the impact of the system developed by the 85229
district. 85230

Of the foregoing appropriation item 200-410, Educator 85231

Training, up to \$350,000 in each fiscal year shall be used for 85232
training and professional development of school administrators, 85233
school treasurers, and school business officials. 85234

Of the foregoing appropriation item 200-410, Educator 85235
Training, up to \$100,000 in fiscal year 2007 shall be used by the 85236
Department of Education to develop a supply and demand report that 85237
describes the availability of quality educators and critical 85238
educator shortage areas in Ohio. 85239

Of the foregoing appropriation item 200-410, Educator 85240
Training, up to \$885,740 in each fiscal year shall be used for 85241
educator recruitment programs targeting shortage areas, including 85242
recruiting highly qualified minority candidates into teaching and 85243
recruiting prospective mathematics and science teachers. The funds 85244
also may be used to provide an alternative route to licensure for 85245
principals and other administrators. 85246

Of the foregoing appropriation item 200-410, Educator 85247
Training, up to \$187,500 in each fiscal year shall be used by the 85248
Department of Education to identify hard-to-staff schools and to 85249
provide incentives for highly qualified teachers to teach in these 85250
schools. Stipends shall be provided to teachers with at least 85251
three years of experience who teach in the areas of special 85252
education or middle or high school mathematics or science. 85253

Of the foregoing appropriation item 200-410, Educator 85254
Training, up to \$63,000 in each fiscal year shall be used to 85255
support the Ohio University Leadership Program. 85256

Of the foregoing appropriation item 200-410, Educator 85257
Training, \$250,000 in each fiscal year shall be used to support 85258
the Ohio School Leadership Institute. 85259

Section 206.09.10. CAREER-TECHNICAL EDUCATION MATCH 85260

The foregoing appropriation item 200-416, Career-Technical 85261

Education Match, shall be used by the Department of Education to 85262
provide vocational administration matching funds under 20 U.S.C. 85263
2311. 85264

Section 206.09.12. COMPUTER/APPLICATION/NETWORK DEVELOPMENT 85265

The foregoing appropriation item 200-420, 85266
Computer/Application/Network Development, shall be used to support 85267
the development and implementation of information technology 85268
solutions designed to improve the performance and services of the 85269
Department of Education. Funds may be used for personnel, 85270
maintenance, and equipment costs related to the development and 85271
implementation of these technical system projects. Implementation 85272
of these systems shall allow the Department to provide greater 85273
levels of assistance to school districts and to provide more 85274
timely information to the public, including school districts, 85275
administrators, and legislators. 85276

ALTERNATIVE EDUCATION PROGRAMS 85277

There is hereby created the Alternative Education Advisory 85278
Council, which shall consist of one representative from each of 85279
the following agencies: the Ohio Department of Education; the 85280
Department of Youth Services; the Ohio Department of Alcohol and 85281
Drug Addiction Services; the Department of Mental Health; the 85282
Office of the Governor or, at the Governor's discretion, the 85283
Office of the Lieutenant Governor; the Office of the Attorney 85284
General; and the Office of the Auditor of State. 85285

Of the foregoing appropriation item 200-421, Alternative 85286
Education Programs, up to \$6,227,310 in each fiscal year shall be 85287
used for the renewal of successful implementation grants and for 85288
competitive matching grants to the 21 urban school districts as 85289
defined in division (0) of section 3317.02 of the Revised Code as 85290
it existed prior to July 1, 1998, and up to \$6,408,074 in each 85291

fiscal year shall be used for the renewal of successful
implementation grants and for competitive matching grants to rural
and suburban school districts for alternative educational programs
for existing and new at-risk and delinquent youth. Programs shall
be focused on youth in one or more of the following categories:
those who have been expelled or suspended, those who have dropped
out of school or who are at risk of dropping out of school, those
who are habitually truant or disruptive, or those on probation or
on parole from a Department of Youth Services facility. Grants
shall be awarded according to the criteria established by the
Alternative Education Advisory Council in 1999. Grants shall be
awarded only to programs in which the grant will not serve as the
program's primary source of funding. These grants shall be
administered by the Department of Education.

The Department of Education may waive compliance with any
minimum education standard established under section 3301.07 of
the Revised Code for any alternative school that receives a grant
under this section on the grounds that the waiver will enable the
program to more effectively educate students enrolled in the
alternative school.

Of the foregoing appropriation item 200-421, Alternative
Education Programs, up to \$422,281 in each fiscal year may be used
for program administration, monitoring, technical assistance,
support, research, and evaluation. Any unexpended balance may be
used to provide additional matching grants to urban, suburban, or
rural school districts as outlined above.

Of the foregoing appropriation item 200-421, Alternative
Education Programs, up to \$675,000 in fiscal year 2006 and up to
\$500,000 in fiscal year 2007 may be used by the Department of
Education to administer the Educational Choice Scholarship Pilot
Program established under section 3310.02 of the Revised Code.

Of the foregoing appropriation item 200-421, Alternative 85323
Education Programs, \$75,000 in each fiscal year shall be used to 85324
support the Toledo Tech Academy. 85325

Of the foregoing appropriation item 200-421, Alternative 85326
Education Programs, \$100,000 in each fiscal year shall be used for 85327
the Youth Opportunities United, Inc. 85328

SCHOOL MANAGEMENT ASSISTANCE 85329

Of the foregoing appropriation item 200-422, School 85330
Management Assistance, up to \$1,315,000 in each fiscal year shall 85331
be used by the Auditor of State in consultation with the 85332
Department of Education for expenses incurred in the Auditor of 85333
State's role relating to fiscal caution, fiscal watch, and fiscal 85334
emergency activities as defined in Chapter 3316. of the Revised 85335
Code and may also be used to conduct performance audits consistent 85336
with the recommendations of the Governor's Blue Ribbon Task Force 85337
on Financing Student Success, with priority given to districts in 85338
fiscal distress. Expenses include duties related to the completion 85339
of performance audits for school districts that the Superintendent 85340
of Public Instruction determines are employing fiscal practices or 85341
experiencing budgetary conditions that could produce a state of 85342
fiscal watch or fiscal emergency. 85343

The remainder of foregoing appropriation item 200-422, School 85344
Management Assistance, shall be used by the Department of 85345
Education to provide fiscal technical assistance and inservice 85346
education for school district management personnel and to 85347
administer, monitor, and implement the fiscal watch and fiscal 85348
emergency provisions under Chapter 3316. of the Revised Code. 85349

POLICY ANALYSIS 85350

The foregoing appropriation item 200-424, Policy Analysis, 85351
shall be used by the Department of Education to support a system 85352
of administrative, statistical, and legislative education 85353

information to be used for policy analysis. Staff supported by 85354
this appropriation shall administer the development of reports, 85355
analyses, and briefings to inform education policymakers of 85356
current trends in education practice, efficient and effective use 85357
of resources, and evaluation of programs to improve education 85358
results. The database shall be kept current at all times. These 85359
research efforts shall be used to supply information and analysis 85360
of data to the General Assembly and other state policymakers, 85361
including the Office of Budget and Management and the Legislative 85362
Service Commission. 85363

The Department of Education may use funding from this 85364
appropriation item to purchase or contract for the development of 85365
software systems or contract for policy studies that will assist 85366
in the provision and analysis of policy-related information. 85367
Funding from this appropriation item also may be used to monitor 85368
and enhance quality assurance for research-based policy analysis 85369
and program evaluation to enhance the effective use of education 85370
information to inform education policymakers. 85371

TECH PREP CONSORTIA SUPPORT 85372

The foregoing appropriation item 200-425, Tech Prep Consortia 85373
Support, shall be used by the Department of Education to support 85374
state-level activities designed to support, promote, and expand 85375
tech prep programs. Use of these funds shall include, but not be 85376
limited to, administration of grants, program evaluation, 85377
professional development, curriculum development, assessment 85378
development, program promotion, communications, and statewide 85379
coordination of tech prep consortia. 85380

OHIO EDUCATIONAL COMPUTER NETWORK 85381

The foregoing appropriation item 200-426, Ohio Educational 85382
Computer Network, shall be used by the Department of Education to 85383
maintain a system of information technology throughout Ohio and to 85384

provide technical assistance for such a system in support of the 85385
State Education Technology Plan under section 3301.07 of the 85386
Revised Code. 85387

Of the foregoing appropriation item 200-426, Ohio Educational 85388
Computer Network, up to \$18,136,691 in each fiscal year shall be 85389
used by the Department of Education to support connection of all 85390
public school buildings and participating chartered nonpublic 85391
schools to the state's education network, to each other, and to 85392
the Internet. In each fiscal year the Department of Education 85393
shall use these funds to assist data acquisition sites or school 85394
districts with the operational costs associated with this 85395
connectivity. The Department of Education shall develop a formula 85396
and guidelines for the distribution of these funds to the data 85397
acquisition sites or individual school districts. As used in this 85398
section, "public school building" means a school building of any 85399
city, local, exempted village, or joint vocational school 85400
district, any community school established under Chapter 3314. of 85401
the Revised Code, any educational service center building used for 85402
instructional purposes, the Ohio School for the Deaf and the Ohio 85403
School for the Blind, or high schools chartered by the Ohio 85404
Department of Youth Services and high schools operated by Ohio 85405
Department of Rehabilitation and Corrections' Ohio Central School 85406
System. 85407

Of the foregoing appropriation item 200-426, Ohio Educational 85408
Computer Network, up to \$1,700,000 in each fiscal year shall be 85409
used for the Union Catalog and InfOhio Network. 85410

Of the foregoing appropriation item 200-426, Ohio Educational 85411
Computer Network, up to \$8,338,468 in each fiscal year shall be 85412
used, through a formula and guidelines devised by the department, 85413
to subsidize the activities of designated data acquisition sites, 85414
as defined by State Board of Education rules, to provide school 85415
districts and chartered nonpublic schools with computer-based 85416

student and teacher instructional and administrative information 85417
services, including approved computerized financial accounting, 85418
and to ensure the effective operation of local automated 85419
administrative and instructional systems. 85420

Of the foregoing appropriation item 200-426, Ohio Educational 85421
Computer Network, up to \$769,223 in each fiscal year shall be used 85422
for the INFOhio Network to support the provision of electronic 85423
resources with priority given to resources that support the 85424
teaching of state academic content standards to all public 85425
schools. Consideration shall be given by the Department of 85426
Education to coordinating the allocation of these moneys with the 85427
efforts of Libraries Connect Ohio, whose members include OhioLINK, 85428
the Ohio Public Information Network, and the State Library of 85429
Ohio. 85430

The remainder of appropriation item 200-426, Ohio Educational 85431
Computer Network, shall be used to support development, 85432
maintenance, and operation of a network of uniform and compatible 85433
computer-based information and instructional systems. This 85434
technical assistance shall include, but not be restricted to, 85435
development and maintenance of adequate computer software systems 85436
to support network activities. In order to improve the efficiency 85437
of network activities, the Department and data acquisition sites 85438
may jointly purchase equipment, materials, and services from funds 85439
provided under this appropriation for use by the network and, when 85440
considered practical by the Department, may utilize the services 85441
of appropriate state purchasing agencies. 85442

ACADEMIC STANDARDS 85443

Of the foregoing appropriation item 200-427, Academic 85444
Standards, up to \$747,912 in each fiscal year shall be used to 85445
provide funds to school districts that have one or more teachers 85446
participating in the teachers-on-loan program. 85447

Of the foregoing appropriation item 200-427, Academic Standards, \$150,000 in each fiscal year shall be used by the Department in combination with funding earmarked for this purpose in the Board of Regents' budget under appropriation item 235-321, Operating Expenses. Such funding shall be used to support Ohio's Partnership for Continued Learning at the direction of the Office of the Governor. Ohio's Partnership for Continued Learning replaces and broadens the former Joint Council of the Department of Education and the Board of Regents. The Partnership shall advise and make recommendations to promote collaboration among relevant state entities in an effort to help local communities develop coherent and successful "P-16" learning systems. The Governor, or the Governor's designee, shall serve as the chairperson.

Of the foregoing appropriation item 200-427, Academic Standards, \$1,000,000 in each fiscal year shall be used for Project Lead the Way leadership and management oversight and initial and continuing support of Project Lead the Way workforce development programs in participating school districts. Project Lead the Way is a program that supports students interested in pursuing engineering professions and stimulates growth of career pathways that meet business and industry workforce needs.

Of the foregoing appropriation item 200-427, Academic Standards, up to \$2,600,000 in each fiscal year shall be used for intensive teacher professional development institutes that focus on classroom implementation of the mathematics standards.

Of the foregoing appropriation item 200-427, Academic Standards, \$200,000 in each fiscal year may be used to support the Ohio Resource Center for Math and Science.

Of the foregoing appropriation item 200-427, Academic Standards, up to \$282,000 in each fiscal year shall be used for

the JASON Expedition project that provides statewide access to 85479
JASON Expedition content. Funds shall be used to provide 85480
professional development training for teachers participating in 85481
the project, statewide management, and a seventy-five per cent 85482
subsidy for statewide licensing of JASON Expedition content with 85483
priority given to content aligned with state academic content 85484
standards for approximately 90,000 middle school students 85485
statewide. 85486

Of the foregoing appropriation item 200-427, Academic 85487
Standards, \$285,000 in each fiscal year shall be used for the Ohio 85488
Science Institute (OSCI). 85489

The remainder of appropriation item 200-427, Academic 85490
Standards, shall be used by the Department of Education to develop 85491
and communicate to school districts academic content standards and 85492
curriculum models. 85493

Section 206.09.15. SCHOOL IMPROVEMENT INITIATIVES 85494

Of the foregoing appropriation item 200-431, School 85495
Improvement Initiatives, \$300,000 in fiscal year 2006 and \$450,000 85496
in fiscal year 2007 shall be used for Ohio's Rural Appalachian 85497
Leadership Development Initiative. 85498

Of the foregoing appropriation item 200-431, School 85499
Improvement Initiatives, up to \$601,165 in each fiscal year shall 85500
be used by the Department of Education to contract with 85501
educational media centers to provide Ohio public schools with 85502
instructional resources and services with priority given to 85503
resources and services aligned with state academic content 85504
standards. 85505

Of the foregoing appropriation item 200-431, School 85506
Improvement Initiatives, up to \$13,972,949 in fiscal year 2006 and 85507
\$13,672,678 in fiscal year 2007 shall be used to provide technical 85508

assistance to school districts that are declared to be in a state of academic watch or academic emergency under section 3302.03 of the Revised Code, to provide support to districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code, to support a statewide comprehensive system of field relations that support local educators' abilities to foster academic achievement in the students they serve, and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317. The field relations system shall include training that assists educators, school leadership, and technical assistance providers in understanding and implementing standards-based education, data analysis, and development of assessment systems for quality instruction.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$315,000 in each fiscal year shall be used to reduce the dropout rate by addressing the academic and social problems of inner-city students through Project GRAD.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,574,535 in fiscal year 2006 and \$2,753,985 in fiscal year 2007 shall be used in conjunction with funding provided in the Board of Regents' budget under appropriation item 235-434, College Readiness and Access, to create early college high schools, which are small, autonomous schools that blend high school and college into a coherent educational program.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$2,935,000 in fiscal year 2006 and up to \$4,935,000 in fiscal year 2007 shall be used in partnership with nonprofit groups with expertise in converting existing large urban high schools into small, personalized high schools.

Districts eligible for such funding include the Urban 21 high schools, as defined in division (O) of section 3317.02 of the Revised Code as it existed prior to July 1, 1998.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, up to \$65,000 in each fiscal year shall be provided to Southern State Community College for the Pilot Post-Secondary Enrollment Options Program with Miami Trace High School.

Of the foregoing appropriation item 200-431, School Improvement Initiatives, \$1,000,000 in each fiscal year shall be used to support Jobs for Ohio Graduates (JOG). The Department of Education shall require a two-to-one match of local funding to state funding before releasing these funds to JOG.

READING/WRITING IMPROVEMENT-PROFESSIONAL DEVELOPMENT

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$9,790,000 in each fiscal year shall be used for educator training in literacy for classroom teachers, administrators, and literacy specialists.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$5,000,000 in each fiscal year shall be used to support literacy professional development partnerships between the Department of Education, higher education institutions, literacy networks, and school districts.

Of the foregoing appropriation item 200-433, Reading/Writing Improvement-Professional Development, up to \$900,000 in each fiscal year shall be used by the Department of Education to fund the Reading Recovery Training Network, to cover the cost of release time for the teacher trainers, and to provide grants to districts to implement other reading improvement programs on a pilot basis. Funds from this set-aside also may be used to conduct

evaluations of the impact and effectiveness of Reading Recovery 85572
and other reading improvement programs. 85573

Of the foregoing appropriation item 200-433, Reading/Writing 85574
Improvement-Professional Development, up to \$250,000 in each 85575
fiscal year shall be used for the Waterford Early Reading Program. 85576

The remainder of appropriation item 200-433, Reading/Writing 85577
Improvement-Professional Development, shall be used by the 85578
Department of Education to provide administrative support of 85579
literacy professional development programs. 85580

STUDENT ASSESSMENT 85581

The foregoing appropriation item 200-437, Student Assessment, 85582
shall be used to develop, field test, print, distribute, score, 85583
report results, and support other associated costs for the tests 85584
required under sections 3301.0710 and 3301.0711 of the Revised 85585
Code and for similar purposes as required by section 3301.27 of 85586
the Revised Code. 85587

ACCOUNTABILITY/REPORT CARDS 85588

Of the foregoing appropriation item 200-439, 85589
Accountability/Report Cards, up to \$200,100 in fiscal year 2006 85590
and up to \$3,778,540 in fiscal year 2007 shall be used by the 85591
Department of Education to incorporate a statewide pilot 85592
value-added progress dimension into performance ratings for school 85593
districts and to train regional specialists. This funding shall be 85594
used in consultation with a credible nonprofit organization with 85595
expertise in value-added progress dimensions. 85596

The remainder of the appropriation item 200-439, 85597
Accountability/Report Cards, shall be used for the development of 85598
an accountability system that includes the preparation and 85599
distribution of school report cards under section 3302.03 of the 85600
Revised Code. 85601

CHILD CARE LICENSING 85602

The foregoing appropriation item 200-442, Child Care 85603
Licensing, shall be used by the Department of Education to license 85604
and to inspect preschool and school-age child care programs under 85605
sections 3301.52 to 3301.59 of the Revised Code. 85606

OHIOREADS VOLUNTEER SUPPORT 85607

The foregoing appropriation item 200-445, OhioReads Volunteer 85608
Support, may be allocated by the Department of Education for 85609
volunteer coordinators in public school buildings, for background 85610
checks for volunteers, to evaluate programs, and to develop, 85611
implement, and support literacy improvement activities and 85612
interventions for students in grades kindergarten through twelve. 85613

Section 206.09.18. EDUCATION MANAGEMENT INFORMATION SYSTEM 85614

The foregoing appropriation item 200-446, Education 85615
Management Information System, shall be used by the Department of 85616
Education to improve the Education Management Information System 85617
(EMIS). 85618

Of the foregoing appropriation item 200-446, Education 85619
Management Information System, up to \$1,295,857 in each fiscal 85620
year shall be distributed to designated data acquisition sites for 85621
costs relating to processing, storing, and transferring data for 85622
the effective operation of the EMIS. These costs may include, but 85623
are not limited to, personnel, hardware, software development, 85624
communications connectivity, professional development, and support 85625
services, and to provide services to participate in the State 85626
Education Technology Plan pursuant to section 3301.07 of the 85627
Revised Code. 85628

Of the foregoing appropriation item 200-446, Education 85629
Management Information System, up to \$8,055,189 in each fiscal 85630
year shall be distributed on a per-pupil basis to school 85631

districts, community schools established under Chapter 3314. of 85632
the Revised Code, educational service centers, joint vocational 85633
school districts, and any other education entity that reports data 85634
through EMIS. From this funding, each school district or community 85635
school established under Chapter 3314. of the Revised Code with 85636
enrollment greater than 100 students and each vocational school 85637
district shall receive a minimum of \$5,000 in each fiscal year. 85638
Each school district or community school established under Chapter 85639
3314. of the Revised Code with enrollment between one and one 85640
hundred and each educational service center and each county board 85641
of MR/DD that submits data through EMIS shall receive \$3,000 in 85642
each fiscal year. This subsidy shall be used for costs relating to 85643
reporting, processing, storing, transferring, and exchanging data 85644
necessary to meet requirements of the Department of Education's 85645
data system. 85646

The remainder of appropriation item 200-446, Education 85647
Management Information System, shall be used to develop and 85648
support a common core of data definitions and standards as adopted 85649
by the Education Data Advisory Council, including the ongoing 85650
development and maintenance of the data dictionary and data 85651
warehouse. In addition, such funds shall be used to support the 85652
development and implementation of data standards and the design, 85653
development, and implementation of a new data exchange system. 85654

Any provider of software meeting the standards approved by 85655
the Education Data Advisory Council shall be designated as an 85656
approved vendor and may enter into contracts with local school 85657
districts, community schools, data acquisition centers, or other 85658
educational entities for the purpose of collecting and managing 85659
data required under Ohio's education management information system 85660
(EMIS) laws. On an annual basis, the Department of Education shall 85661
convene an advisory group of school districts, community schools, 85662
and other education-related entities to review the Education 85663

Management Information System data definitions and data format 85664
standards. The advisory group shall recommend changes and 85665
enhancements based upon surveys of its members, education agencies 85666
in other states, and current industry practices, to reflect best 85667
practices, align with federal initiatives, and meet the needs of 85668
school districts. 85669

School districts and community schools not implementing a 85670
common and uniform set of data definitions and data format 85671
standards for Education Management Information System purposes 85672
shall have all EMIS funding withheld until they are in compliance. 85673

GED TESTING 85674

The foregoing appropriation item 200-447, GED Testing, shall 85675
be used to provide General Educational Development (GED) testing 85676
at no cost to applicants, under rules adopted by the State Board 85677
of Education. The Department of Education shall reimburse school 85678
districts and community schools, created under Chapter 3314. of 85679
the Revised Code, for a portion of the costs incurred in providing 85680
summer instructional or intervention services to students who have 85681
not graduated because of their inability to pass one or more parts 85682
of the state's Ohio Graduation Test or ninth grade proficiency 85683
test. School districts shall also provide such services to 85684
students who are residents of the district under section 3313.64 85685
of the Revised Code, but who are enrolled in chartered, nonpublic 85686
schools. The services shall be provided in the public school, in 85687
nonpublic schools, in public centers, or in mobile units located 85688
on or off the nonpublic school premises. No school district shall 85689
provide summer instructional or intervention services to nonpublic 85690
school students as authorized by this section unless such services 85691
are available to students attending the public schools within the 85692
district. No school district shall provide services for use in 85693
religious courses, devotional exercises, religious training, or 85694
any other religious activity. Chartered, nonpublic schools shall 85695

pay for any unreimbursed costs incurred by school districts for 85696
providing summer instruction or intervention services to students 85697
enrolled in chartered, nonpublic schools. School districts may 85698
provide these services to students directly or contract with 85699
postsecondary or nonprofit community-based institutions in 85700
providing instruction. 85701

EDUCATOR PREPARATION 85702

Of the foregoing appropriation item 200-448, Educator 85703
Preparation, \$100,000 in each fiscal year shall be provided in 85704
conjunction with funding in the Board of Regents' budget under 85705
appropriation item 235-435, Teacher Improvement Initiatives, to 85706
the Teacher Quality Partnership project. The Teacher Quality 85707
Partnership is a research consortium of Ohio's fifty colleges and 85708
universities providing teacher preparation programs. Funds shall 85709
be used to support a comprehensive longitudinal study of the 85710
preparation, in-school support, and effectiveness of Ohio 85711
teachers. 85712

Of the foregoing appropriation item 200-448, Educator 85713
Preparation, up to \$1,551,000 in each fiscal year shall be used by 85714
the Department to support the Educator Standards Board under 85715
section 3319.61 of the Revised Code as it develops and recommends 85716
to the State Board of Education standards for educator training 85717
and standards for teacher and other school leadership positions. 85718

COMMUNITY SCHOOLS 85719

Of the foregoing appropriation item 200-455, Community 85720
Schools, up to \$1,308,661 in each fiscal year may be used by the 85721
Department of Education for additional services and 85722
responsibilities under section 3314.11 of the Revised Code. 85723

Of the foregoing appropriation item 200-455, Community 85724
Schools, up to \$225,000 in each fiscal year may be used by the 85725
Department of Education for developing and conducting training 85726

sessions for sponsors and prospective sponsors of community 85727
schools as prescribed in division (A)(1) of section 3314.015 of 85728
the Revised Code. In developing the training sessions, the 85729
Department shall collect and disseminate examples of best 85730
practices used by sponsors of independent charter schools in Ohio 85731
and other states. 85732

The remaining appropriation may be used by the Department of 85733
Education to make grants of up to \$50,000 to each proposing group 85734
with a preliminary agreement obtained under division (C)(2) of 85735
section 3314.02 of the Revised Code in order to defray planning 85736
and initial start-up costs. In the first year of operation of a 85737
community school, the Department of Education may make a grant of 85738
not more than \$100,000 to the governing authority of the school to 85739
partially defray additional start-up costs. The amount of the 85740
grant shall be based on a thorough examination of the needs of the 85741
community school. The Department of Education shall not utilize 85742
moneys received under this section for any other purpose other 85743
than those specified under this section. 85744

A community school awarded start-up grants from appropriation 85745
item 200-613, Public Charter Schools (Fund 3T4), shall not be 85746
eligible for grants under this section. 85747

Section 206.09.21. PUPIL TRANSPORTATION 85748

Of the foregoing appropriation item 200-502, Pupil 85749
Transportation, up to \$822,400 in each fiscal year may be used by 85750
the Department of Education for training prospective and 85751
experienced school bus drivers in accordance with training 85752
programs prescribed by the Department. Up to \$58,115,428 in fiscal 85753
year 2006 and up to \$59,277,737 in fiscal year 2007 may be used by 85754
the Department of Education for special education transportation 85755
reimbursements to school districts and county MR/DD boards for 85756
transportation operating costs as provided in division (M) of 85757

section 3317.024 of the Revised Code. The remainder of 85758
appropriation item 200-502, Pupil Transportation, shall be used 85759
for the state reimbursement of public school districts' costs in 85760
transporting pupils to and from the school they attend in 85761
accordance with the district's policy, State Board of Education 85762
standards, and the Revised Code. 85763

Notwithstanding the distribution formula outlined in division 85764
(D) of section 3317.022 of the Revised Code, each school district 85765
shall receive an additional two per cent in state funding for 85766
transportation in fiscal year 2006 over what was received in 85767
fiscal year 2005, and the local share of transportation costs that 85768
is used in the calculation of the charge-off supplement and excess 85769
cost supplement for each school district in fiscal year 2006 shall 85770
be increased by two per cent from that used in calculations in 85771
fiscal year 2005. 85772

Notwithstanding the distribution formula outlined in division 85773
(D) of section 3317.022 of the Revised Code, each school district 85774
shall receive an additional two per cent in state funding for 85775
transportation in fiscal year 2007 over what was received in 85776
fiscal year 2006, and the local share of transportation costs that 85777
is used in the calculation of the charge-off supplement and excess 85778
cost supplement for each school district in fiscal year 2007 shall 85779
be increased by two per cent from that used in calculations in 85780
fiscal year 2006. 85781

The Department of Education shall recommend a new formula for 85782
allocating state funds for transportation costs. The Department 85783
shall submit the recommendation to the Director of Budget and 85784
Management, the Speaker of the House of Representatives, and the 85785
President of the Senate not later than July 1, 2006. 85786

School districts not receiving state funding for 85787
transportation in fiscal year 2005 under division (D) of section 85788

3317.022 of the Revised Code shall not receive state funding for transportation in fiscal year 2006 or fiscal year 2007.	85789 85790
BUS PURCHASE ALLOWANCE	85791
The foregoing appropriation item 200-503, Bus Purchase Allowance, shall be distributed to school districts, educational service centers, and county MR/DD boards pursuant to rules adopted under section 3317.07 of the Revised Code. Up to 28 per cent of the amount appropriated may be used to reimburse school districts and educational service centers for the purchase of buses to transport handicapped and nonpublic school students and to county MR/DD boards, the Ohio School for the Deaf, and the Ohio School for the Blind for the purchase of buses to transport handicapped students.	85792 85793 85794 85795 85796 85797 85798 85799 85800 85801
SCHOOL LUNCH MATCH	85802
The foregoing appropriation item 200-505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.	85803 85804 85805
Section 206.09.24. ADULT LITERACY EDUCATION	85806
The foregoing appropriation item 200-509, Adult Literacy Education, shall be used to support adult basic and literacy education instructional programs and the State Literacy Resource Center Program.	85807 85808 85809 85810
Of the foregoing appropriation item 200-509, Adult Literacy Education, up to \$488,037 in each fiscal year shall be used for the support and operation of the State Literacy Resource Center.	85811 85812 85813
Of the foregoing appropriation item 200-509, Adult Literacy Education, up to \$175,000 in each fiscal year shall be used for state reimbursement to school districts for adult high school continuing education programs under section 3313.531 of the Revised Code or for costs associated with awarding adult high	85814 85815 85816 85817 85818

school diplomas under section 3313.611 of the Revised Code. 85819

Of the foregoing appropriation item 200-509, Adult Literacy 85820
Education, \$130,000 in each fiscal year shall be used to support 85821
initiatives for English as a Second Language programs. Funding 85822
shall be distributed as follows: \$60,000 in each fiscal year for 85823
Jewish Community Federation of Cleveland, \$25,000 in each fiscal 85824
year for Yassenoff Jewish Community Center of Columbus, \$30,000 in 85825
each fiscal year for Jewish Family Services of Cincinnati, and 85826
\$15,000 in each fiscal year for Jewish Family Services of Dayton. 85827

The remainder of the appropriation shall be used to continue 85828
to satisfy the state match and maintenance of effort requirements 85829
for the support and operation of the Department of 85830
Education-administered instructional grant program for adult basic 85831
and literacy education in accordance with the Department's state 85832
plan for adult basic and literacy education as approved by the 85833
State Board of Education and the Secretary of the United States 85834
Department of Education. 85835

AUXILIARY SERVICES 85836

The foregoing appropriation item 200-511, Auxiliary Services, 85837
shall be used by the Department of Education for the purpose of 85838
implementing section 3317.06 of the Revised Code. Of the 85839
appropriation, up to \$2,000,000 in each fiscal year may be used 85840
for payment of the Post-Secondary Enrollment Options Program for 85841
nonpublic students under section 3365.10 of the Revised Code. 85842

POSTSECONDARY ADULT CAREER-TECHNICAL EDUCATION 85843

Of the foregoing appropriation item 200-514, Postsecondary 85844
Adult Career-Technical Education, \$40,000 in each fiscal year 85845
shall be used for statewide coordination of the activities of the 85846
Ohio Young Farmers. 85847

The remainder of appropriation item 200-514, Postsecondary 85848

Adult Career-Technical Education, shall be used by the State Board
of Education to provide postsecondary adult career-technical
education under sections 3313.52 and 3313.53 of the Revised Code.

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Section 206.09.27. GIFTED PUPIL PROGRAM

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The foregoing appropriation item 200-521, Gifted Pupil
Program, shall be used for gifted education units not to exceed
1,110 in each fiscal year under division (P) of section 3317.024
and division (F) of section 3317.05 of the Revised Code.

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Of the foregoing appropriation item 200-521, Gifted Pupil
Program, up to \$4,700,000 in each fiscal year may be used as an
additional supplement for identifying gifted students under
Chapter 3324. of the Revised Code.

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Of the foregoing appropriation item 200-521, Gifted Pupil
Program, the Department of Education may expend up to \$940,000 in
each fiscal year for the Summer Honors Institute for gifted
freshman and sophomore high school students. Up to \$65,800 in each
fiscal year shall be used for the Ohio Summer School for the
Gifted (Martin Essex Program).

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NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

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The foregoing appropriation item 200-532, Nonpublic
Administrative Cost Reimbursement, shall be used by the Department
of Education for the purpose of implementing section 3317.063 of
the Revised Code.

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Section 206.09.28. Not later than June 30, 2006, the State
Board of Education shall adopt a model student acceleration policy
addressing any recommendations made in the 2005 study conducted
under the Gifted Research and Demonstration Grant Program. The
model shall address, but not be limited to, whole grade
acceleration, subject area acceleration, and early high school

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graduation. 85878

Section 206.09.30. SPECIAL EDUCATION ENHANCEMENTS 85879

Of the foregoing appropriation item 200-540, Special 85880
Education Enhancements, up to \$2,906,875 in each fiscal year shall 85881
be used for home instruction for children with disabilities; up to 85882
\$1,462,500 in each fiscal year shall be used for parent mentoring 85883
programs; and up to \$2,783,396 in each fiscal year may be used for 85884
school psychology interns. 85885

Of the foregoing appropriation item 200-540, Special 85886
Education Enhancements, \$750,000 in each fiscal year shall be used 85887
for the Out of School Initiative of Sinclair Community College. 85888

Of the foregoing appropriation item 200-540, Special 85889
Education Enhancements, \$200,000 shall be used for a preschool 85890
special education pilot program in Bowling Green City School 85891
District. 85892

Of the foregoing appropriation item 200-540, Special 85893
Education Enhancements, \$100,000 in each fiscal year shall be used 85894
to support the Bellefaire Jewish Children's Bureau. 85895

Of the foregoing appropriation item 200-540, Special 85896
Education Enhancements, up to \$79,194,060 in fiscal year 2006 and 85897
up to \$79,986,001 in fiscal year 2007 shall be distributed by the 85898
Department of Education to county boards of mental retardation and 85899
developmental disabilities, educational service centers, and 85900
school districts for preschool special education units and 85901
preschool supervisory units under section 3317.052 of the Revised 85902
Code. The Department may reimburse county boards of mental 85903
retardation and developmental disabilities, educational service 85904
centers, and school districts for related services as defined in 85905
rule 3301-51-11 of the Administrative Code, for preschool 85906
occupational and physical therapy services provided by a physical 85907

therapy assistant and certified occupational therapy assistant, 85908
and for an instructional assistant. To the greatest extent 85909
possible, the Department of Education shall allocate these units 85910
to school districts and educational service centers. 85911

No physical therapy assistant who provides services under 85912
this section shall fail to practice in accordance with the 85913
requirements of Chapter 4755. of the Revised Code and rules 85914
4755-27-02 and 4755-27-03 of the Administrative Code. No 85915
occupational therapy assistant who provides services under this 85916
section shall fail to practice in accordance with the requirements 85917
of Chapter 4755. of the Revised Code and rules 4755-7-01 and 85918
4755-7-03 of the Administrative Code. 85919

The Department of Education shall require school districts, 85920
educational service centers, and county MR/DD boards serving 85921
preschool children with disabilities to document child progress 85922
using research-based indicators prescribed by the Department and 85923
report results annually. The reporting dates and method shall be 85924
determined by the Department. 85925

The remainder of appropriation item 200-540, Special 85926
Education Enhancements, shall be used to fund special education 85927
and related services at county boards of mental retardation and 85928
developmental disabilities for eligible students under section 85929
3317.20 of the Revised Code and at institutions for eligible 85930
students under section 3317.201 of the Revised Code. 85931

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Section 206.09.33. CAREER-TECHNICAL EDUCATION ENHANCEMENTS 85933

Of the foregoing appropriation item 200-545, Career-Technical 85934
Education Enhancements, up to \$2,436,070 in each fiscal year shall 85935
be used to fund grants for career-technical education at 85936
institutions under division (C) of section 3317.052 of the Revised 85937

Code. 85938

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$2,621,507 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs. These grant funds shall be used to directly support expanded tech prep programs, including equipment, provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions. 85939
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Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, \$943,873 in fiscal year 2006 shall be used to provide an amount to each eligible school district for the replacement or updating of equipment essential for the instruction of students in job skills taught as part of a career-technical program or programs approved for such instruction by the State Board of Education. School districts replacing or updating career-technical education equipment may purchase or lease such equipment. The Department of Education shall review and approve all equipment requests and may allot appropriated funds to eligible school districts on the basis of the number of full-time equivalent workforce development teachers in all eligible districts making application for funds. 85948
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The State Board of Education may adopt standards of need for equipment allocation. Pursuant to the adoption of any such standards of need by the State Board of Education, appropriated funds may be allotted to eligible districts according to such standards. Equipment funds allotted under either process shall be provided to a school district at 30, 40, or 50 per cent of cost on the basis of a rating developed by the Department of Education using the state share percentage as provided in division (B)(2) of section 3317.022 of the Revised Code. 85961
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Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$3,401,000 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students. HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200-545, Career-Technical Education Enhancements, up to \$466,992 in each fiscal year shall be allocated for the Ohio Career Information System (OCIS) and used for the dissemination of career information data to public schools, libraries, rehabilitation centers, two- and four-year colleges and universities, and other governmental units.

Of the foregoing appropriation item 200-545, Career-Technical Educational Enhancements, up to \$300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the \$270,000 set aside.

Section 206.09.36. FOUNDATION FUNDING

The foregoing appropriation item 200-550, Foundation Funding, includes \$85,000,000 in each fiscal year for the state education aid offset due to the change in public utility valuation as a

result of Am. Sub. S.B. 3 and Am. Sub. S.B. 287, both of the 123rd
General Assembly. This amount represents the total state education
aid offset due to the valuation change for school districts and
joint vocational school districts from all relevant appropriation
line item sources. Upon certification by the Department of
Education, in consultation with the Department of Taxation, to the
Director of Budget and Management of the actual state aid offset,
the cash transfer from fund 053, appropriation item 200-900,
School District Property Tax Replacement - Utility, shall be
decreased or increased by the Director of Budget and Management to
match the certification in accordance with section 5727.84 of the
Revised Code.

Of the foregoing appropriation item 200-550, Foundation
Funding, up to \$425,000 shall be expended in each fiscal year for
court payments under section 2151.357 of the Revised Code; an
amount shall be available in each fiscal year for the cost of
reappraisal guarantee under section 3317.04 of the Revised Code;
an amount shall be available in each fiscal year to fund up to 225
full-time equivalent approved GRADS teacher grants under division
(R) of section 3317.024 of the Revised Code; an amount shall be
available in each fiscal year to make payments to school districts
under division (A)(2) of section 3317.022 of the Revised Code; an
amount shall be available in each fiscal year to make payments to
school districts under division (F) of section 3317.022 of the
Revised Code; an amount shall be available in each fiscal year to
make payments to school districts under division (C) of section
3317.0212 of the Revised Code; and up to \$30,000,000 in each
fiscal year shall be reserved for payments under sections
3317.026, 3317.027, and 3317.028 of the Revised Code except that
the Controlling Board may increase the \$30,000,000 amount if
presented with such a request from the Department of Education. Of
the foregoing appropriation item 200-550, Foundation Funding, up

to \$18,000,000 in fiscal year 2006 and up to \$19,000,000 in fiscal 86033
year 2007 shall be used to provide additional state aid to school 86034
districts for special education students under division (C)(3) of 86035
section 3317.022 of the Revised Code; up to \$2,000,000 in each 86036
fiscal year shall be reserved for Youth Services tuition payments 86037
under section 3317.024 of the Revised Code; and up to \$52,000,000 86038
in each fiscal year shall be reserved to fund the state 86039
reimbursement of educational service centers under section 3317.11 86040
of the Revised Code and the section of this act entitled 86041
"EDUCATIONAL SERVICE CENTERS FUNDING." An amount shall be 86042
available for special education weighted funding under division 86043
(C)(1) of section 3317.022 and division (D)(1) of section 3317.16 86044
of the Revised Code. 86045

Of the foregoing appropriation item 200-550, Foundation 86046
Funding, an amount shall be available in each fiscal year to be 86047
used by the Department of Education for transitional aid for 86048
school districts and joint vocational school districts. Funds 86049
shall be distributed under the sections of this act entitled 86050
"TRANSITIONAL AID FOR CITY, LOCAL, AND EXEMPTED VILLAGE SCHOOL 86051
DISTRICTS" AND "TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL 86052
DISTRICTS." 86053

Of the foregoing appropriation item 200-550, Foundation 86054
Funding, up to \$1,000,000 in each fiscal year shall be used by the 86055
Department of Education for a program to pay for educational 86056
services for youth who have been assigned by a juvenile court or 86057
other authorized agency to any of the facilities described in 86058
division (A) of the section of this act entitled "PRIVATE 86059
TREATMENT FACILITY PROJECT." 86060

Of the foregoing appropriation item 200-550, Foundation 86061
Funding, up to \$3,700,000 in each fiscal year shall be used for 86062
school breakfast programs. Of this amount, up to \$900,000 shall be 86063
used in each fiscal year by the Department of Education to 86064

contract with the Children's Hunger Alliance to expand access to 86065
child nutrition programs consistent with the organization's 86066
continued ability to meet specified performance measures as 86067
detailed in the contract. Of this amount, the Children's Hunger 86068
Alliance shall use at least \$150,000 in each fiscal year to 86069
subcontract with an appropriate organization or organizations to 86070
expand summer food participation in underserved areas of the 86071
state, consistent with those organizations' continued ability to 86072
meet specified performance measures as detailed in the 86073
subcontracts. The remainder of the appropriation shall be used to 86074
partially reimburse school buildings within school districts that 86075
are required to have a school breakfast program under section 86076
3313.813 of the Revised Code, at a rate decided by the Department. 86077

Of the foregoing appropriation item 200-550, Foundation 86078
Funding, up to \$8,800,000 in fiscal year 2006 and up to \$8,600,000 86079
in fiscal year 2007 shall be used to operate the school choice 86080
program in the Cleveland Municipal School District under sections 86081
3313.974 to 3313.979 of the Revised Code. 86082

Of the portion of the funds distributed to the Cleveland 86083
Municipal School District under this section, up to \$10,401,887 in 86084
fiscal year 2006 and up to \$11,901,887 in fiscal year 2007 shall 86085
be used to operate the school choice program in the Cleveland 86086
Municipal School District under sections 3313.974 to 3313.979 of 86087
the Revised Code. 86088

The remaining portion of appropriation item 200-550, 86089
Foundation Funding, shall be expended for the public schools of 86090
city, local, exempted village, and joint vocational school 86091
districts, including base cost funding, special education speech 86092
service enhancement funding, career-technical education weight 86093
funding, career-technical education associated service funding, 86094
guarantee funding, teacher training and experience funding, 86095
poverty-based assistance, parity aid, charge-off supplement, and 86096

excess cost supplement under sections 3317.022, 3317.023,
3317.029, 3317.0212, 3317.0216, 3317.0217, and 3317.16 of the
Revised Code.

Appropriation items 200-502, Pupil Transportation, 200-521,
Gifted Pupil Program, 200-540, Special Education Enhancements, and
200-550, Foundation Funding, other than specific set-asides, are
collectively used in each fiscal year to pay state formula aid
obligations for school districts and joint vocational school
districts under Chapter 3317. of the Revised Code. The first
priority of these appropriation items, with the exception of
specific set-asides, is to fund state formula aid obligations
under Chapter 3317. of the Revised Code. It may be necessary to
reallocate funds among these appropriation items or use excess
funds from other general revenue fund appropriation items in the
Department of Education's budget in each fiscal year, in order to
meet state formula aid obligations. If it is determined that it is
necessary to transfer funds among these appropriation items or to
transfer funds from other General Revenue Fund appropriations in
the Department of Education's budget to meet state formula aid
obligations, the Department of Education shall seek approval from
the Controlling Board to transfer funds as needed.

Section 206.09.37. DISTRICT SPENDING REQUIREMENTS

The Department of Education shall review district spending
requirements as specified in section 3317.029 of the Revised Code
and shall submit a report recommending modifications by March 31,
2007. Copies of the report shall be provided to the Director of
Budget and Management, the Speaker of the House of
Representatives, and the President of the Senate. The
recommendations shall include decreasing degrees of flexibility of
spending for districts not meeting adequate progress standards as
defined by the Department of Education. Recommendations shall also

specifically review the definition of class size reduction in 86128
division (J)(7) of section 3317.029 of the Revised Code. The 86129
reports submitted by school districts under the section of this 86130
act entitled "INTERVENTION FUNDING" shall be used to inform these 86131
recommendations. 86132

Section 206.09.39. TRANSITIONAL AID FOR CITY, LOCAL, AND 86133
EXEMPTED VILLAGE SCHOOL DISTRICTS 86134

(A) The Department of Education shall distribute funds within 86135
appropriation item 200-550, Foundation Funding, for transitional 86136
aid in each fiscal year to each qualifying city, local, and 86137
exempted village school district. 86138

In fiscal years 2006 and 2007, the Department shall pay 86139
transitional aid to each city, local, or exempted village school 86140
district that experiences any decrease in its SF-3 funding plus 86141
charge-off supplement for the current fiscal year from its SF-3 86142
funding plus charge-off supplement for the previous fiscal year. 86143
The amount of the transitional aid payment shall equal the 86144
difference between the district's SF-3 funding plus charge-off 86145
supplement for the current fiscal year and its SF-3 funding plus 86146
charge-off supplement for the previous fiscal year. 86147

(B)(1) Subject to divisions (B)(2) and (3) of this section, 86148
the "SF-3 funding plus charge-off supplement" for each city, 86149
local, and exempted village school district in fiscal years 2006 86150
and 2007 equals the sum of the following: 86151

(a) Base-cost funding under division (A) of section 3317.022 86152
of the Revised Code; 86153

(b) Special education and related services additional 86154
weighted funding under division (C)(1) of section 3317.022 of the 86155
Revised Code; 86156

(c) Speech services funding under division (C)(4) of section 86157

3317.022 of the Revised Code;	86158
(d) Vocational education additional weighted funding under division (E) of section 3317.022 of the Revised Code;	86159 86160
(e) GRADS funding under division (R) of section 3317.024 of the Revised Code;	86161 86162
(f) Adjustments for classroom teachers and educational service personnel under divisions (B), (C), and (D) of section 3317.023 of the Revised Code;	86163 86164 86165
(g) Poverty-Based Assistance under section 3317.029 of the Revised Code;	86166 86167
(h) Gifted education units under section 3317.05 of the Revised Code;	86168 86169
(i) Transportation under the section of this act entitled "PUPIL TRANSPORTATION";	86170 86171
(j) The excess cost supplement under division (F) of section 3317.022 of the Revised Code;	86172 86173
(k) Parity aid under section 3317.0217 of the Revised Code;	86174
(l) The reappraisal guarantee under division (C) of section 3317.04 of the Revised Code;	86175 86176
(m) The charge-off supplement under section 3317.0216 of the Revised Code.	86177 86178
(2) For purposes of calculating transitional aid in fiscal year 2006, a district's fiscal year 2005 SF-3 funding plus charge-off supplement is the difference of (a) the sum of the amounts described in divisions (A) to (O) of Section 41.37 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended, plus any transitional aid paid to the district under that section, that the district actually received in fiscal year 2005 minus (b) the amount of parity aid and the amount of disadvantaged pupil impact	86179 86180 86181 86182 86183 86184 86185 86186

aid deducted that year under division (C)(6) of section 3314.08 of 86187
the Revised Code, as that section existed that year, and Section 86188
16 of Am. Sub. S.B. 2 of the 125th General Assembly on behalf of 86189
students entitled to attend school in the district who were 86190
enrolled in Internet- and computer-based community schools. For 86191
purposes of calculating transitional aid in fiscal year 2007, a 86192
district's fiscal year 2006 SF-3 funding plus charge-off 86193
supplement is the sum of the amounts described in divisions 86194
(B)(1)(a) to (n) of this section, plus any transitional aid paid 86195
to the district under this section, that the district actually 86196
received in fiscal year 2006. 86197

(3) The SF-3 funding plus charge-off supplement in each 86198
fiscal year for each district is the sum of the amounts specified 86199
in divisions (B)(1)(a) to (n) and (B)(2) of this section less any 86200
general revenue fund spending reductions ordered by the Governor 86201
under section 126.05 of the Revised Code. 86202

(C)(1) When calculating the reappraisal guarantee under 86203
division (C) or (D) of section 3317.04 of the Revised Code in 86204
fiscal year 2006, the Department shall: 86205

(a) Include in a school district's fiscal year 2005 payments 86206
any transitional aid paid to the district in fiscal year 2005 86207
under Section 41.37 of Am. Sub. H.B. 95 of the 125th General 86208
Assembly, as amended; 86209

(b) Subtract from a school district's fiscal year 2005 86210
payments the amount of parity aid and the amount of disadvantaged 86211
pupil impact aid deducted that year under division (C)(6) of 86212
section 3314.08 of the Revised Code, as that section existed that 86213
year, and Section 16 of Am. Sub. S.B. 2 of the 125th General 86214
Assembly on behalf of students entitled to attend school in the 86215
district who were enrolled in Internet- and computer-based 86216
community schools. 86217

(2) When calculating the reappraisal guarantee under division (C) or (D) of section 3317.04 of the Revised Code in fiscal year 2007, the Department shall include in a school district's fiscal year 2006 payments any transitional aid paid to the district in fiscal year 2006 under this section.

(3) When calculating the reappraisal guarantee under division (C) or (D) of section 3317.04 of the Revised Code in fiscal year 2008, the Department shall include in a school district's fiscal year 2007 payments any transitional aid paid to the district in fiscal year 2007 under this section.

Section 206.09.42. TRANSITIONAL AID FOR JOINT VOCATIONAL SCHOOL DISTRICTS

(A) The Department of Education shall distribute funds within appropriation item 200-550, Foundation Funding, for transitional aid in each fiscal year to each joint vocational school district that experiences a decrease in its joint vocational funding for the current fiscal year exceeding 2% of its joint vocational funding from the previous fiscal year. The Department shall distribute to each such district transitional aid in an amount to reduce the decrease to 2% of the district's joint vocational funding from the previous fiscal year.

(B)(1) Subject to divisions (B)(2) and (3) of this section, a district's joint vocational funding equals the sum of the following:

(a) Base-cost funding under division (B) of section 3317.16 of the Revised Code;

(b) Special education and related services additional weighted funding under division (D)(1) of section 3317.16 of the Revised Code;

(c) Speech services funding under division (D)(2) of section

3317.16 of the Revised Code;	86248
(d) Vocational education additional weighted funding under division (C) of section 3317.16 of the Revised Code;	86249 86250
(e) GRADS funding under division (R) of section 3317.024 of the Revised Code;	86251 86252
(f) The state aid guarantee under division (H) of section 3317.16 of the Revised Code.	86253 86254
(2) For purposes of calculating transitional aid in fiscal year 2007, a district's fiscal year 2006 joint vocational funding is the sum of the amounts described in divisions (B)(1)(a) to (f) of this section, plus any transitional aid paid to the district under this section, that the district actually received in fiscal year 2006.	86255 86256 86257 86258 86259 86260
(3) The joint vocational funding in each fiscal year for each district is the sum of the amounts specified in divisions (B)(1)(a) to (f) and (B)(2) of this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code.	86261 86262 86263 86264 86265
EMERGENCY LOAN INTEREST SUBSIDY	86266
The foregoing appropriation item 200-558, Emergency Loan Interest Subsidy, shall be used to provide a subsidy to school districts receiving emergency school loans pursuant to section 3313.484 of the Revised Code. The subsidy shall be used to pay these districts the difference between the amount of interest the district is paying on an emergency loan, and the interest that the district would have paid if the interest rate on the loan had been two per cent.	86267 86268 86269 86270 86271 86272 86273 86274
Section 206.09.45. READING/WRITING IMPROVEMENT-CLASSROOM GRANTS	86275 86276

The foregoing appropriation item 200-566, Reading/Writing Improvement-Classroom Grants, shall be disbursed by the Department of Education to provide reading improvement grants to public schools in city, local, and exempted village school districts; community schools; and educational service centers serving kindergarten through twelfth grade students to help struggling students improve their reading skills, improve reading outcomes in low-performing schools, and help close achievement gaps.

SAFE AND SUPPORTIVE SCHOOLS

Of the foregoing appropriation item 200-578, Safe and Supportive Schools, up to \$224,250 in each fiscal year shall be used to fund a safe school center to provide resources for parents and for school and law enforcement personnel.

The remainder of the appropriation shall be distributed based on guidelines developed by the Department of Education to enhance school safety. The guidelines shall provide a list of research-based best practices and programs from which local grantees shall select based on local needs. These practices shall include, but not be limited to, school resource officers and safe and drug free school coordinators and social-emotional development programs.

Section 206.09.48. PROPERTY TAX ALLOCATION - EDUCATION

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of funds from appropriation item 200-901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200-901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred because of the homestead exemption and the property tax rollback. In cooperation with the Department of Taxation, the Department of

Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Appropriation item 200-906, Tangible Tax Exemption - Education, is appropriated to pay for the state's costs incurred because of the tangible personal property tax exemption required by division (C)(3) of section 5709.01 of the Revised Code. In cooperation with the Department of Taxation, the Department of Education shall distribute to each county treasurer the total amount appearing in the notification from the county treasurer under division (G) of section 321.24 of the Revised Code, for all school districts located in the county, notwithstanding section 321.24 of the Revised Code insofar as it provides for payment of the \$10,000 tangible personal property tax exemption by the Tax Commissioner to the appropriate county treasurer for all local taxing districts located in the county. Pursuant to division (G) of section 321.24 of the Revised Code, the county auditor shall distribute the amount paid by the Department of Education among the appropriate school districts.

Upon receipt of these amounts, each school district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amounts specifically appropriated in appropriation items 200-901, Property Tax Allocation - Education, for the homestead exemption and the

property tax rollback payments, and 200-906, Tangible Tax 86339
Exemption - Education, for the \$10,000 tangible personal property 86340
tax exemption payments, which are determined to be necessary for 86341
these purposes, are hereby appropriated. 86342

Section 206.09.51. TEACHER CERTIFICATION AND LICENSURE 86343

The foregoing appropriation item 200-681, Teacher 86344
Certification and Licensure, shall be used by the Department of 86345
Education in each year of the biennium to administer and support 86346
teacher certification and licensure activities. 86347

SCHOOL DISTRICT SOLVENCY ASSISTANCE 86348

Of the foregoing appropriation item 200-687, School District 86349
Solvency Assistance, \$9,000,000 in each fiscal year shall be 86350
allocated to the School District Shared Resource Account and 86351
\$9,000,000 in each fiscal year shall be allocated to the 86352
Catastrophic Expenditures Account. These funds shall be used to 86353
provide assistance and grants to school districts to enable them 86354
to remain solvent under section 3316.20 of the Revised Code. 86355
Assistance and grants shall be subject to approval by the 86356
Controlling Board. Any required reimbursements from school 86357
districts for solvency assistance shall be made to the appropriate 86358
account in the School District Solvency Assistance Fund (Fund 86359
5H3). 86360

Notwithstanding any provision of law to the contrary, upon 86361
the request of the Superintendent of Public Instruction, the 86362
Director of Budget and Management may make transfers to the School 86363
District Solvency Assistance Fund (Fund 5H3) from any Department 86364
of Education-administered fund or the General Revenue Fund to 86365
maintain sufficient cash balances in the School District Solvency 86366
Assistance Fund (Fund 5H3) in fiscal years 2006 and 2007. Any 86367
funds transferred are hereby appropriated. The transferred funds 86368

may be used by the Department of Education to provide assistance 86369
and grants to school districts to enable them to remain solvent 86370
and to pay unforeseeable expenses of a temporary or emergency 86371
nature that the school district is unable to pay from existing 86372
resources. The Director of Budget and Management shall notify the 86373
members of the Controlling Board of any such transfers. 86374

READING FIRST 86375

The foregoing appropriation item 200-632, Reading First, 86376
shall be used by school districts to administer federal diagnostic 86377
tests as well as other functions permitted by federal statute. 86378
Notwithstanding section 3301.079 of the Revised Code, federal 86379
diagnostic tests may be recognized as meeting the state diagnostic 86380
testing requirements outlined in section 3301.079 of the Revised 86381
Code. 86382

HALF-MILL MAINTENANCE EQUALIZATION 86383

The foregoing appropriation item 200-626, Half-Mill 86384
Maintenance Equalization, shall be used in fiscal year 2007 to 86385
make payments pursuant to section 3318.18 of the Revised Code. 86386

Section 206.09.54. EARLY LEARNING INITIATIVE 86387

(A) As used in this section: 86388

(1) "Title IV-A services" means benefits and services that 86389
are allowable under Title IV-A of the "Social Security Act," as 86390
specified in 42 U.S.C. 604(a), except that they shall not be 86391
benefits and services included in the term "assistance" as defined 86392
in 45 C.F.R. 260.31(a) and shall be benefits and services that are 86393
excluded from the definition of the term "assistance" under 45 86394
C.F.R. 260.31(b). 86395

(2) "Title IV-A funds" means funds provided under the 86396
temporary assistance for needy families block grant established by 86397
Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 86398

U.S.C. 601, as amended.	86399
(3) "Child care" has the same meaning as in section 5104.01 of the Revised Code.	86400 86401
(4) "Eligible child" means a child who is at least three years of age but not of compulsory school age or enrolled in kindergarten, is eligible for Title IV-A services, and whose family income does not exceed one hundred eighty-five per cent of the federal poverty line at application. If the family income of a child receiving early learning services under this section exceeds one hundred ninety-five per cent of the federal poverty line, the child ceases to be eligible for an early learning program.	86402 86403 86404 86405 86406 86407 86408 86409
(5) "Early learning program" means a program for eligible children that is funded with Title IV-A funds and provides Title IV-A services that are both of the following:	86410 86411 86412
(a) Early learning services, as defined by the Department of Education pursuant to division (C)(1) of this section;	86413 86414
(b) Child care.	86415
(6) "Early learning provider" means an entity that is receiving Title IV-A funds to operate an early learning program.	86416 86417
(7) "Early learning agency" means an early learning provider or an entity that has entered into an agreement with an early learning provider requiring the early learning provider to operate an early learning program on behalf of the entity.	86418 86419 86420 86421
(8) "Federal poverty line" has the same meaning as in section 5104.01 of the Revised Code.	86422 86423
(9) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.	86424 86425
(B) The Early Learning Initiative is hereby established. The Initiative shall be administered by the Department of Education and the Department of Job and Family Services in accordance with	86426 86427 86428

sections 5101.80 and 5101.801 of the Revised Code. The Initiative shall provide early learning programs and child care to eligible children. Early learning programs may provide early learning services on a full-day basis, a part-day basis, or both a full-day and part-day basis.

(C) The Department of Education shall do all of the following:

(1) Define the early learning services that will be provided to eligible children through the Early Learning Initiative;

(2) In consultation with the Department of Job and Family Services, develop an application form and criteria for the selection of early learning agencies. The criteria shall require an early learning agency, or each early learning provider with which the agency has entered into an agreement for the operation of an early learning program on the agency's behalf, to be licensed or certified by the Department of Education under sections 3301.52 to 3301.59 of the Revised Code or by the Department of Job and Family Services under Chapter 5104. of the Revised Code.

(3) Establish early learning program guidelines for school readiness to assess the operation of early learning programs.

(D) Any entity that seeks to be an early learning agency shall apply to the Department of Education by a deadline established by the Department. The Department of Education shall select entities that meet the criteria established under division (C)(2) of this section to be early learning agencies. Upon selection of an entity to be an early learning agency, the Department of Education shall designate the number of eligible children the agency will serve. The Department of Education shall notify the Office of Budget and Management and the Department of Job and Family Services of the number so designated.

(E) The Department of Education and the Department of Job and Family Services shall enter into a contract with each early learning agency selected under division (D) of this section. The contract shall outline the terms and conditions applicable to the provision of Title IV-A services for eligible children and shall include at least the following:

(1) The respective duties of the early learning agency, the Department of Education, and the Department of Job and Family Services;

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

(3) A requirement that the amount used by the early learning agency for development and administrative costs shall not exceed fifteen per cent of the total approved costs for the early learning program;

(4) Reporting requirements, including a requirement that the early learning provider inform the Department of Education when the provider learns that a kindergarten eligible child will not be enrolled in kindergarten;

(5) The reimbursement methodology, including a requirement that reimbursement shall be based upon the weekly attendance rate of each eligible child, which shall be consistent with the rules adopted pursuant to division (C)(3) of Section 206.67.12 of this act;

(6) Audit requirements;

(7) Provisions for suspending, modifying, or terminating the contract;

(8) A requirement that a child enrolled in a Head Start Plus program during fiscal year 2005 be given higher priority if the child is an eligible child and enrolls in an early learning

program. 86490

The requirements of section 127.16 of the Revised Code do not 86491
apply to contracts entered into under this section. 86492

(F) If an early learning agency, or an early learning 86493
provider operating an early learning program on the agency's 86494
behalf, substantially fails to meet the early learning program 86495
guidelines for school readiness or exhibits below average 86496
performance, as determined by the Department of Education, the 86497
agency shall develop and implement a corrective action plan. The 86498
Department of Education shall approve the corrective action plan 86499
prior to implementation. 86500

(G) If an early learning agency fails to implement a 86501
corrective action plan under division (F) of this section, the 86502
Department of Education may direct the Department of Job and 86503
Family Services to withhold funding from the agency or either the 86504
Department of Education or the Department of Job and Family 86505
Services may suspend or terminate the contract with the agency. 86506

(H) Each early learning program shall do all of the 86507
following: 86508

(1) Meet teacher qualification requirements prescribed by 86509
section 3301.311 of the Revised Code; 86510

(2) Align curriculum to the early learning guidelines for 86511
school readiness established pursuant to division (C) of this 86512
section; 86513

(3) Meet any assessment requirements prescribed by section 86514
3301.0715 of the Revised Code that apply to the program; 86515

(4) Require teachers, except teachers enrolled and working to 86516
obtain a degree pursuant to section 3301.311 of the Revised Code, 86517
to attend a minimum of twenty hours per year of professional 86518
development as prescribed by the Department of Education regarding 86519

the implementation of content standards and assessments; 86520

(5) Document and report child progress in meeting the early 86521
learning program guidelines for school readiness; 86522

(6) Meet and report compliance with the early learning 86523
program guidelines for school success. 86524

(I) Of the foregoing appropriation item 200-663, Early 86525
Learning Initiative, up to \$2,200,000 in each fiscal year may be 86526
used by the Department of Education to perform administrative 86527
functions for the Early Learning Initiative. The Director of 86528
Budget and Management may transfer appropriation, as needed, from 86529
the Department of Education, appropriation item 200-663, Early 86530
Learning Initiative in Fund 5W2, to the Department of Job and 86531
Family Services, appropriation item 600-689, TANF Block Grant in 86532
Fund 3V6, for the successful operation of the Early Learning 86533
Initiative. This transfer shall take place not less than fifteen 86534
days after the Department of Education has provided the Office of 86535
Budget and Management and the Department of Job and Family 86536
Services its determination as to the number of children to be 86537
served by each early learning agency under division (D) of this 86538
section. The appropriation transferred is hereby authorized. 86539

START-UP FUNDS 86540

Funds appropriated for the purpose of providing start-up 86541
grants to Title IV-A Head Start and Title IV-A Head Start Plus 86542
agencies in fiscal year 2004 and fiscal year 2005 for the 86543
provision of services to children eligible for Title IV-A services 86544
under the Title IV-A Head Start or Title IV-A Head Start Plus 86545
programs shall be reimbursed to the General Revenue Fund as 86546
follows: 86547

(A) If, for fiscal year 2006, an entity that was a Title IV-A 86548
Head Start or Title IV-A Head Start Plus agency will not be an 86549
early learning agency or early learning provider, the entity shall 86550

repay the entire amount of the start-up grant it received in 86551
fiscal year 2004 and fiscal year 2005 not later than June 30, 86552
2007, in accordance with a payment schedule agreed to by the 86553
Department of Education. 86554

(B) If, for fiscal year 2006, an entity that was a Title IV-A 86555
Head Start or Title IV-A Head Start Plus agency will be an early 86556
learning agency or early learning provider and the number of 86557
eligible children served beginning in fiscal year 2006 is less 86558
than the number for which the start-up grant was based, the amount 86559
of reimbursement shall be adjusted based on the number of eligible 86560
children who will be served by the entity in fiscal year 2006 and 86561
the rate of reimbursement for the early learning program set by 86562
the Department of Job and Family Services. The entity shall repay 86563
the amount determined pursuant to this division by not later than 86564
June 30, 2007, in accordance with a payment schedule agreed to by 86565
the Department of Education. 86566

(C) If, for fiscal year 2006, an entity that was a Title IV-A 86567
Head Start or Title IV-A Head Start Plus agency will be an early 86568
learning agency or early learning provider and the number of 86569
eligible children served beginning in fiscal year 2006 is greater 86570
than or equal to the number for which the start-up grants were 86571
based, the entity shall be allowed to retain the total amount of 86572
the start-up grant it received. 86573

(D) Within ninety days after the effective date of this 86574
section, the Title IV-A Head Start agencies, Title IV-A Head Start 86575
Plus agencies, and the Department of Education shall determine the 86576
amounts of the start-up grants to be repaid and within thirty days 86577
thereafter determine the repayment schedule for such amounts. The 86578
Department of Education shall refer any amounts remaining due and 86579
payable to the state after June 30, 2007, to the Attorney General 86580
for collection under section 131.02 of the Revised Code. 86581

(E) Any start-up grants that are retained by early learning agencies or early learning providers pursuant to this section shall be reimbursed to the General Revenue Fund when the early learning program ceases or is no longer funded from Title IV-A or if an early learning agency's or early learning provider's participation in the early learning program ceases.

Section 206.09.55. AUXILIARY SERVICES REIMBURSEMENT 86588

Notwithstanding section 3317.064 of the Revised Code, if the unobligated cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2006 within thirty days after the effective date of this section, and \$1,500,000 in fiscal year 2007 by August 1, 2006, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Department of Education's Auxiliary Services Reimbursement Fund (Fund 598).

Section 206.09.57. LOTTERY PROFITS EDUCATION FUND 86596

Appropriation item 200-612, Foundation Funding (Fund 017), shall be used in conjunction with appropriation item 200-550, Foundation Funding (GRF), to provide payments to school districts under Chapter 3317. of the Revised Code.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200-550, Foundation Funding (GRF), and appropriation item 200-612, Foundation Funding (Fund 017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

The Director of Budget and Management shall transfer via intrastate transfer voucher the amount appropriated under the Lottery Profits Education Fund for appropriation item 200-682,

Lease Rental Payment Reimbursement, to the General Revenue Fund on 86612
a schedule determined by the director. These funds shall support 86613
the appropriation item 230-428, Lease Rental Payments (GRF), of 86614
the School Facilities Commission. 86615

Section 206.09.60. LOTTERY PROFITS EDUCATION RESERVE FUND 86616

(A) There is hereby created the Lottery Profits Education 86617
Reserve Fund (Fund 018) in the State Treasury. Investment earnings 86618
of the Lottery Profits Education Reserve Fund shall be credited to 86619
the fund. The Superintendent of Public Instruction may certify 86620
cash balances exceeding \$75,000,000 in the Lottery Profits 86621
Education Reserve Fund (Fund 018) to the Director of Budget and 86622
Management in June of any given fiscal year. Prior to making the 86623
certification, the Superintendent of Public Instruction shall 86624
determine whether the funds above the \$75,000,000 threshold are 86625
needed to help pay for foundation program obligations for that 86626
fiscal year under Chapter 3317. of the Revised Code. If those 86627
funds are needed for the foundation program, the Superintendent of 86628
Public Instruction shall notify and consult with the Director of 86629
Budget and Management to determine the amount that may be 86630
transferred to the Public School Building Fund (Fund 021). Upon 86631
this determination, the Director of Budget and Management shall 86632
transfer the amount from the Lottery Profits Education Reserve 86633
Fund (Fund 018) to the Public School Building Fund (Fund 021). The 86634
amount transferred is hereby appropriated to appropriation item 86635
CAP-622, Public School Buildings. 86636

For fiscal years 2006 and 2007, notwithstanding any 86637
provisions of law to the contrary, amounts necessary to make loans 86638
authorized by sections 3317.0210, 3317.0211, and 3317.62 of the 86639
Revised Code are hereby appropriated to the Lottery Profits 86640
Education Reserve Fund (Fund 018). Loan repayments from loans made 86641
in previous years shall be deposited to the fund. 86642

(B) On July 15, 2005, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by the Lottery Profits Education Fund (Fund 017) exceeded \$637,900,000 in fiscal year 2005. The Director of Budget and Management shall transfer the amount so certified, plus the cash balance in Fund 017, to the Lottery Profits Education Reserve Fund (Fund 018).

(C) On July 15, 2006, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by the Lottery Profits Education Fund (Fund 017) exceeded \$637,900,000 in fiscal year 2006. The Director of Budget and Management shall transfer the amount so certified, plus the cash balance in Fund 017, to the Lottery profits Education Reserve Fund (Fund 018).

(D) Any amounts transferred under division (B) or (C) of this section may be made available by the Controlling Board in fiscal years 2006 or 2007, at the request of the Superintendent of Public Instruction, to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that they are unable to pay from existing resources under section 3316.20 of the Revised Code, and to provide payments to school districts under Chapter 3317. of the Revised Code.

Section 206.09.61. GENERAL REVENUE FUND TRANSFERS TO SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 047)

Notwithstanding any provision of law to the contrary, the Director of Budget and Management shall transfer \$10,010,000 in fiscal year 2006 and \$70,210,000 in fiscal year 2007 from the General Revenue Fund to appropriation item 200-909, School

District Property Tax Replacement - Business (Fund 047) in the 86674
Department of Education. The funds shall be used to reimburse 86675
school districts and joint vocational districts under section 86676
5751.21 of the Revised Code. 86677

Section 206.09.63. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - 86678
BUSINESS 86679

The foregoing appropriation item, 200-909, School District 86680
Property Tax Replacement - Business, in Fund 047, shall be used by 86681
the Department of Education, in consultation with the Department 86682
of Taxation, to make payments to school districts and joint 86683
vocational school districts under section 5751.21 of the Revised 86684
Code. 86685

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY 86686

The foregoing appropriation item 200-900, School District 86687
Property Tax Replacement-Utility, in Fund 053, shall be used by 86688
the Department of Education, in consultation with the Department 86689
of Taxation, to make payments to school districts and joint 86690
vocational school districts under section 5727.85 of the Revised 86691
Code. 86692

***Section 206.09.66.** DISTRIBUTION FORMULAS 86693

The Department of Education shall report the following to the 86694
Director of Budget and Management, the Legislative Office of 86695
Education Oversight, and the Legislative Service Commission: 86696

(A) Changes in formulas for distributing state 86697
appropriations, including administratively defined formula 86698
factors; 86699

(B) Discretionary changes in formulas for distributing 86700
federal appropriations; 86701

(C) Federally mandated changes in formulas for distributing 86702

federal appropriations. 86703

Any such changes shall be reported two weeks prior to the 86704
effective date of the change. 86705

Section 206.09.69. EDUCATIONAL SERVICE CENTERS FUNDING 86706

(A) As used in this section: 86707

(1) "Internet- or computer-based community school" has the 86708
same meaning as in section 3314.02 of the Revised Code. 86709

(2) "Service center ADM" has the same meaning as in section 86710
3317.11 of the Revised Code. 86711

(B) Notwithstanding division (F) of section 3317.11 of the 86712
Revised Code, no funds shall be provided under that division to an 86713
educational service center in either fiscal year for any pupils of 86714
a city or exempted village school district unless an agreement to 86715
provide services under section 3313.843 of the Revised Code was 86716
entered into by January 1, 1997, except that funds shall be 86717
provided to an educational service center for any pupils of a city 86718
school district if the agreement to provide services was entered 86719
into within one year of the date upon which such district changed 86720
from a local school district to a city school district. 86721

(C) Notwithstanding any provision of the Revised Code to the 86722
contrary, an educational service center that sponsors a community 86723
school under Chapter 3314. of the Revised Code in either fiscal 86724
year may include the students of that community school in its 86725
service center ADM for purposes of state funding under division 86726
(F) of section 3317.11 of the Revised Code, unless the community 86727
school is an Internet- or computer-based community school. A 86728
service center shall include the community school students in its 86729
service center ADM only to the extent that the students are not 86730
already so included, and only in accordance with guidelines issued 86731
by the Department of Education. If the students of a community 86732

school sponsored by an educational service center are included in 86733
the service center ADM of another educational service center, 86734
those students shall be removed from the service center ADM of the 86735
other educational service center and added to the service center 86736
ADM of the community school's sponsoring service center. The 86737
General Assembly authorizes this procedure as an incentive for 86738
educational service centers to take over sponsorship of community 86739
schools from the State Board of Education as the State Board's 86740
sponsorship is phased out in accordance with Sub. H.B. 364 of the 86741
124th General Assembly. No student of an Internet- or 86742
computer-based community school shall be counted in the service 86743
center ADM of any educational service center. The Department shall 86744
pay educational service centers under division (F) of section 86745
3317.11 of the Revised Code for community school students included 86746
in their service center ADMs under this division only if 86747
sufficient funds earmarked within appropriation item 200-550, 86748
Foundation Funding, for payments under that division remain after 86749
first paying for students attributable to their local and client 86750
school districts, in accordance with divisions (B) and (D) of this 86751
section. 86752

(D) If insufficient funds are earmarked within appropriation 86753
item 200-550, Foundation Funding, for payments under division (F) 86754
of section 3317.11 of the Revised Code and division (C) of this 86755
section in fiscal year 2006 or fiscal year 2007, the Department 86756
shall prioritize the distribution of the earmarked funds as 86757
follows: 86758

(1) The Department shall first distribute to each educational 86759
service center the per-student amount specified in division (F) of 86760
section 3317.11 of the Revised Code for each student in its 86761
service center ADM attributable to the local school districts 86762
within the service center's territory. 86763

(2) The Department shall distribute the remaining funds in 86764

each fiscal year to each educational service center for the 86765
students in its service center ADM attributable to each city and 86766
exempted village school district that had entered into an 86767
agreement with an educational service center for that fiscal year 86768
under section 3313.843 of the Revised Code by January 1, 1997, up 86769
to the per-student amount specified in division (F) of section 86770
3317.11 of the Revised Code. If insufficient funds remain to pay 86771
each service center the full amount specified in division (F) of 86772
that section for each such student, the Department shall 86773
distribute the remaining funds to each service center 86774
proportionally, on a per-student basis for each such student, 86775
unless that proportional per-student amount exceeds the amount 86776
specified in division (F)(1) of that section. In that case, the 86777
Department shall distribute the per-student amount specified in 86778
division (F)(1) of that section to each service center for each 86779
such student and shall distribute the remainder proportionally, on 86780
a per-student basis for each such student, to the multi-county 86781
service centers described in division (F)(2) of that section. 86782

(3) If the Department has paid each service center under 86783
divisions (D)(1) and (2) of this section, the full amount 86784
specified in division (F) of section 3317.11 of the Revised Code 86785
for each student attributable to its local school districts and 86786
its client school districts described in division (D)(2) of this 86787
section the Department shall distribute any remaining funds 86788
proportionally, on a per-student basis, to each service center 86789
that sponsors a community school, other than an Internet- or 86790
computer-based community school, for the students included in the 86791
service center ADM under division (C) of this section. These 86792
payments shall not exceed per student the amount specified in 86793
division (F) of section 3317.11 of the Revised Code. 86794

***Section 206.09.72.** For the school year commencing July 1, 86795

2005, or the school year commencing July 1, 2006, or both, the Superintendent of Public Instruction may waive for the board of education of any school district the ratio of teachers to pupils in kindergarten through fourth grade required under paragraph (A)(3) of rule 3301-35-05 of the Administrative Code if the following conditions apply:

(A) The board of education requests the waiver.

(B) After the Department of Education conducts an on-site evaluation of the district related to meeting the required ratio, the board of education demonstrates to the satisfaction of the Superintendent of Public Instruction that providing the facilities necessary to meet the required ratio during the district's regular school hours with pupils in attendance would impose an extreme hardship on the district.

(C) The board of education provides assurances that are satisfactory to the Superintendent of Public Instruction that the board will act in good faith to meet the required ratio as soon as possible.

Section 206.09.75. PRIVATE TREATMENT FACILITY PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2006 or fiscal year 2007 or both, the Department pays through appropriation item 470-401, Care and Custody;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;	86825
(d) Act One, in Akron;	86826
(e) Friars Club, in Cincinnati.	86827
(2) "Education program" means an elementary or secondary education program or a special education program and related services.	86828 86829 86830
(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.	86831 86832
(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.	86833 86834 86835 86836 86837
(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.	86838 86839 86840
(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall	86841 86842 86843 86844 86845 86846 86847 86848 86849 86850 86851 86852 86853 86854

provide the educational program at the treatment center to 86855
children under twenty-two years of age residing in the treatment 86856
center. 86857

(C) Any school district responsible for tuition for a 86858
residential child shall, notwithstanding any conflicting provision 86859
of the Revised Code regarding tuition payment, pay tuition for the 86860
child for fiscal year 2006 and fiscal year 2007 to the education 86861
program provider and in the amount specified in this division. If 86862
there is no school district responsible for tuition for a 86863
residential child and if the participating residential treatment 86864
center to which the child is assigned is located in the city, 86865
exempted village, or local school district that, if the child were 86866
not a resident of that treatment center, would be the school 86867
district where the child is entitled to attend school under 86868
sections 3313.64 and 3313.65 of the Revised Code, that school 86869
district, notwithstanding any conflicting provision of the Revised 86870
Code, shall pay tuition for the child for fiscal year 2006 and 86871
fiscal year 2007 under this division unless that school district 86872
is providing the educational program to the child under division 86873
(B) of this section. 86874

A tuition payment under this division shall be made to the 86875
school district, educational service center, or residential 86876
treatment facility providing the educational program to the child. 86877

The amount of tuition paid shall be: 86878

(1) The amount of tuition determined for the district under 86879
division (A) of section 3317.08 of the Revised Code; 86880

(2) In addition, for any student receiving special education 86881
pursuant to an individualized education program as defined in 86882
section 3323.01 of the Revised Code, a payment for excess costs. 86883
This payment shall equal the actual cost to the school district, 86884
educational service center, or residential treatment facility of 86885

providing special education and related services to the student 86886
pursuant to the student's individualized education program, minus 86887
the tuition paid for the child under division (C)(1) of this 86888
section. 86889

A school district paying tuition under this division shall 86890
not include the child for whom tuition is paid in the district's 86891
average daily membership certified under division (A) of section 86892
3317.03 of the Revised Code. 86893

(D) In each of fiscal years 2006 and 2007, the Department of 86894
Education shall reimburse, from appropriations made for the 86895
purpose, a school district, educational service center, or 86896
residential treatment facility, whichever is providing the 86897
service, that has demonstrated that it is in compliance with the 86898
funding criteria for each served child for whom a school district 86899
must pay tuition under division (C) of this section. The amount of 86900
the reimbursement shall be the formula amount specified in section 86901
3317.022 of the Revised Code, except that the department shall 86902
proportionately reduce this reimbursement if sufficient funds are 86903
not available to pay this amount to all qualified providers. 86904

(E) Funds provided to a school district, educational service 86905
center, or residential treatment facility under this section shall 86906
be used to supplement, not supplant, funds from other public 86907
sources for which the school district, service center, or 86908
residential treatment facility is entitled or eligible. 86909

(F) The Department of Education shall track the utilization 86910
of funds provided to school districts, educational service 86911
centers, and residential treatment facilities under this section 86912
and monitor the effect of the funding on the educational programs 86913
they provide in participating residential treatment facilities. 86914
The department shall monitor the programs for educational 86915
accountability. 86916

Section 206.09.78. SCHOOL DISTRICT PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATION PROGRESS 86917
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The General Assembly intends for the Superintendent of Public Instruction to provide for school district participation in the administration of the National Assessment of Education Progress in accordance with section 3301.27 of the Revised Code. Each school and school district selected for participation by the Superintendent of Public Instruction shall participate. 86919
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Section 206.09.81. DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT 86925
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In fiscal year 2006 and fiscal year 2007, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of Am. Sub. H.B. 3 of the 125th General Assembly for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unspent and unencumbered appropriations within the Department of Education to the General Revenue Fund appropriation item 200-437, Student Assessment, to the Director of Budget and Management. If the Director of Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unspent and unencumbered funds within the Department of Education as necessary to appropriation item 200-437, Student Assessment. 86927
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Section 206.09.84. (A) As used in this section: 86940

(1) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 and 3313.65 of the Revised Code. 86941
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(2) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code. 86944
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(3) "Individualized education program" has the same meaning as in section 3323.01 of the Revised Code.	86946 86947
(4) "Parent" has the same meaning as in section 3313.64 of the Revised Code.	86948 86949
(5) "Qualified special education child" is a child for whom all of the following conditions apply:	86950 86951
(a) The school district in which the child is entitled to attend school has identified the child as autistic.	86952 86953
(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.	86954 86955 86956
(c) The child either:	86957
(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or	86958 86959 86960 86961
(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.	86962 86963 86964 86965
(6) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the Department of Education to participate in the program established under this section.	86966 86967 86968 86969
(B) There is hereby established the Pilot Project Special Education Scholarship Program. Under the program, in fiscal years 2006 and 2007, the Department of Education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the State Board of Education. Each	86970 86971 86972 86973 86974 86975

scholarship shall be used only to pay tuition for the child on 86976
whose behalf the scholarship is awarded to attend a special 86977
education program that implements the child's individualized 86978
education program and that is operated by a school district other 86979
than the school district in which the child is entitled to attend 86980
school, by another public entity, or by a registered private 86981
provider. Each scholarship shall be in an amount not to exceed the 86982
lesser of the tuition charged for the child by the special 86983
education program or twenty thousand dollars. The purpose of the 86984
scholarship is to permit the parent of a qualified special 86985
education child the choice to send the child to a special 86986
education program, instead of the one operated by or for the 86987
school district in which the child is entitled to attend school, 86988
to receive the services prescribed in the child's individualized 86989
education program once the individualized education program is 86990
finalized. A scholarship under this section shall not be awarded 86991
to the parent of a child while the child's individualized 86992
education program is being developed by the school district in 86993
which the child is entitled to attend school, or while any 86994
administrative or judicial mediation or proceedings with respect 86995
to the content of the child's individualized education program are 86996
pending. A scholarship under this section shall not be used for a 86997
child to attend a public special education program that operates 86998
under a contract, compact, or other bilateral agreement between 86999
the school district in which the child is entitled to attend 87000
school and another school district or other public provider, or 87001
for a child to attend a community school established under Chapter 87002
3314. of the Revised Code. However, nothing in this section or in 87003
any rule adopted by the State Board of Education shall prohibit a 87004
parent whose child attends a public special education program 87005
under a contract, compact, or other bilateral agreement, or a 87006
parent whose child attends a community school, from applying for 87007
and accepting a scholarship under this section so that the parent 87008

may withdraw the child from that program or community school and
use the scholarship for the child to attend a special education
program for which the parent is required to pay for services for
the child. A child attending a special education program with a
scholarship under this section shall continue to be entitled to
transportation to and from that program in the manner prescribed
by law.

(C)(1) Notwithstanding anything to the contrary in the
Revised Code, a child for whom a scholarship is awarded under this
section shall be counted in the formula ADM and the category six
special education ADM of the district in which the child is
entitled to attend school and not in the formula ADM and the
category six special education ADM of any other school district.

(2) In each fiscal year, the Department shall deduct from the
amounts paid to each school district under Chapter 3317. of the
Revised Code, and, if necessary, sections 321.24 and 323.156 of
the Revised Code, the aggregate amount of scholarships awarded
under this section for qualified special education children
included in the formula ADM and category six special education ADM
of that school district as provided in division (C)(1) of this
section. The scholarships deducted shall be considered as an
approved special education and related services expense for the
purpose of the school district's compliance with division (C)(5)
of section 3317.022 of the Revised Code.

(3) From time to time, the Department shall make a payment to
the parent of each qualified special education child for whom a
scholarship has been awarded under this section. The scholarship
amount shall be proportionately reduced in the case of any such
child who is not enrolled in the special education program for
which a scholarship was awarded under this section for the entire
school year. The Department shall make no payments to the parent
of a child while any administrative or judicial mediation or

proceedings with respect to the content of the child's 87041
individualized education program are pending. 87042

(D) A scholarship shall not be paid to a parent for payment 87043
of tuition owed to a nonpublic entity unless that entity is a 87044
registered private provider. The Department shall approve entities 87045
that meet the standards established by rule of the State Board for 87046
the program established under this section. 87047

(E) The State Board shall adopt rules under Chapter 119. of 87048
the Revised Code prescribing procedures necessary to implement 87049
this section, including, but not limited to, procedures and 87050
deadlines for parents to apply for scholarships, standards for 87051
registered private providers, and procedures for approval of 87052
entities as registered private providers. The Board shall adopt 87053
the rules so that the program established under this section is 87054
operational by January 1, 2004. 87055

Section 206.09.90. INTERVENTION FUNDING 87056

No later than September 30, 2006, each school district shall 87057
report, in a manner defined by the Department of Education, how 87058
state intervention funding provided under division (B)(1) of 87059
section 3317.012 and division (C) of section 3317.029 of the 87060
Revised Code in fiscal year 2006 was deployed. To the degree that 87061
school districts do not meet adequate progress standards as 87062
defined by the Department of Education, the Department shall use 87063
the reported information to intervene at the district and building 87064
levels to make recommendations on how state funding for 87065
intervention should be deployed in a more effective manner. This 87066
information shall also be used by the Department to inform its 87067
recommendations required in the section of this act entitled 87068
"DISTRICT SPENDING REQUIREMENTS." 87069

Section 206.09.93. EARMARK ACCOUNTABILITY 87070

At the request of the Superintendent of Public Instruction, 87071
any entity that receives a budget earmark under the Department of 87072
Education shall submit annually to the chairpersons of the 87073
committees of the House of Representatives and the Senate 87074
primarily concerned with education and to the Department of 87075
Education a report that includes a description of the services 87076
supported by the funds, a description of the results achieved by 87077
those services, an analysis of the effectiveness of the program, 87078
and an opinion as to the program's applicability to other school 87079
districts. For an earmarked entity that received state funds from 87080
an earmark in the prior fiscal year, no funds shall be provided by 87081
the Department of Education to an earmarked entity for a fiscal 87082
year until its report for the prior fiscal year has been 87083
submitted. 87084

Section 206.09.99. The revisions by this act to the 87085
Post-Secondary Enrollment Options Program established under 87086
Chapter 3365. of the Revised Code shall apply as follows: 87087

(A) The amendment to the definition of "tuition base" in 87088
section 3365.01 of the Revised Code, as amended by this act, shall 87089
apply to payments for courses taken beginning in the 2005-2006 87090
school year. 87091

(B) The requirement that a secondary grade student be a 87092
resident of this state in order to participate in the 87093
Post-Secondary Enrollment Options Program as specified in section 87094
3365.02 of the Revised Code, as amended by this act, shall not 87095
apply to students participating in the program during fiscal year 87096
2005. That requirement applies to students participating in the 87097
program after July 1, 2005, regardless of whether they 87098
participated in the program prior to that date. 87099

Section 206.10.03. Not later than September 1, 2005, the 87100

Superintendent of Public Instruction shall begin preparations to 87101
implement the Educational Choice Scholarship Pilot Program 87102
established by sections 3310.01 to 3310.17 of the Revised Code. 87103
The Superintendent shall ensure that school districts, chartered 87104
nonpublic schools, students, and parents are informed of the 87105
Educational Choice Scholarship Pilot Program and how the Program 87106
may affect them. The Superintendent shall provide such information 87107
in sufficient time for affected parties to meet all deadlines 87108
imposed for participation in the Educational Choice Scholarship 87109
Pilot Program in the 2006-2007 school year. The State Board of 87110
Education shall adopt the rules required by section 3310.16 of the 87111
Revised Code so that those rules are in effect and the Educational 87112
Choice Scholarship Pilot Program is operational in the school year 87113
that commences July 1, 2006. 87114

The Superintendent shall select not more than 10,000 students 87115
in fiscal year 2007 to be awarded scholarships under the 87116
Educational Choice Scholarship Pilot Program. 87117

Section 206.10.05. Not later than December 31, 2005, the 87118
Department of Education shall make recommendations to the General 87119
Assembly regarding the payment of state parity aid to community 87120
schools in fiscal year 2007. 87121

Section 206.10.07. (A) Within sixty days after the effective 87122
date of this section, the Director of Administrative Services 87123
shall contract with a third party to investigate the most cost 87124
effective method for funding school districts' health benefits. 87125
The third party shall consider all the following when conducting 87126
the investigation: 87127

(1) Existing school district benefit offerings, employees' 87128
costs for the benefits, and cost sharing arrangements; 87129

(2) Existing health care pools and consortiums in which 87130

school districts participate;	87131
(3) Potential benefits of state or regional regulated health care pools or consortiums that offer multiple health care plans and that have different pools or consortiums for each region of the state;	87132 87133 87134 87135
(4) Existing strategies that positively manage health care costs;	87136 87137
(5) Other states' studies of, experience with, or existing statewide and regional health care pools or consortiums;	87138 87139
(6) Alternatives to statewide or regional health care pools, including, but not limited to, existing consortiums and school alliances.	87140 87141 87142
(B) There is hereby created the Health Care Task Force within the Department of Administrative Services. The Director of Administrative Services shall appoint the members of the Task Force within ninety days after the effective date of this section and with the consent of the President of the Senate and the Speaker of the House of Representatives. The seventeen-member task force shall consist of the following members:	87143 87144 87145 87146 87147 87148 87149
(1) One member from each of the following:	87150
(a) Ohio School Boards Association;	87151
(b) Ohio Education Association;	87152
(c) Ohio Association of Public School Employees;	87153
(d) Ohio Association of School Business Officials;	87154
(e) Ohio Association of Health Underwriters;	87155
(f) Department of Insurance;	87156
(g) Department of Administrative Services;	87157
(h) A school health care consortium.	87158

(2) One member of a health insuring corporation licensed to do business in Ohio and recommended by the Ohio Association of Health Plans;	87159 87160 87161
(3) A person licensed under Chapter 3923. of the Revised Code recommended by the Ohio Association of Health Plans;	87162 87163
(4) A third party administrator licensed under Chapter 3959. of the Revised Code;	87164 87165
(5) Three members of the Senate;	87166
(6) Three members of the House of Representatives.	87167
(C) Within ninety days after the Director of Administrative Services contracts with the third party to conduct the investigation described in division (A) of this section, the third party shall report initial data to the Health Care Task Force. Within ninety days after reporting the initial data, the third party shall report final data to the Task Force. Using the final data, the Task Force shall determine whether any changes to the existing school employee health benefit purchasing system would result in cost savings and make findings and recommendations based on these determinations. The Task Force's findings and recommendations shall include, but are not limited to, all of the following:	87168 87169 87170 87171 87172 87173 87174 87175 87176 87177 87178 87179
(1) Identification of any necessary provisions needed to ensure long-term financial solvency and stability of a health care purchasing system;	87180 87181 87182
(2) Potential impacts of any changes to the existing purchasing structure on all of the following:	87183 87184
(a) Private companies and brokers, consultants, and agents currently providing or producing health care benefits and services through fully-insured or self-insured arrangements;	87185 87186 87187
(b) Existing health care pooling and consortiums;	87188

(c) Individual school districts;	87189
(d) Existing and future collective bargaining agreements.	87190
(3) Identification of issues that could arise when school districts would transition from the existing purchasing structure to a new purchasing structure;	87191 87192 87193
(4) Projected costs and savings to the state, school boards, and school employees if the existing purchasing structure is changed, including, but not limited to, costs of health care claims, health care premiums, and administrative costs.	87194 87195 87196 87197
(D) The Task Force shall submit the findings and recommendations described in division (C) of this section and the final data of the investigation done by the third party described in division (A) of this section to the President of the Senate, the Speaker of the House of Representatives, and the Director of Budget and Management not later than forty-five days after receiving the final data from the third party. The Director of Administrative Services may extend the deadline with the consent of the President of the Senate and the Speaker of the House of Representatives. The Director of Administrative Services shall make copies of the findings and recommendations available to the public upon request. After the Task Force submits findings and recommendations as required in this division, the Task Force ceases to exist.	87198 87199 87200 87201 87202 87203 87204 87205 87206 87207 87208 87209 87210 87211
Section 206.10.09. Within thirty days after the effective date of this section, the Department of Education shall notify each entity approved to be a sponsor of community schools pursuant to division (B)(1) of section 3314.015 of the Revised Code prior to the effective date of this section and each entity that is not required to be so approved by section 3314.021 of the Revised Code or Section 6 of Sub. H.B. 364 of the 124th General Assembly of the	87212 87213 87214 87215 87216 87217 87218

number of schools the entity may sponsor under that division.	87219
Section 206.10.12. (A) The School Physical Fitness and	87220
Wellness Advisory Council is hereby established. The Council shall	87221
consist of the following members:	87222
(1) A representative of the Ohio Association for Health,	87223
Physical Education, Recreation and Dance, appointed by the	87224
Association;	87225
(2) A school food service director, appointed by the Ohio	87226
School Food Service Association;	87227
(3) A representative of the Ohio School Boards Association,	87228
appointed by the Association;	87229
(4) A registered dietician, appointed by the Ohio Dietetic	87230
Association;	87231
(5) A representative of the Ohio State Medical Association,	87232
appointed by the Association;	87233
(6) A representative of the food industry, appointed by the	87234
Ohio Chamber of Commerce;	87235
(7) A representative of the Ohio Parent Teacher Association,	87236
appointed by the Association;	87237
(8) A representative of the Ohio Soft Drink Association,	87238
appointed by the Association;	87239
(9) A representative of the Department of Education,	87240
appointed by the Superintendent of Public Instruction;	87241
(10) A representative of the Ohio Parks and Recreation	87242
Association, appointed by the Association;	87243
(11) The Director of Health;	87244
(12) A representative of the Ohio Children's Hunger Alliance,	87245
appointed by the Alliance.	87246

(B) Appointments to the Council shall be made within thirty 87247
days after the effective date of this section. The representative 87248
of the Department of Education shall be the chairperson of the 87249
Council. The Council shall meet at least every two months. The 87250
Department of Education shall provide administrative support to 87251
the Council in the performance of its duties. 87252

(C) The Council shall develop guidelines for best practices 87253
regarding nutrition education, physical activity for students, and 87254
school-based activities and school-business partnerships that 87255
promote student wellness. For this purpose, the Council shall 87256
examine research concerning these issues and review existing 87257
guidelines and best practices established by associations or 87258
governmental entities at the national, state, and local levels. 87259
The best practices guidelines developed by the Council shall 87260
provide information that school districts participating in a 87261
school lunch program under the "National School Lunch Act," 60 87262
Stat. 230 (1946), 42 U.S.C. 1751, as amended, may use when 87263
adopting local wellness policies as required by the "Child 87264
Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended. 87265
The Council also shall develop strategies for districts to use in 87266
evaluating the implementation of their local wellness policies to 87267
determine if the goals and objectives described in those policies 87268
are being met. 87269

(D) Not later than December 31, 2005, the Council shall 87270
compile a written report containing its best practices guidelines 87271
and evaluation strategies. Copies of the report shall be provided 87272
to each school district participating in a school lunch program as 87273
described in division (C) of this section, the Governor, the 87274
Speaker of the House of Representatives, and the President of the 87275
Senate. Upon submission of its report, the Council shall cease to 87276
exist. 87277

Section 206.10.21. (A) Notwithstanding section 3313.41 of the Revised Code, a school district board of education in support of economic development within the territory of the district may dispose of real property that it owns in its corporate capacity, and that exceeds in value ten thousand dollars, by direct sale in lieu of offering the property for sale at public auction as provided in division (A) of that section, in lieu of offering the property for sale to an entity listed in division (C) of that section, or in lieu of offering the property for sale to a community school as provided in division (G) of that section, if all of the following conditions are satisfied:

(1) The real property is encumbered by easements, liens, or other use restrictions that benefit the person acquiring the property under this section;

(2) The real property was part of or adjacent to real property previously disposed of by the board of education;

(3) The real property when sold will be used for commercial development.

(B) This section expires December 31, 2005.

Section 206.10.24. Not later than July 1, 2006, the Superintendent of Public Instruction shall recommend to the General Assembly a plan whereby:

(A) School districts make a second annual certification of formula ADM in the second half of each fiscal year, prior to the first day of April;

(B) This second annual certification of formula ADM may be used to guarantee a minimum level of state funding to each school district for the next fiscal year, with sufficient notice so that the districts may prepare in advance of each school year.

The recommended plan shall include methods to accommodate enrollment growth trends in fast-growing districts. 87307
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Section 206.10.27. When designating performance ratings for school districts under section 3302.03 of the Revised Code in 2005, based on the 2004-2005 school year, and in 2006, based on the 2005-2006 school year, the Department of Education shall not assign a school district a lower designation from its previous year's designation based solely on one student subgroup's not meeting adequate yearly progress. 87309
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Section 206.13. ELC OHIO ELECTIONS COMMISSION 87316

General Revenue Fund 87317

GRF 051-321 Operating Expenses	\$	411,623	\$	411,623	87318
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TOTAL GRF General Revenue Fund	\$	411,623	\$	411,623	87319
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General Services Fund Group 87320

4P2 051-601 Ohio Elections 87321

Commission Fund	\$	225,000	\$	225,000	87322
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TOTAL GSF General Services Fund	\$	225,000	\$	225,000	87323
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Group

TOTAL ALL BUDGET FUND GROUPS	\$	636,623	\$	636,623	87324
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Section 206.16. FUN STATE BOARD OF EMBALMERS AND FUNERAL 87326

DIRECTORS 87327

General Services Fund Group 87328

4K9 881-609 Operating Expenses	\$	598,933	\$	0	87329
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TOTAL GSF General Services					87330
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Fund Group	\$	598,933	\$	0	87331
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TOTAL ALL BUDGET FUND GROUPS	\$	598,933	\$	0	87332
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Section 206.19. ERB STATE EMPLOYMENT RELATIONS BOARD 87334

General Revenue Fund 87335

GRF 125-321 Operating Expenses	\$	3,265,397	\$	3,363,359	87336
TOTAL GRF General Revenue Fund	\$	3,265,397	\$	3,363,359	87337
General Services Fund Group					87338
572 125-603 Training and Publications	\$	75,541	\$	75,541	87339
TOTAL GSF General Services Fund Group	\$	75,541	\$	75,541	87341
TOTAL ALL BUDGET FUND GROUPS	\$	3,340,938	\$	3,438,900	87342

Section 206.24. ENG STATE BOARD OF ENGINEERS AND SURVEYORS 87344

General Services Fund Group					87345
4K9 892-609 Operating Expenses	\$	1,058,881	\$	1,058,881	87346
TOTAL GSF General Services Fund Group	\$	1,058,881	\$	1,058,881	87348
TOTAL ALL BUDGET FUND GROUPS	\$	1,058,881	\$	1,058,881	87349

Section 206.27. EPA ENVIRONMENTAL PROTECTION AGENCY 87351

General Revenue Fund					87352
GRF 715-403 Clean Ohio	\$	92,707	\$	0	87353
GRF 715-501 Local Air Pollution Control	\$	128,297	\$	0	87354
GRF 717-321 Surface Water	\$	1,112,342	\$	0	87355
GRF 718-321 Groundwater	\$	136,719	\$	0	87356
GRF 719-321 Air Pollution Control	\$	311,494	\$	0	87357
GRF 721-321 Drinking Water	\$	318,783	\$	0	87358
GRF 723-321 Hazardous Waste	\$	12,606	\$	0	87359
GRF 724-321 Pollution Prevention	\$	87,538	\$	0	87360
GRF 725-321 Laboratory	\$	152,043	\$	0	87361
GRF 726-321 Corrective Actions	\$	147,473	\$	0	87362
TOTAL GRF General Revenue Fund	\$	2,500,002	\$	0	87363
General Services Fund Group					87364
199 715-602 Laboratory Services	\$	1,078,348	\$	1,083,574	87365

219	715-604	Central Support	\$	15,804,913	\$	16,345,805	87366
		Indirect					
4A1	715-640	Operating Expenses	\$	3,369,731	\$	3,369,731	87367
TOTAL GSF General Services							87368
Fund Group			\$	20,252,992	\$	20,799,110	87369
Federal Special Revenue Fund Group							87370
3F2	715-630	Revolving Loan Fund -	\$	152,021	\$	293,129	87371
		Operating					
3F3	715-632	Fed Supported Cleanup	\$	2,792,648	\$	2,777,648	87372
		and Response					
3F4	715-633	Water Quality	\$	710,000	\$	710,000	87373
		Management					
3F5	715-641	Nonpoint Source	\$	7,815,000	\$	7,810,000	87374
		Pollution Management					
3J1	715-620	Urban Stormwater	\$	706,000	\$	710,000	87375
3K2	715-628	Clean Water Act 106	\$	4,723,845	\$	5,023,846	87376
3K4	715-634	DOD Monitoring and	\$	1,450,333	\$	1,450,333	87377
		Oversight					
3K6	715-639	Remedial Action Plan	\$	320,000	\$	319,000	87378
3N4	715-657	DOE Monitoring and	\$	3,181,736	\$	3,231,963	87379
		Oversight					
3V7	715-606	Agencywide Grants	\$	458,115	\$	479,115	87380
352	715-611	Wastewater Pollution	\$	525,000	\$	530,000	87381
353	715-612	Public Water Supply	\$	3,384,959	\$	3,388,619	87382
354	715-614	Hazardous Waste	\$	4,203,891	\$	4,203,891	87383
		Management - Federal					
357	715-619	Air Pollution Control	\$	6,966,337	\$	7,243,950	87384
		- Federal					
362	715-605	Underground Injection	\$	111,874	\$	111,874	87385
		Control - Federal					
TOTAL FED Federal Special Revenue							87386
Fund Group			\$	37,501,759	\$	38,283,368	87387

		State Special Revenue Fund Group					87388
3T3	715-669	Drinking Water SRF	\$	2,411,614	\$	2,482,910	87389
4J0	715-638	Underground Injection Control	\$	438,285	\$	458,418	87390
4K2	715-648	Clean Air - Non Title V	\$	3,234,278	\$	3,178,062	87391
4K3	715-649	Solid Waste	\$	13,800,377	\$	14,282,845	87392
4K4	715-650	Surface Water Protection	\$	11,606,000	\$	12,420,000	87393
4K5	715-651	Drinking Water Protection	\$	7,202,901	\$	7,492,035	87394
4P5	715-654	Cozart Landfill	\$	149,728	\$	149,728	87395
4R5	715-656	Scrap Tire Management	\$	6,000,000	\$	6,000,000	87396
4R9	715-658	Voluntary Action Program	\$	1,008,765	\$	1,032,098	87397
4T3	715-659	Clean Air - Title V Permit Program	\$	16,960,373	\$	17,180,980	87398
4U7	715-660	Construction & Demolition Debris	\$	586,797	\$	582,305	87399
5BC	715-617	Clean Ohio	\$	648,939	\$	741,646	87400
5BC	715-622	Local Air Pollution Control	\$	898,072	\$	1,026,369	87401
5BC	715-624	Surface Water	\$	7,685,071	\$	8,797,413	87402
5BC	715-667	Groundwater	\$	957,022	\$	1,093,741	87403
5BC	715-672	Air Pollution Control	\$	4,234,681	\$	5,199,290	87404
5BC	715-673	Drinking Water	\$	2,231,467	\$	2,550,250	87405
5BC	715-675	Hazardous Waste	\$	88,241	\$	100,847	87406
5BC	715-676	Assistance and Prevention	\$	612,764	\$	700,302	87407
5BC	715-677	Laboratory	\$	1,064,290	\$	1,216,333	87408
5BC	715-678	Corrective Action	\$	1,032,302	\$	1,179,775	87409
5CD	715-682	Clean Diesel School Buses	\$	650,000	\$	850,000	87410

5H4	715-664	Groundwater Support	\$	2,325,922	\$	2,408,871	87411
5N2	715-613	Dredge and Fill	\$	30,000	\$	30,000	87412
500	715-608	Immediate Removal	\$	482,000	\$	482,000	87413
		Special Account					
503	715-621	Hazardous Waste	\$	11,270,231	\$	11,711,473	87414
		Facility Management					
505	715-623	Hazardous Waste	\$	11,482,988	\$	11,482,988	87415
		Cleanup					
505	715-674	Clean Ohio	\$	104,500	\$	109,725	87416
		Environmental Review					
541	715-670	Site Specific Cleanup	\$	33,000	\$	34,650	87417
542	715-671	Risk Management	\$	146,188	\$	146,188	87418
		Reporting					
592	715-627	Anti Tampering	\$	17,203	\$	9,707	87419
		Settlement					
6A1	715-645	Environmental	\$	1,500,000	\$	1,500,000	87420
		Education					
602	715-626	Motor Vehicle	\$	1,190,944	\$	250,000	87421
		Inspection and					
		Maintenance					
644	715-631	ER Radiological Safety	\$	286,114	\$	286,114	87422
660	715-629	Infectious Waste	\$	160,000	\$	100,000	87423
		Management					
676	715-642	Water Pollution	\$	4,964,625	\$	4,964,625	87424
		Control Loan					
		Administration					
678	715-635	Air Toxic Release	\$	210,621	\$	210,622	87425
679	715-636	Emergency Planning	\$	2,828,647	\$	2,828,647	87426
696	715-643	Air Pollution Control	\$	750,000	\$	750,000	87427
		Administration					
699	715-644	Water Pollution	\$	750,000	\$	750,000	87428
		Control Administration					
TOTAL SSR	State Special Revenue		\$	122,034,950	\$	126,770,957	87429

Fund Group

Clean Ohio Revitalization Fund Group				87430	
5S1 715-607 Clean Ohio - Operating	\$	208,174	\$	208,174	87431
TOTAL CLF Clean Ohio Revitalization	\$	208,174	\$	208,174	87432

Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$	182,497,877	\$	186,061,609	87433
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AUTOMOBILE EMISSIONS TESTING PROGRAM OPERATION AND OVERSIGHT 87434

(A) There is hereby created the Auto Emissions Test Fund 87435
(Fund 5BY). When renewing a contract to continue the E-check 87436
program after December 31, 2005, the Ohio Environmental Protection 87437
Agency (EPA) shall use the foregoing appropriation item 715-681, 87438
Auto Emissions Test in the Auto Emissions Test Fund (Fund 5BY), to 87439
pay the contracted amount per test for the operation and oversight 87440
of the auto emissions testing programs in counties still 87441
designated as non-attainment or designated by the General Assembly 87442
to continue such tests under mandate of the federal Clean Air Act. 87443
These amounts are hereby appropriated. 87444

(B)(1) Not later than July 1, 2005, the Director of 87445
Environmental Protection, in conjunction with the Office of Budget 87446
and Management, shall estimate the amount necessary for operation 87447
of the Auto Emissions Testing Program for the period beginning 87448
January 1, 2006, and ending June 30, 2006. Notwithstanding section 87449
183.02 of the Revised Code, of the tobacco revenue that is 87450
credited to the Tobacco Master Settlement Agreement Fund (Fund 87451
087) in fiscal year 2005, the Director of Budget and Management 87452
shall withhold from the share that is determined pursuant to 87453
section 183.02 of the Revised Code to be the amount to be 87454
transferred from the Tobacco Master Settlement Agreement Fund 87455
(Fund 086) to the Tobacco Use Prevention and Cessation Trust Fund 87456
(Fund H87) an amount equal to the estimate determined pursuant to 87457
this division. 87458

(2) Not later than December 31, 2005, the Director of Environmental Protection shall certify to the Director of Budget and Management the actual amount, not to exceed the estimated amount, necessary for the Auto Emissions Testing Program for the period beginning January 1, 2006, and ending June 30, 2006. Notwithstanding section 183.02 of the Revised Code, on January 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer the amount certified pursuant to this division from the Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 5BY). Amounts transferred are hereby appropriated to appropriation item 715-681, Auto Emissions Test, in the Environmental Protection Agency.

(3) On January 1, 2006, or as soon as possible thereafter, the Director of Budget and Management shall transfer to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) any amount withheld from being transferred to the Tobacco Use Prevention and Cessation Trust Fund pursuant to division (B)(1) of this section that is greater than the amount that is transferred under division (B)(2) of this section.

(C) An amount equal to the remaining balance in appropriation item 715-681, Auto Emissions Test, from fiscal year 2006 is hereby appropriated for fiscal year 2007 into appropriation item 715-681, Auto Emissions Test.

(D) Not later than June 30, 2006, the Director of Environmental Protection shall certify to the Director of Budget and Management the amount needed for the Auto Emissions Testing Program for fiscal year 2007 taking into account the amounts appropriated for fiscal year 2007 pursuant to division (C) of this section.

Notwithstanding section 183.02 of the Revised Code, on July 1, 2006, or as soon as possible thereafter, the Director of Budget

and Management shall transfer cash equal to the amount certified 87490
pursuant to this division from the Tobacco Master Settlement 87491
Agreement Fund (Fund 087) to the Auto Emissions Test Fund (Fund 87492
5BY) in the Environmental Protection Agency. Of the tobacco 87493
revenue that is credited to the Tobacco Master Settlement 87494
Agreement Fund (Fund 087) in fiscal year 2006, the share that is 87495
determined pursuant to section 183.02 of the Revised Code to be 87496
the amount transferred by the Director of Budget and Management 87497
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 87498
the Tobacco Use Prevention and Cessation Trust Fund (Fund H87) 87499
shall be reduced by the amount that is transferred from the 87500
Tobacco Master Settlement Agreement Fund (Fund 087) to the Auto 87501
Emissions Test Fund (Fund 5BY) under this division. Amounts 87502
transferred are hereby appropriated to appropriation item 715-681, 87503
Auto Emissions Test, in the Environmental Protection Agency. 87504

(E) Not later than July 31, 2007, the Director of Budget and 87505
Management shall transfer the unencumbered cash balance of the 87506
Auto Emissions Test Fund (Fund 5BY) to the Tobacco Use Prevention 87507
and Cessation Trust Fund (Fund H87). 87508

(F) The funds identified in this section shall not be used to 87509
cover the testing costs of any dealers that are required to 87510
provide passing certificates under section 3704.14 of the Revised 87511
Code or to provide more than two free tests for any vehicle in a 87512
three-hundred-sixty-five-day period. The cost of testing and 87513
retesting for any vehicle shall not exceed the contracted amount 87514
per test. 87515

NPDES TRANSFER TO AGRICULTURE 87516

On or after the date on which the United States Environmental 87517
Protection Agency approves the state program submitted under 87518
division (A)(1) of section 903.08 of the Revised Code, the 87519
Director of Environmental Protection, the Director of Agriculture, 87520

and the Director of Budget and Management shall calculate the
amount of compensation to be made to the Environmental Protection
Agency and to the Department of Agriculture from federal moneys
disbursed and received for purposes of administering the National
Pollutant Discharge Elimination System (NPDES) Program and shall
calculate the amount of state matching funding that is required
for administering that program. The Environmental Protection
Agency and the Department of Agriculture may apply separately to
the United States Environmental Protection Agency for each
agency's respective share of the federal moneys. If the United
States Environmental Protection Agency awards all federal moneys
for administration of the NPDES program to one agency, that agency
shall transfer the appropriate amount of moneys to the other
agency in accordance with the calculations of compensation made
pursuant to these provisions.

CASH TRANSFER FOR ENVIRONMENTAL PROTECTION FUND

On July 1, 2005, or as soon as possible thereafter, the
Director of Budget and Management may transfer \$1,000,000 in cash
from the Central Support Indirect Fund (Fund 219) into the
Environmental Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the
Director of Budget and Management may transfer \$6,000,000 in cash
from the Hazardous Waste Facility Management Fund (Fund 503) into
the Environmental Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the
Director of Budget and Management may transfer \$3,000,000 in cash
from the Solid Waste Fund (Fund 4K3) into the Environmental
Protection Fund (Fund 5BC).

On July 1, 2005, or as soon as possible thereafter, the
Director of Budget and Management may transfer \$1,000,000 in cash
from the Hazardous Waste Cleanup Fund (Fund 505) into the

Environmental Protection Fund (Fund 5BC). 87552

Section 206.30. EBR ENVIRONMENTAL REVIEW APPEALS COMMISSION 87553

General Revenue Fund 87554

GRF 172-321 Operating Expenses \$ 479,161 \$ 483,859 87555

TOTAL GRF General Revenue Fund \$ 479,161 \$ 483,859 87556

TOTAL ALL BUDGET FUND GROUPS \$ 479,161 \$ 483,859 87557

Section 206.31. ETC ETECH OHIO 87559

General Revenue Fund 87560

GRF 935-321 Operations \$ 7,174,453 \$ 6,830,918 87561

GRF 935-401 Statehouse News Bureau \$ 244,400 \$ 244,400 87562

GRF 935-402 Ohio Government \$ 716,417 \$ 716,417 87563

Telecommunications

Studio

GRF 935-403 Technical Operations \$ 1,768,150 \$ 1,768,150 87564

GRF 935-404 Telecommunications \$ 3,632,413 \$ 3,632,413 87565

Operating Subsidy

GRF 935-406 Technical and \$ 6,484,763 \$ 6,607,144 87566

Instructional

Professional

Development

GRF 935-539 Educational Technology \$ 5,968,791 \$ 5,968,791 87567

TOTAL GRF General Revenue Fund \$ 25,989,387 \$ 25,768,233 87568

General Services Fund Group 87569

4F3 935-603 Affiliate Services \$ 2,000,000 \$ 2,000,000 87570

4T2 935-605 Government \$ 150,000 \$ 150,000 87571

Television/Telecommunications

Operating

5D4 935-640 Conference/Special \$ 1,600,645 \$ 1,821,817 87572

Purposes

TOTAL GSF General Services Fund \$ 3,750,645 \$ 3,971,817 87573

Group

Federal Special Revenue Fund Group				87574
3S3 935-606 Enhancing Education	\$	589,363	\$ 589,363	87575
Technology				
TOTAL FED Federal Special Revenue	\$	589,363	\$ 589,363	87576
Fund Group				
State Special Revenue Fund Group				87577
4W9 935-630 Telecommunity	\$	50,000	\$ 25,000	87578
4X1 935-634 Distance Learning	\$	250,000	\$ 100,000	87579
5T3 935-607 Gates Foundation	\$	600,000	\$ 200,000	87580
Grants				
TOTAL SSR State Special Revenue	\$	900,000	\$ 325,000	87581
Fund Group				
TOTAL ALL BUDGET FUND GROUPS	\$	31,229,395	\$ 30,654,413	87582

Section 206.31.03. OPERATIONS 87584

eTech Ohio shall enter into an agreement with the Department 87585
of Administrative Services to provide for the maintenance of all 87586
of its towers. eTech Ohio and the Department of Administrative 87587
Services shall develop a plan to address the best method for 87588
transferring ownership and control of all the towers to the 87589
Department of Administrative Services. This plan shall be 87590
submitted to the Office of Budget and Management by July 1, 2006. 87591

Section 206.31.06. TELECOMMUNICATIONS 87592

STATEHOUSE NEWS BUREAU 87593

The foregoing appropriation item 935-401, Statehouse News 87594
Bureau, shall be used solely to support the operations of the Ohio 87595
Statehouse News Bureau. 87596

OHIO GOVERNMENT TELECOMMUNICATIONS STUDIO 87597

The foregoing appropriation item 935-402, Ohio Government 87598

Telecommunications Studio, shall be used solely to support the 87599
operations of the Ohio Government Telecommunications Studio. 87600

TECHNICAL OPERATIONS 87601

The foregoing appropriation item 935-403, Technical 87602
Operations, shall be used by eTech Ohio to pay expenses of the 87603
television and radio transmission infrastructure. 87604

TELECOMMUNICATIONS OPERATING SUBSIDY 87605

Of the foregoing appropriation item 935-404, 87606
Telecommunications Operating Subsidy, \$45,000 in each fiscal year 87607
shall be used to contract for dial-up newspaper reading services 87608
for the blind and physically handicapped. The contract shall be 87609
awarded through a competitive bidding process. eTech Ohio shall 87610
not disburse these funds without prior approval of the Controlling 87611
Board. 87612

The remainder of appropriation item 935-404, 87613
Telecommunications Operating Subsidy, shall be distributed by 87614
eTech Ohio to Ohio's qualified public educational television 87615
stations, radio reading services, and educational radio stations 87616
to support their operations. The funds shall be distributed 87617
pursuant to an allocation formula used by the Ohio Educational 87618
Telecommunications Network Commission unless and until a 87619
substitute formula is developed by eTech Ohio in consultation with 87620
Ohio's qualified public educational television stations, radio 87621
reading services, and educational radio stations. 87622

Section 206.31.09. TECHNICAL AND INSTRUCTIONAL PROFESSIONAL 87623
DEVELOPMENT 87624

The foregoing appropriation item 935-406, Technical and 87625
Instructional Professional Development, shall be used by eTech 87626
Ohio to make grants or provide services to qualifying public 87627
schools, including the State School for the Blind and the State 87628

School for the Deaf, and the Ohio Department of Youth Services, 87629
for the provision of hardware, software, telecommunications 87630
services, and staff development to support educational uses of 87631
technology in the classroom. eTech Ohio shall consider the 87632
professional development needs associated with the OhioReads 87633
Program when making funding allocations and program decisions. 87634

Of the foregoing appropriation item 935-406, Technical and 87635
Instructional Professional Development, up to \$200,000 in each 87636
fiscal year shall be used by eTech Ohio to provide competitive 87637
professional development grants to school districts. Grant 87638
proposals shall focus on developing innovative programs that 87639
enhance the abilities of teachers to use innovative methods for 87640
integrating technology to implement state academic content 87641
standards in classroom lessons. Grant requirements and awards 87642
shall be approved by eTech Ohio, with priority given to school 87643
districts designated in academic emergency, academic watch, or 87644
continuous improvement. eTech Ohio shall develop a website to 87645
share information learned through these programs with school 87646
districts statewide. The website shall be linked with the Ohio 87647
Department of Education's Instructional Management System. 87648

Of the foregoing appropriation item 935-406, Technical and 87649
Instructional Professional Development, up to \$1,260,000 in each 87650
fiscal year shall be allocated equally among the 12 Ohio 87651
educational television stations and used with the advice and 87652
approval of eTech Ohio. Funds shall be used for the production of 87653
interactive instructional programming series with priority given 87654
to resources aligned with state academic content standards in 87655
consultation with the Ohio Department of Education. The 87656
programming shall be targeted to the needs of the poorest two 87657
hundred school districts as determined by the district's adjusted 87658
valuation per pupil as defined in section 3317.0213 of the Revised 87659
Code as that section existed prior to the effective date of this 87660

section. 87661

The remainder of appropriation item 935-406, Technical and Instructional Professional Development, shall be used by eTech Ohio for professional development for teachers and administrators for the use of educational technology. eTech Ohio may make grants to provide technical assistance and professional development on the use of educational technology to school districts. 87662
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Eligible recipients of grants include regional training centers, educational service centers, data acquisition sites, educational technology centers, institutions of higher education, public television stations, special education resource centers, area media centers, or other nonprofit educational organizations. In addition, services provided through these grants may include use of private entities subcontracting through the grant recipient. 87668
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Grants shall be made to entities on a contractual basis with eTech Ohio. Contracts shall include provisions that demonstrate how services will benefit technology use in the public schools, and in particular how services will support eTech Ohio's efforts to integrate technology in the public schools. Contracts shall specify the scope of assistance being offered and the potential number of professionals who will be served. Contracting entities may be awarded more than one grant at a time. Grants shall be awarded in a manner consistent with the goals and priorities of eTech Ohio. Special emphasis in the award of grants shall be placed on collaborative efforts among service providers. 87676
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Application for grants from appropriation item 935-406, Technical and Instructional Professional Development, shall be consistent with a school district's technology plan that shall meet the minimum specifications for school district technology plans as prescribed by eTech Ohio. Funds allocated through these 87687
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grants may be combined with funds received through other state or 87692
federal grants for technology so long as the school district's 87693
technology plan specifies the use of these funds. 87694

Section 206.31.12. EDUCATION TECHNOLOGY 87695

The foregoing appropriation item 935-539, Education 87696
Technology, shall be used to provide funding to suppliers of 87697
information services to school districts for the provision of 87698
hardware, software, and staff development in support of 87699
educational uses of technology in the classroom as prescribed by 87700
the State Plan for Technology pursuant to section 3301.07 of the 87701
Revised Code, and to support assistive technology for children and 87702
youth with disabilities. 87703

Of the foregoing appropriation item 935-539, Education 87704
Technology, up to \$1,829,240 in each fiscal year shall be used by 87705
eTech Ohio to link all public K-12 classrooms to each other and 87706
the Internet, and to provide access to voice, video, and data 87707
educational resources for students and teachers through the OneNet 87708
Ohio Program. 87709

Up to \$4,139,551 in each fiscal year shall be used by eTech 87710
Ohio to contract with public television to provide Ohio public 87711
schools with instructional resources and services with priority 87712
given to resources and services aligned with state academic 87713
content standards and such resources and services shall be based 87714
upon the advice and approval of eTech Ohio, based on a formula 87715
used by the Ohio SchoolNet Commission unless and until a 87716
substitute formula is developed by eTech Ohio in consultation with 87717
Ohio's educational technology agencies and noncommercial 87718
educational television stations. 87719

Resources may include, but not be limited to, the following: 87720
prerecorded video materials (including videotape, laser discs, and 87721

CD-ROM discs); computer software for student use or student access 87722
to electronic communication, databases, spreadsheet, and word 87723
processing capability; live student courses or courses delivered 87724
electronically; automated media systems; and instructional and 87725
professional development materials for teachers. eTech Ohio shall 87726
collaborate with public television stations and cooperate with 87727
education technology centers in the acquisition, development, and 87728
delivery of such educational resources to ensure high-quality and 87729
educational soundness at the lowest possible cost. Delivery of 87730
such resources may utilize a variety of technologies. 87731

Services shall include presentations and technical assistance 87732
that will help students and teachers integrate educational 87733
materials that support curriculum objectives, match specific 87734
learning styles, and are appropriate for individual interests and 87735
ability levels. 87736

Such instructional resources and services shall be made 87737
available for purchase by chartered nonpublic schools or by school 87738
districts for the benefit of pupils attending chartered nonpublic 87739
schools. 87740

eTech Ohio shall monitor the developments of technology, 87741
coordinate with the Office of Information Technology, and assure 87742
the most effective and highest quality operation of eTech Ohio 87743
networks. All efforts may be aligned with the State's ongoing 87744
efforts to coordinate appropriate network operations through the 87745
Office of Information Technology and through the Third Frontier 87746
Network. 87747

Section 206.31.15. TELECOMMUNITY 87748

The foregoing appropriation item 935-630, Telecommunity, 87749
shall be distributed by eTech Ohio on a grant basis to eligible 87750
school districts to establish "distance learning" through 87751

interactive video technologies in the school district. Per 87752
agreements with eight Ohio local telephone companies: ALLTEL Ohio, 87753
CENTURY Telephone of Ohio, Chillicothe Telephone Company, 87754
Cincinnati Bell Telephone Company, Orwell Telephone Company, 87755
Sprint North Central Telephone, VERIZON, and Western Reserve 87756
Telephone Company, school districts are eligible for funds if they 87757
are within one of the listed telephone company service areas. 87758
Funds to administer the program shall be expended by eTech Ohio up 87759
to the amount specified in agreements with the listed telephone 87760
companies. 87761

Within thirty days after the effective date of this section, 87762
the Director of Budget and Management shall transfer to Fund 4W9 87763
in the state special revenue fund group any investment earnings 87764
from moneys paid by any telephone company as part of any 87765
settlement agreement between the listed companies and the Public 87766
Utilities Commission in fiscal years 1996 and beyond. 87767

DISTANCE LEARNING 87768

The foregoing appropriation item 935-634, Distance Learning, 87769
shall be distributed by eTech Ohio on a grant basis to eligible 87770
school districts to establish "distance learning" in the school 87771
district. Per the agreement with Ameritech, school districts are 87772
eligible for funds if they are within an Ameritech service area. 87773
Funds to administer the program shall be expended by eTech Ohio up 87774
to the amount specified in the agreement with Ameritech. 87775

Within thirty days after the effective date of this section, 87776
the Director of Budget and Management shall transfer to fund 4X1 87777
in the State Special Revenue Fund Group any investment earnings 87778
from moneys paid by any telephone company as part of a settlement 87779
agreement between the company and the Public Utilities Commission 87780
in fiscal year 1995. 87781

GATES FOUNDATION GRANTS 87782

The foregoing appropriation item 935-607, Gates Foundation 87783
 Grants, shall be used by eTech Ohio to provide professional 87784
 development to school district principals, superintendents, and 87785
 other administrative staff for the use of education technology. 87786

Section 206.33. ETH OHIO ETHICS COMMISSION 87787

General Revenue Fund 87788
 GRF 146-321 Operating Expenses \$ 1,536,213 \$ 1,536,213 87789
 TOTAL GRF General Revenue Fund \$ 1,536,213 \$ 1,536,213 87790
 General Services Fund Group 87791
 4M6 146-601 Operating Expenses \$ 502,543 \$ 432,543 87792
 TOTAL GSF General Services 87793
 Fund Group \$ 502,543 \$ 432,543 87794
 TOTAL ALL BUDGET FUND GROUPS \$ 2,038,756 \$ 1,968,756 87795

Section 206.36. EXP OHIO EXPOSITIONS COMMISSION 87797

General Revenue Fund 87798
 GRF 723-403 Junior Fair Subsidy \$ 400,000 \$ 400,000 87799
 TOTAL GRF General Revenue Fund \$ 400,000 \$ 400,000 87800
 State Special Revenue Fund Group 87801
 4N2 723-602 Ohio State Fair \$ 520,000 \$ 520,000 87802
 Harness Racing
 506 723-601 Operating Expenses \$ 13,643,315 \$ 13,643,315 87803
 TOTAL SSR State Special Revenue 87804
 Fund Group \$ 14,163,315 \$ 14,163,315 87805
 TOTAL ALL BUDGET FUND GROUPS \$ 14,563,315 \$ 14,563,315 87806

Section 206.39. GOV OFFICE OF THE GOVERNOR 87808

General Revenue Fund 87809
 GRF 040-321 Operating Expenses \$ 3,981,582 \$ 3,981,582 87810
 GRF 040-403 Federal Relations \$ 422,760 \$ 422,760 87811

GRF 040-408 Office of Veterans' Affairs	\$	267,923	\$	267,923	87812
TOTAL GRF General Revenue Fund	\$	4,672,265	\$	4,672,265	87813
General Services Fund Group					87814
5AK 040-607 Federal Relations	\$	354,514	\$	354,514	87815
TOTAL GSF General Services Fund Group	\$	354,514	\$	354,514	87816
TOTAL ALL BUDGET FUND GROUPS	\$	5,026,779	\$	5,026,779	87817
APPOINTMENT OF LEGAL COUNSEL FOR THE GOVERNOR					87818
The Governor may expend a portion of the foregoing appropriation item 040-321, Operating Expenses, to hire or appoint legal counsel to be used in proceedings involving the Governor in the Governor's official capacity or the Governor's office only, without the approval of the Attorney General, notwithstanding sections 109.02 and 109.07 of the Revised Code.					87819 87820 87821 87822 87823 87824
FEDERAL RELATIONS					87825
A portion of the foregoing appropriation items 040-403, Federal Relations, and 040-607, Federal Relations, may be used to support Ohio's membership in national or regional associations.					87826 87827 87828
The Office of the Governor may charge any state agency of the executive branch using an intrastate transfer voucher such amounts necessary to defray the costs incurred for the conduct of federal relations associated with issues that can be attributed to the agency. Amounts collected shall be deposited to the Office of the Governor Federal Relations Fund (Fund 5AK).					87829 87830 87831 87832 87833 87834
Section 206.42. DOH DEPARTMENT OF HEALTH					87835
General Revenue Fund					87836
GRF 440-407 Animal Borne Disease and Prevention	\$	2,452,101	\$	2,452,101	87837
GRF 440-412 Cancer Incidence	\$	1,002,619	\$	1,002,619	87838

		Surveillance System					
GRF	440-413	Local Health	\$	3,786,794	\$	3,786,794	87839
		Department Support					
GRF	440-416	Child and Family	\$	9,532,874	\$	9,532,874	87840
		Health Services					
GRF	440-418	Immunizations	\$	8,600,615	\$	9,400,615	87841
GRF	440-431	Free Clinic Liability	\$	275,000	\$	325,000	87842
		Insurance					
GRF	440-444	AIDS Prevention and	\$	7,158,127	\$	7,158,127	87843
		Treatment					
GRF	440-446	Infectious Disease	\$	200,000	\$	200,000	87844
		Prevention					
GRF	440-451	Lab and Public Health	\$	6,085,250	\$	6,085,250	87845
		Prevention Programs					
GRF	440-452	Child and Family	\$	1,024,017	\$	1,024,017	87846
		Health Services Match					
GRF	440-453	Health Care Quality	\$	10,253,728	\$	10,253,728	87847
		Assurance					
GRF	440-454	Local Environmental	\$	889,752	\$	889,752	87848
		Health					
GRF	440-459	Help Me Grow	\$	9,323,797	\$	9,323,797	87849
GRF	440-461	Center for Vital and	\$	3,629,535	\$	3,629,535	87850
		Health Stats					
GRF	440-505	Medically Handicapped	\$	9,591,784	\$	8,791,784	87851
		Children					
GRF	440-507	Targeted Health Care	\$	1,631,023	\$	1,631,023	87852
		Services Over 21					
TOTAL GRF		General Revenue Fund	\$	75,437,016	\$	75,487,016	87853
		General Services Fund Group					87854
142	440-618	Agency Health Services	\$	2,461,915	\$	2,561,915	87855
211	440-613	Central Support	\$	26,584,707	\$	26,584,707	87856
		Indirect Costs					
473	440-622	Lab Operating Expenses	\$	4,154,045	\$	4,154,045	87857

683	440-633	Employee Assistance Program	\$	1,208,214	\$	1,208,214	87858
698	440-634	Nurse Aide Training	\$	170,000	\$	170,000	87859
TOTAL GSF General Services							87860
Fund Group			\$	34,578,881	\$	34,678,881	87861
Federal Special Revenue Fund Group							87862
320	440-601	Maternal Child Health Block Grant	\$	28,779,322	\$	29,025,635	87863
387	440-602	Preventive Health Block Grant	\$	7,755,005	\$	7,826,659	87864
389	440-604	Women, Infants, and Children	\$	219,920,083	\$	230,077,451	87865
391	440-606	Medicaid/Medicare	\$	24,211,198	\$	24,850,959	87866
392	440-618	Federal Public Health Programs	\$	126,678,202	\$	127,677,458	87867
TOTAL FED Federal Special Revenue Fund Group							87868
			\$	407,343,810	\$	419,458,162	87869
State Special Revenue Fund Group							87870
4D6	440-608	Genetics Services	\$	2,617,000	\$	2,617,000	87871
4F9	440-610	Sickle Cell Disease Control	\$	1,035,344	\$	1,035,344	87872
4G0	440-636	Heirloom Birth Certificate	\$	5,000	\$	5,000	87873
4G0	440-637	Birth Certificate Surcharge	\$	5,000	\$	5,000	87874
4L3	440-609	Non-Governmental Grants and Awards	\$	144,119	\$	144,119	87875
4T4	440-603	Child Highway Safety	\$	233,894	\$	233,894	87876
4V6	440-641	Save Our Sight	\$	1,767,994	\$	1,767,994	87877
470	440-618	Fee Supported Programs	\$	16,025,194	\$	16,025,194	87878
471	440-619	Certificate of Need	\$	581,572	\$	594,572	87879
477	440-627	Medically Handicapped	\$	3,800,000	\$	3,693,016	87880

	Children Audit						
5BL	440-638	Healthy Ohioans	\$	5,000,000	\$	0	87881
5B5	440-616	Quality, Monitoring, and Inspection	\$	838,479	\$	838,479	87882
5CB	440-640	Poison Control Centers	\$	200,000	\$	200,000	87883
5C0	440-615	Alcohol Testing and Permit	\$	1,455,405	\$	1,455,405	87884
5D6	440-620	Second Chance Trust	\$	1,054,951	\$	1,054,951	87885
5G4	440-639	Adoption Services	\$	20,000	\$	20,000	87886
5L1	440-623	Nursing Facility Technical Assistance Program	\$	617,517	\$	617,517	87887
610	440-626	Radiation Emergency Response	\$	850,000	\$	850,000	87888
666	440-607	Medically Handicapped Children - County Assessments	\$	14,320,687	\$	14,320,687	87889
TOTAL SSR State Special Revenue							87890
Fund Group			\$	50,572,156	\$	45,478,172	87891
Holding Account Redistribution Fund Group							87892
R14	440-631	Vital Statistics	\$	70,000	\$	70,000	87893
R48	440-625	Refunds, Grants Reconciliation, and Audit Settlements	\$	20,000	\$	20,000	87894
TOTAL 090 Holding Account							87895
Redistribution Fund Group			\$	90,000	\$	90,000	87896
TOTAL ALL BUDGET FUND GROUPS			\$	568,021,863	\$	575,192,231	87897

Section 206.42.03. CHILD AND FAMILY HEALTH SERVICES 87899

Of the foregoing appropriation item 440-416, Child and Family 87900
Health Services, not more than \$1,700,000 in each fiscal year 87901
shall be used for women's health services. 87902

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$270,000 shall be used in each fiscal year for the OPTIONS dental care access program.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$900,000 in each fiscal year shall be used by federally qualified health centers and federally designated look-alikes to provide services to uninsured low-income persons.

Of the foregoing appropriation item 440-416, Child and Family Health Services, not more than \$500,000 in each fiscal year shall be used for abstinence-only education. The Director of Health shall develop guidelines for the establishment of abstinence programs for teenagers with the purpose of decreasing unplanned pregnancies and abortion. The guidelines shall be developed pursuant to Title V of the "Social Security Act," 42 U.S.C. 510, and shall include, but are not limited to, advertising campaigns and direct training in schools and other locations.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cleveland, \$10,000 in each fiscal year shall be allocated to the Jewish Family Services in Cincinnati, \$10,000 shall be allocated in each fiscal year to the Jewish Family Services in Columbus, and \$10,000 in each fiscal year shall be allocated to the Wexner Heritage Village in Columbus for interpreters for health care.

Of the foregoing appropriation item 440-416, Child and Family Health Services, \$10,000 in each fiscal year shall be provided to the Jewish Family Services in Dayton, \$5,000 in each fiscal year shall be provided to the Jewish Community Center in Akron, \$5,000 in each fiscal year shall be provided to the Jewish Community Center in Sylvania, \$2,500 in each fiscal year shall be provided

to the Jewish Community Center in Youngstown, and \$2,500 in each 87934
fiscal year shall be provided to the Jewish Community Center in 87935
Canton. 87936

Of the foregoing appropriation item 440-416, Child and Family 87937
Health Services, \$450,000 in each fiscal year shall be allocated 87938
to the Visiting Nurse Association. 87939

Of the foregoing appropriation item 440-416, Child and Family 87940
Health Services, \$16,667 in each fiscal year shall be allocated to 87941
the Yassenoff Jewish Community Center, \$16,667 in each fiscal year 87942
shall be allocated to the Jewish Community Center in Cincinnati, 87943
and \$16,666 in each fiscal year shall be allocated to the Jewish 87944
Community Center in Cleveland for children's health and nutrition 87945
camp programs. 87946

Of the foregoing appropriation item 440-416, Child and Family 87947
Health Services, \$25,000 in each fiscal year shall be allocated to 87948
Clermont County's Comprehensive Community Suicide Prevention 87949
Program. 87950

Section 206.42.06. WOMEN'S HEALTH SERVICES 87951

None of the funds received through grants for women's health 87952
services under this section from the foregoing appropriation item 87953
440-416, Child and Family Health Services, shall be used to 87954
provide abortion services. None of the funds received through 87955
these grants shall be used for counseling for or referrals for 87956
abortion, except in the case of a medical emergency. These funds 87957
shall be distributed by the Director of Health to programs that 87958
the Department of Health determines will provide services that are 87959
physically and financially separate from abortion-providing and 87960
abortion-promoting activities, and that do not include counseling 87961
for or referrals for abortion, other than in the case of medical 87962
emergency. 87963

These women's health services include and are limited to the 87964
following: pelvic examinations and laboratory testing; breast 87965
examinations and patient education on breast cancer; screening for 87966
cervical cancer; screening and treatment for Sexually Transmitted 87967
Diseases (STDs) and HIV screening; voluntary choice of 87968
contraception, including abstinence and natural family planning; 87969
patient education and pre-pregnancy counseling on the dangers of 87970
smoking, alcohol, and drug use during pregnancy; education on 87971
sexual coercion and violence in relationships; and prenatal care 87972
or referral for prenatal care. These health care services shall be 87973
provided by licensed doctors, licensed nurses, licensed medical 87974
assistants, licensed counselors, and licensed social workers in a 87975
medical clinic setting. 87976

The Director of Health shall adopt rules under Chapter 119. 87977
of the Revised Code specifying reasonable eligibility standards 87978
that must be met to receive the state funding and provide 87979
reasonable methods by which a grantee wishing to be eligible for 87980
federal funding may comply with these requirements for state 87981
funding without losing its eligibility for federal funding. 87982

Each applicant for these funds shall provide sufficient 87983
assurance to the Director of Health of all of the following: 87984

(A) The program shall not discriminate in the provision of 87985
services based on an individual's religion, race, national origin, 87986
handicapping condition, age, sex, number of pregnancies, or 87987
marital status; 87988

(B) The program shall provide services without subjecting 87989
individuals to any coercion to accept services or to employ any 87990
particular methods of family planning; 87991

(C) Acceptance of services shall be solely on a voluntary 87992
basis and may not be made a prerequisite to eligibility for, or 87993
receipt of, any other service, assistance from, or participation 87994

in, any other program of the service provider; 87995

(D) The costs for services provided by the program, if any 87996
are charged, shall be based on the patient's ability to pay and 87997
priority in the provision of services shall be given to persons 87998
from low-income families. 87999

In distributing these grant funds, the Director of Health 88000
shall give priority to grant requests from local departments of 88001
health for women's health services to be provided directly by 88002
personnel of the local department of health. The Director of 88003
Health shall issue a single request for proposals for all grants 88004
under this set-aside. The Director of Health shall send a 88005
notification of this request for proposals to every local 88006
department of health in this state and shall place a notification 88007
on the department's web site. The Director shall allow at least 30 88008
days after issuing this notification before closing the period to 88009
receive applications. 88010

After the closing date for receiving grant applications, the 88011
Director of Health shall first consider grant applications from 88012
local departments of health that apply for grants for women's 88013
health services to be provided directly by personnel of the local 88014
department of health. Local departments of health that apply for 88015
grants for women's health services to be provided directly by 88016
personnel of the local department of health need not provide all 88017
the listed women's health services in order to qualify for a 88018
grant. However, in prioritizing awards among local departments of 88019
health that qualify for funding under this paragraph, the Director 88020
of Health may consider, among other reasonable factors, the 88021
comprehensiveness of the women's health services to be offered, 88022
provided that no local department of health shall be discriminated 88023
against in the process of awarding these grant funds because the 88024
applicant does not provide contraception. 88025

If funds remain after awarding grants to all local departments of health that qualify for the priority, the Director of Health may make grants to other applicants. Awards to other applicants may be made to those applicants that will offer all eight of the listed women's health services or that will offer all of the services except contraception. No applicant shall be discriminated against in the process of awarding these grant funds because the applicant does not provide contraception.

Section 206.42.09. IMMUNIZATIONS 88034

Of the foregoing appropriation item 440-418, Immunizations, \$800,000 in fiscal year 2007 shall be used for the purchase of varicella vaccines.

FREE CLINIC LIABILITY INSURANCE 88038

Of the foregoing appropriation item 440-431, Free Clinic Liability Insurance, up to \$20,000 in each fiscal year may be used by the Department of Health for administrative expenses related to the Medical Liability Insurance Reimbursement Program. The remainder in each fiscal year shall be used to pay for medical liability insurance for free clinics, including the clinics' staff and volunteer health care professionals and volunteer health care workers. The necessity and feasibility of the program shall be reviewed as part of the next biennial budget.

HIV/AIDS PREVENTION/TREATMENT 88048

Of the foregoing appropriation item 440-444, AIDS Prevention and Treatment, not more than \$6.7 million per fiscal year shall be used to assist persons with HIV/AIDS in acquiring HIV-related medications.

INFECTIOUS DISEASE PREVENTION 88053

The foregoing appropriation item 440-446, Infectious Disease Prevention, shall be used for the purchase of drugs for sexually

transmitted diseases. 88056

HELP ME GROW 88057

The foregoing appropriation item 440-459, Help Me Grow, shall 88058
be used by the Department of Health to distribute subsidies to 88059
counties to implement the Help Me Grow Program. Appropriation item 88060
440-459, Help Me Grow, may be used in conjunction with Temporary 88061
Assistance for Needy Families from the Department of Job and 88062
Family Services, Early Intervention funding from the Department of 88063
Mental Retardation and Developmental Disabilities, and in 88064
conjunction with other early childhood funds and services to 88065
promote the optimal development of young children. Local contracts 88066
shall be developed between local departments of job and family 88067
services and family and children first councils for the 88068
administration of TANF funding for the Help Me Grow Program. The 88069
Department of Health shall enter into an interagency agreement 88070
with the Department of Education, Department of Mental Retardation 88071
and Developmental Disabilities, Department of Job and Family 88072
Services, and Department of Mental Health to ensure that all early 88073
childhood programs and initiatives are coordinated and school 88074
linked. 88075

TARGETED HEALTH CARE SERVICES OVER 21 88076

In each fiscal year, of the foregoing appropriation item 88077
440-507, Targeted Health Care Services Over 21, \$731,023 shall be 88078
used to administer the cystic fibrosis program and implement the 88079
Hemophilia Insurance Premium Payment Program. 88080

Of the foregoing appropriation item 440-507, Targeted Health 88081
Care Services Over 21, \$900,000 in each fiscal year shall be used 88082
to provide essential medications for the cystic fibrosis program. 88083

MATERNAL CHILD HEALTH BLOCK GRANT 88084

Of the foregoing appropriation item 440-601, Maternal Child 88085

Health Block Grant (Fund 320), \$2,091,299 shall be used in each 88086
fiscal year for the purposes of abstinence-only education. The 88087
Director of Health shall develop guidelines for the establishment 88088
of abstinence programs for teenagers with the purpose of 88089
decreasing unplanned pregnancies and abortion. The guidelines 88090
shall be developed under Title V of the "Social Security Act," 42 88091
U.S.C. 510, and shall include, but are not limited to, advertising 88092
campaigns and direct training in schools and other locations. 88093

GENETICS SERVICES 88094

The foregoing appropriation item 440-608, Genetics Services 88095
(Fund 4D6), shall be used by the Department of Health to 88096
administer programs authorized by sections 3701.501 and 3701.502 88097
of the Revised Code. None of these funds shall be used to counsel 88098
or refer for abortion, except in the case of a medical emergency. 88099

SAFETY AND QUALITY OF CARE STANDARDS 88100

The Department of Health may use Fund 471, Certificate of 88101
Need, for administering sections 3702.11 to 3702.20 and 3702.30 of 88102
the Revised Code in each fiscal year. 88103

MEDICALLY HANDICAPPED CHILDREN AUDIT 88104

The Medically Handicapped Children Audit Fund (Fund 477) 88105
shall receive revenue from audits of hospitals and recoveries from 88106
third-party payers. Moneys may be expended for payment of audit 88107
settlements and for costs directly related to obtaining recoveries 88108
from third-party payers and for encouraging Medically Handicapped 88109
Children's Program recipients to apply for third-party benefits. 88110
Moneys also may be expended for payments for diagnostic and 88111
treatment services on behalf of medically handicapped children, as 88112
defined in division (A) of section 3701.022 of the Revised Code, 88113
and Ohio residents who are twenty-one or more years of age and who 88114
are suffering from cystic fibrosis or hemophilia. Moneys may also 88115
be expended for administrative expenses incurred in operating the 88116

Medically Handicapped Children's Program.	88117
CASH TRANSFER FROM LIQUOR CONTROL FUND TO ALCOHOL TESTING AND PERMIT FUND	88118
	88119
The Director of Budget and Management, pursuant to a plan submitted by the Department of Health, or as otherwise determined by the Director of Budget and Management, shall set a schedule to transfer cash from the Liquor Control Fund (Fund 043) to the Alcohol Testing and Permit Fund (Fund 5C0) to meet the operating needs of the Alcohol Testing and Permit program.	88120
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	88125
The Director of Budget and Management shall transfer to the Alcohol Testing and Permit Fund (Fund 5C0) from the Liquor Control Fund (Fund 043) created in section 4301.12 of the Revised Code such amounts at such times as determined by the transfer schedule.	88126
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	88128
	88129
MEDICALLY HANDICAPPED CHILDREN - COUNTY ASSESSMENTS	88130
The foregoing appropriation item 440-607, Medically Handicapped Children - County Assessments (Fund 666), shall be used to make payments under division (E) of section 3701.023 of the Revised Code.	88131
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	88134
Section 206.42.12. MEDICALLY HANDICAPPED CHILDREN - FUTURE FUNDING	88135
	88136
(A) There is hereby created the Legislative Committee on the Future Funding of the Bureau for Children with Medical Handicaps. The Speaker of the House of Representatives shall appoint three members of the House of Representatives, not more than two of whom shall belong to the same political party as the Speaker. The President of the Senate shall appoint three members of the Senate, not more than two of whom shall belong to the same political party as the President. The Speaker of the House of Representatives and the President of the Senate shall each appoint three members of the general public who suffer from a disease or disorder covered	88137
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by the Program for Medically Handicapped Children (otherwise known
as the Bureau for Children with Medical Handicaps) in the Ohio
Department of Health, or family members of such individuals. The
following also shall serve on the Committee:

(1) The Director of Health, or the Director's designee;

(2) The Superintendent of Insurance, or the Superintendent's
designee;

(3) The Director of Job and Family Services, or the
Director's designee;

(4) One person designated by the County Commissioners
Association of Ohio;

(5) One person designated by the Ohio Children's Hospital
Association;

(6) One person designated by the Ohio Association of Health
Plans;

(7) One person designated by the American Academy of
Pediatrics;

(8) One person designated by the Ohio hospital association;

(9) One person designated by the Ohio association of health
commissioners;

(10) One person designated by the Ohio nurses association.

Members of the Committee shall elect a chairperson. A
majority of the members of the Committee constitutes a quorum for
the conduct of Committee meetings.

(B) Members of the Committee shall receive no compensation.

(C) The Committee shall do all of the following:

(1) Examine the current status of the Program and recommend
best practices to be used in assisting working parents who have

children with special health needs;	88175
(2) Review all existing statutes and rules in Ohio pertaining to the Program;	88176 88177
(3) Review payment strategies in other states that facilitate adequate care for children with chronic conditions and support their families;	88178 88179 88180
(4) Review all funding sources for the Program, including funding received from county levies, the General Revenue Fund and other state-based sources, and the Maternal and Child Health Block Grant of Title V of the "Social Security Act," 40 Stat. 620 (1935), 42 U.S.C. 301;	88181 88182 88183 88184 88185
(5) Request testimony from parents of children with special health needs and the children themselves and from health care professionals and other individuals who provide services to Bureau patients;	88186 88187 88188 88189
(D) Not later than December 31, 2006, the Committee shall make recommendations and submit a report to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. The report shall include an analysis of the current system of services covered by the Program and may include determinations and recommendations regarding how the state can best address the current and future needs of patients served by the Program. On submission of the report, the Committee shall cease to exist.	88190 88191 88192 88193 88194 88195 88196 88197 88198
Section 206.42.13. REVISION OF RULES GOVERNING PROGRAM FOR MEDICALLY HANDICAPPED CHILDREN	88199 88200
Not later than December 1, 2005, the Public Health Council shall revise rule 3701-43-16 of the Administrative Code regarding financial eligibility for payment for treatment under the Program for Medically Handicapped Children. As part of the revision, the	88201 88202 88203 88204

Public Health Council shall return the financial eligibility	88205
levels for fiscal years 2006 and 2007 to the levels in effect	88206
prior to October 13, 2003.	88207
Beginning July 1, 2005, the Department of Health shall	88208
contact all persons who lost eligibility for the Program for	88209
Medically Handicapped Children or their parents or guardians to	88210
inform them of revisions made to the Program's eligibility rules.	88211
Section 206.42.16. NURSING FACILITY TECHNICAL ASSISTANCE	88212
PROGRAM	88213
The Director of Budget and Management shall transfer, by	88214
intrastate transfer voucher, each fiscal year, cash from Fund 4E3,	88215
Resident Protection Fund, in the Ohio Department of Job and Family	88216
Services, to Fund 5L1, Nursing Facility Technical Assistance	88217
Program Fund, in the Ohio Department of Health, to be used under	88218
section 3721.026 of the Revised Code. The transfers shall equal	88219
\$183,843 in fiscal year 2006 and \$617,517 in fiscal year 2007.	88220
Section 206.42.19. TRANSFER FROM STATE FIRE MARSHAL'S FUND	88221
(FUND 546) TO THE POISON CONTROL FUND (FUND 5CB) IN THE DEPARTMENT	88222
OF HEALTH	88223
Notwithstanding section 3737.71 of the Revised Code, on July	88224
1, 2005, or as soon as possible thereafter, the Director of Budget	88225
and Management shall transfer \$200,000 cash from the State Fire	88226
Marshal's Fund (Fund 546) in the Department of Commerce to the	88227
Poison Control Fund (Fund 5CB) in the Department of Health, which	88228
is hereby created. Notwithstanding section 3737.71 of the Revised	88229
Code, on July 1, 2006, or as soon as possible thereafter, the	88230
Director of Budget and Management shall transfer \$200,000 cash	88231
from the State Fire Marshal's Fund (Fund 546) in the Department of	88232
Commerce to the Poison Control Fund (Fund 5CB) in the Department	88233
of Health.	88234

POISON CONTROL CENTERS				88235
Of the foregoing appropriation item 440-640, Poison Control Centers, in each fiscal year, the poison control centers in the municipal corporations of Cleveland, Cincinnati, Columbus, and Dayton shall each receive an allocation of \$50,000.				88236 88237 88238 88239
Section 206.45. HEF HIGHER EDUCATIONAL FACILITY COMMISSION				88240
Agency Fund Group				88241
461 372-601 Operating Expenses	\$	16,819	\$ 16,819	88242
TOTAL AGY Agency Fund Group	\$	16,819	\$ 16,819	88243
TOTAL ALL BUDGET FUND GROUPS	\$	16,819	\$ 16,819	88244
Section 206.48. SPA COMMISSION ON HISPANIC/LATINO AFFAIRS				88246
General Revenue Fund				88247
GRF 148-100 Personal Services	\$	145,880	\$ 145,880	88248
GRF 148-200 Maintenance	\$	35,901	\$ 35,901	88249
TOTAL GRF General Revenue Fund	\$	181,781	\$ 181,781	88250
General Services Fund Group				88251
601 148-602 Gifts and	\$	20,000	\$ 20,000	88252
Miscellaneous				
TOTAL GSF General Services				88253
Fund Group	\$	20,000	\$ 20,000	88254
TOTAL ALL BUDGET FUND GROUPS	\$	201,781	\$ 201,781	88255
Section 206.51. OHS OHIO HISTORICAL SOCIETY				88257
General Revenue Fund				88258
GRF 360-501 Operating Subsidy	\$	3,288,274	\$ 3,288,274	88259
GRF 360-502 Site Operations	\$	8,388,725	\$ 8,388,725	88260
GRF 360-504 Ohio Preservation	\$	281,041	\$ 281,041	88261
Office				
GRF 360-505 Afro-American Museum	\$	754,884	\$ 754,884	88262

GRF 360-506 Hayes Presidential Center	\$	509,231	\$	509,231	88263
GRF 360-508 Historical Grants	\$	1,172,500	\$	1,172,500	88264
TOTAL GRF General Revenue Fund	\$	14,394,655	\$	14,394,655	88265
TOTAL ALL BUDGET FUND GROUPS	\$	14,394,655	\$	14,394,655	88266

SUBSIDY APPROPRIATION 88267

Upon approval by the Director of Budget and Management, the 88268
foregoing appropriation items shall be released to the Ohio 88269
Historical Society in quarterly amounts that in total do not 88270
exceed the annual appropriations. The funds and fiscal records of 88271
the society for fiscal years 2006 and 2007 shall be examined by 88272
independent certified public accountants approved by the Auditor 88273
of State, and a copy of the audited financial statements shall be 88274
filed with the Office of Budget and Management. The society shall 88275
prepare and submit to the Office of Budget and Management the 88276
following: 88277

(A) An estimated operating budget for each fiscal year of the 88278
biennium. The operating budget shall be submitted at or near the 88279
beginning of each calendar year. 88280

(B) Financial reports, indicating actual receipts and 88281
expenditures for the fiscal year to date. These reports shall be 88282
filed at least semiannually during the fiscal biennium. 88283

The foregoing appropriations shall be considered to be the 88284
contractual consideration provided by the state to support the 88285
state's offer to contract with the Ohio Historical Society under 88286
section 149.30 of the Revised Code. 88287

HAYES PRESIDENTIAL CENTER 88288

If a United States government agency, including, but not 88289
limited to, the National Park Service, chooses to take over the 88290
operations or maintenance of the Hayes Presidential Center, in 88291
whole or in part, the Ohio Historical Society shall make 88292

arrangements with the National Park Service or other United States 88293
government agency for the efficient transfer of operations or 88294
maintenance. 88295

HISTORICAL GRANTS 88296

Of the foregoing appropriation item 360-508, Historical 88297
Grants, \$250,000 in each fiscal year shall be distributed to the 88298
Western Reserve Historical Society in Cleveland. 88299

Of the foregoing appropriation item 360-508, Historical 88300
Grants, \$225,000 in each fiscal year shall be distributed to the 88301
Great Lakes Historical Society in Vermilion. 88302

Of the foregoing appropriation item 360-508, Historical 88303
Grants, \$75,000 in each fiscal year shall be distributed to the 88304
Hebrew Union College in Cincinnati for the Center for Holocaust 88305
and Humanity Education, \$100,000 in each fiscal year shall be 88306
distributed to Art Academy of Cincinnati, and \$250,000 in each 88307
fiscal year shall be distributed to the Cincinnati Museum Center. 88308

Of the foregoing appropriation item 360-508, Historical 88309
Grants, \$12,500 in each fiscal year shall be distributed to the 88310
Roseville Historical Society. 88311

Of the foregoing appropriation item 360-508, Historical 88312
Grants, \$125,000 in each fiscal year shall be distributed to the 88313
Harbor Heritage Society Steamship Mather in Cleveland. 88314

Of the foregoing appropriation item 360-508, Historical 88315
Grants, \$35,000 in each fiscal year shall be distributed to the 88316
Castle Farm project in the City of Mason. 88317

Section 206.54. REP OHIO HOUSE OF REPRESENTATIVES 88318

General Revenue Fund 88319

GRF 025-321 Operating Expenses \$ 20,169,168 \$ 20,370,859 88320

TOTAL GRF General Revenue Fund \$ 20,169,168 \$ 20,370,859 88321

General Services Fund Group				88322
103 025-601 House Reimbursement	\$	1,419,469	\$ 1,419,469	88323
4A4 025-602 Miscellaneous Sales	\$	37,474	\$ 37,474	88324
TOTAL GSF General Services				88325
Fund Group	\$	1,456,943	\$ 1,456,943	88326
TOTAL ALL BUDGET FUND GROUPS	\$	21,626,111	\$ 21,827,802	88327

OPERATING EXPENSES 88328

On July 1, 2005, or as soon as possible thereafter, the Chief 88329
Administrative Officer of the House of Representatives shall 88330
certify to the Director of Budget and Management the total fiscal 88331
year 2005 unencumbered appropriations in appropriation item 88332
025-321, Operating Expenses. The Chief Administrative Officer may 88333
direct the Director of Budget and Management to transfer an amount 88334
not to exceed the total fiscal year 2005 unencumbered 88335
appropriations to fiscal year 2006 for use within appropriation 88336
item 025-321, Operating Expenses. Additional appropriation 88337
authority equal to the amount certified by the Chief 88338
Administrative Officer is hereby appropriated to appropriation 88339
item 025-321, Operating Expenses, in fiscal year 2006. 88340

On July 1, 2006, or as soon as possible thereafter, the Chief 88341
Administrative Officer of the House of Representatives shall 88342
certify to the Director of Budget and Management the total fiscal 88343
year 2006 unencumbered appropriations in appropriation item 88344
025-321, Operating Expenses. The Chief Administrative Officer may 88345
direct the Director of Budget and Management to transfer an amount 88346
not to exceed the total fiscal year 2006 unencumbered 88347
appropriations to fiscal year 2007 for use within appropriation 88348
item 025-321, Operating Expenses. Additional appropriation 88349
authority equal to the amount certified by the Chief 88350
Administrative Officer is hereby appropriated to appropriation 88351
item 025-321, Operating Expenses, in fiscal year 2007. 88352

Section 206.57.	HFA OHIO HOUSING FINANCE AGENCY			88353
	General Services Fund Group			88354
	5AZ 997-601 Housing Finance Agency	\$ 8,100,000	\$ 8,100,000	88355
	Personal Services			
	TOTAL GSF General Services Fund	\$ 8,100,000	\$ 8,100,000	88356
	Group			
	TOTAL ALL BUDGET FUND GROUPS	\$ 8,100,000	\$ 8,100,000	88357
Section 206.60.	IGO OFFICE OF THE INSPECTOR GENERAL			88359
	General Revenue Fund			88360
	GRF 965-321 Operating Expenses	\$ 950,868	\$ 979,085	88361
	TOTAL GRF General Revenue Fund	\$ 950,868	\$ 979,085	88362
	General Services Fund Group			88363
	4Z3 965-602 Special Investigations	\$ 100,000	\$ 100,000	88364
	TOTAL GSF General Services Fund	\$ 100,000	\$ 100,000	88365
	Group			
	TOTAL ALL BUDGET FUND GROUPS	\$ 1,050,868	\$ 1,079,085	88366
	SPECIAL INVESTIGATIONS			88367
	Of the foregoing appropriation item 965-602, Special			88368
	Investigations, up to \$100,000 in each fiscal year may be used for			88369
	investigative costs, pursuant to section 121.481 of the Revised			88370
	Code.			88371
Section 206.63.	INS DEPARTMENT OF INSURANCE			88372
	Federal Special Revenue Fund Group			88373
	3U5 820-602 OSHIIP Operating Grant	\$ 1,080,000	\$ 1,080,000	88374
	TOTAL FED Federal Special			88375
	Revenue Fund Group	\$ 1,080,000	\$ 1,080,000	88376
	State Special Revenue Fund Group			88377
	554 820-601 Operating Expenses -	\$ 564,754	\$ 571,772	88378

OSHIIP

554 820-606 Operating Expenses	\$	22,654,232	\$	22,832,214	88379
555 820-605 Examination	\$	7,639,581	\$	7,639,581	88380
TOTAL SSR State Special Revenue					88381
Fund Group	\$	30,858,567	\$	31,043,567	88382
TOTAL ALL BUDGET FUND GROUPS	\$	31,938,567	\$	32,123,567	88383

MARKET CONDUCT EXAMINATION 88384

When conducting a market conduct examination of any insurer 88385
doing business in this state, the Superintendent of Insurance may 88386
assess the costs of the examination against the insurer. The 88387
superintendent may enter into consent agreements to impose 88388
administrative assessments or fines for conduct discovered that 88389
may be violations of statutes or rules administered by the 88390
superintendent. All costs, assessments, or fines collected shall 88391
be deposited to the credit of the Department of Insurance 88392
Operating Fund (Fund 554). 88393

EXAMINATIONS OF DOMESTIC FRATERNAL BENEFIT SOCIETIES 88394

The Director of Budget and Management, at the request of the 88395
Superintendent of Insurance, may transfer funds from the 88396
Department of Insurance Operating Fund (Fund 554), created by 88397
section 3901.021 of the Revised Code, to the Superintendent's 88398
Examination Fund (Fund 555), created by section 3901.071 of the 88399
Revised Code, only for expenses incurred in examining domestic 88400
fraternal benefit societies as required by section 3921.28 of the 88401
Revised Code. 88402

Section 206.66. JFS DEPARTMENT OF JOB AND FAMILY SERVICES 88403

General Revenue Fund					88404
GRF 600-321 Support Services					88405
State	\$	62,709,350	\$	59,977,736	88406
Federal	\$	8,103,050	\$	8,442,202	88407

	Support Services Total	\$	70,812,400	\$	68,419,938	88408
GRF 600-410	TANF State	\$	272,619,061	\$	272,619,061	88409
GRF 600-413	Child Care	\$	84,120,596	\$	84,120,596	88410
	Match/Maintenance of Effort					
GRF 600-416	Computer Projects					88411
	State	\$	114,516,710	\$	117,226,021	88412
	Federal	\$	37,579,198	\$	34,255,465	88413
	Computer Projects Total	\$	152,095,908	\$	151,481,486	88414
GRF 600-420	Child Support Administration	\$	5,091,446	\$	5,091,446	88415
GRF 600-421	Office of Family Stability	\$	4,864,932	\$	4,864,932	88416
GRF 600-423	Office of Children and Families	\$	5,408,020	\$	5,431,690	88417
GRF 600-425	Office of Ohio Health Plans					88418
	State	\$	24,803,631	\$	24,054,873	88419
	Federal	\$	26,539,544	\$	25,810,409	88420
	Office of Ohio Health Plans Total	\$	51,343,175	\$	49,865,282	88421
GRF 600-502	Child Support Match	\$	16,814,103	\$	16,814,103	88422
GRF 600-511	Disability Financial Assistance	\$	22,839,371	\$	22,839,371	88423
GRF 600-512	Non-TANF Disaster Assistance	\$	1,000,000	\$	1,000,000	88424
GRF 600-521	Entitlement Administration - Local	\$	151,206,401	\$	151,206,401	88425
GRF 600-523	Children and Families Subsidy	\$	69,438,543	\$	69,438,543	88426
GRF 600-525	Health Care/Medicaid State	\$	3,777,442,629	\$	3,795,940,675	88428

	Federal	\$ 5,652,650,287	\$ 5,731,692,576	88429
	Health Care Total	\$ 9,430,092,916	\$ 9,527,633,251	88430
GRF 600-526	Medicare Part D	\$ 155,349,266	\$ 339,578,325	88431
GRF 600-528	Adoption Services			88432
	State	\$ 33,698,298	\$ 35,516,130	88433
	Federal	\$ 40,331,807	\$ 43,022,485	88434
	Adoption Services	\$ 74,030,105	\$ 78,538,615	88435
	Total			
TOTAL GRF	General Revenue Fund			88436
	State	\$ 4,801,922,357	\$ 5,005,719,903	88437
	Federal	\$ 5,765,203,886	\$ 5,843,223,137	88438
	GRF Total	\$10,567,126,243	\$10,848,943,040	88439
	General Services Fund Group			88440
4A8 600-658	Child Support	\$ 26,680,794	\$ 26,680,794	88441
	Collections			
4R4 600-665	BCII Services/Fees	\$ 36,974	\$ 36,974	88442
5C9 600-671	Medicaid Program	\$ 73,015,021	\$ 63,947,536	88443
	Support			
5N1 600-677	County Technologies	\$ 1,000,000	\$ 1,000,000	88444
613 600-645	Training Activities	\$ 135,000	\$ 135,000	88445
TOTAL GSF	General Services			88446
Fund Group		\$ 100,867,789	\$ 91,800,304	88447
	Federal Special Revenue Fund Group			88448
3AW 600-675	Faith Based	\$ 750,000	\$ 750,000	88449
	Initiatives			
3A2 600-641	Emergency Food	\$ 2,600,000	\$ 2,800,000	88450
	Distribution			
3BB 600-635	Children's Hospitals -	\$ 9,000,000	\$ 9,000,000	88451
	Federal			
3D3 600-648	Children's Trust Fund	\$ 2,040,524	\$ 2,040,524	88452
	Federal			
3F0 600-623	Health Care Federal	\$ 616,011,784	\$ 771,889,193	88453

198	600-647	Children's Trust Fund	\$	6,788,522	\$	6,788,522	88475
4A9	600-607	Unemployment Compensation Administration Fund	\$	10,811,527	\$	10,811,527	88476
4A9	600-694	Unemployment Compensation Review Commission	\$	3,188,473	\$	3,188,473	88477
4E3	600-605	Nursing Home Assessments	\$	4,759,914	\$	4,759,914	88478
4E7	600-604	Child and Family Services Collections	\$	1,237,500	\$	300,000	88479
4F1	600-609	Foundation Grants/Child and Family Services	\$	61,420	\$	61,420	88480
4J5	600-613	Nursing Facility Bed Assessments	\$	34,613,984	\$	34,613,984	88481
4J5	600-618	Residential State Supplement Payments	\$	15,700,000	\$	15,700,000	88482
4K1	600-621	ICF/MR Bed Assessments	\$	20,074,255	\$	20,064,131	88483
4R3	600-687	Banking Fees	\$	800,000	\$	800,000	88484
4Z1	600-625	HealthCare Compliance	\$	10,000,000	\$	10,000,000	88485
5AA	600-673	Ohio's Best Rx Administration	\$	5,000,000	\$	5,000,000	88486
5BE	600-693	Child Support Operating	\$	5,000,000	\$	5,000,000	88487
5BG	600-653	Managed Care Assessment	\$	18,795,483	\$	99,410,121	88488
5CR	600-636	Children's Hospitals - State	\$	6,000,000	\$	6,000,000	88489
5F2	600-667	Building Consolidation	\$	250,000	\$	250,000	88490
5F3	600-668	Building Consolidation	\$	1,000,000	\$	1,000,000	88491
5P5	600-692	Health Care Services	\$	828,587,776	\$	538,301,761	88492
5Q9	600-619	Supplemental Inpatient	\$	56,125,998	\$	56,125,998	88493

		Hospital Payments				
5R2	600-608	Medicaid-Nursing	\$	160,192,055	\$	176,632,090
		Facilities				88494
5S3	600-629	MR/DD Medicaid	\$	1,620,960	\$	1,620,960
		Administration and				88495
		Oversight				
5U3	600-654	Health Care Services	\$	10,115,870	\$	15,474,709
		Administration				88496
5U6	600-663	Children and Family	\$	4,929,717	\$	4,929,717
		Support				88497
5Z9	600-672	TANF Quality Control	\$	647,409	\$	688,421
		Reinvestments				88498
651	600-649	Hospital Care	\$	231,893,404	\$	231,893,404
		Assurance Program Fund				88499
TOTAL SSR State Special Revenue						88500
Fund Group			\$	1,438,194,267	\$	1,249,415,152
Agency Fund Group						88502
192	600-646	Support Intercept -	\$	110,000,000	\$	110,000,000
		Federal				88503
5B6	600-601	Food Stamp Intercept	\$	2,000,000	\$	2,000,000
						88504
583	600-642	Support Intercept -	\$	16,000,000	\$	16,000,000
		State				88505
TOTAL AGY Agency Fund Group			\$	128,000,000	\$	128,000,000
Holding Account Redistribution Fund Group						88507
R12	600-643	Refunds and Audit	\$	3,600,000	\$	3,600,000
		Settlements				88508
R13	600-644	Forgery Collections	\$	10,000	\$	10,000
						88509
TOTAL 090 Holding Account			\$	3,610,000	\$	3,610,000
Redistribution Fund Group						88510
TOTAL ALL BUDGET FUND GROUPS			\$	17,078,547,447	\$	17,401,414,127
Section 206.66.03. APPROPRIATION ITEM RESTRUCTURING						88511
						88513

(A) If the Directors of Job and Family Services and Budget and Management agree, the Director of Budget and Management may, in fiscal years 2006 and 2007, reduce appropriations in appropriation items 600-321, Support Services, and 600-416, Computer Projects, by amounts equal to the federal share in each appropriation item. The total amount by which these appropriation items are reduced in accordance with this division is hereby appropriated to appropriation item 600-651, Federal General Operating (Fund 3AX).

(B) The Department of Job and Family Services may submit to the Office of Budget and Management a plan to realign appropriation items 600-321, Support Services, and 600-416, Computer Projects. The plan may include a request for the Director of Budget and Management to transfer appropriations from appropriation items 600-321, Support Services, and 600-416, Computer Projects, to any other General Revenue Fund appropriation items in Section 312.03 of this act. If the plan is approved by the Office of Budget and Management, the Director of Budget and Management shall transfer appropriations as requested in the plan. Dollars spent pursuant to appropriations transferred in accordance with this division shall be for the same purposes for which the original appropriations were made.

(C) In fiscal year 2007, the Department of Job and Family Services, with the approval of the Office of Budget and Management, shall utilize a method for determining the payments from applicable appropriation items into the Support Services State Operating Fund (Fund 230). The method shall contain characteristics of administrative ease and uniform application. Payments to the Support Services State Operating Fund (Fund 230) shall be made by intrastate transfer voucher. Amounts transferred in accordance with this division are hereby appropriated to appropriation item 600-661, Support Services State Operating (Fund

230).	88546
Section 206.66.06. GOVERNOR'S OFFICE OF FAITH-BASED AND COMMUNITY INITIATIVES	88547 88548
Of the foregoing appropriation item 600-321, Support Services, up to \$312,500 per fiscal year may be used to support the activities of the Governor's Office of Faith-Based and Community Initiatives.	88549 88550 88551 88552
Section 206.66.09. TANF OHIO WORKS FIRST CASH ASSISTANCE PAYMENTS	88553 88554
The Department of Job and Family Services shall use a portion of the moneys appropriated for the TANF program in appropriation items 600-410, TANF State; 600-658, Child Support Collections; and 600-689, TANF Block Grant, to increase the cash assistance provided to recipients of benefits under the TANF Ohio Works First program by up to 10 per cent as compared to the cash assistance provided prior to July 1, 2005. The increased TANF cash assistance benefit shall be effective October 1, 2005.	88555 88556 88557 88558 88559 88560 88561 88562
Section 206.66.10. MEDICAID DATA SYSTEM	88563
Upon receipt of federal approval and assured ninety per cent reimbursement for the project, up to \$6,000,000 in state and federal funds in fiscal year 2006 and up to \$4,000,000 in state and federal funds in fiscal year 2007 shall be used to fund the computer system specified in section 5111.915 of the Revised Code.	88564 88565 88566 88567 88568
Section 206.66.12. OHIO'S BEST RX START-UP COSTS	88569
An amount equal to the remaining unencumbered balance in appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from fiscal year 2005 is hereby appropriated for fiscal year 2006 into appropriation item 600-440, Ohio's Best Rx Start-Up Costs. An	88570 88571 88572 88573

amount equal to the remaining unencumbered balance in 88574
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, from 88575
fiscal year 2006 is hereby appropriated for fiscal year 2007 into 88576
appropriation item 600-440, Ohio's Best Rx Start-up Costs. The 88577
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, shall 88578
be used by the Department of Job and Family Services to pay for 88579
the administrative and operational expenses for the Ohio's Best Rx 88580
Program in accordance with Chapter 5110. of the Revised Code, 88581
including costs associated with the duties assigned by the 88582
Department to the Ohio's Best Rx Program Administrator and for 88583
making payments to participating terminal distributors until 88584
sufficient cash exists to make payments from the accounts created 88585
in sections 5110.32 and 5110.33 of the Revised Code. Of 88586
appropriation item 600-440, Ohio's Best Rx Start-Up Costs, not 88587
more than \$750,000 per fiscal year may be used by the department 88588
for administrative and operational costs, excluding outreach, that 88589
are not associated with the Ohio's Best Rx Program Administrator 88590
or the payments to participating terminal distributors. 88591

If the Director of Job and Family Services estimates that the 88592
appropriation is insufficient to fully cover start-up costs, the 88593
Director shall, in consultation with the Director of Budget and 88594
Management, submit a letter to the Governor, President of the 88595
Senate, Speaker of the House of Representatives, and the minority 88596
leaders of the Senate and House of Representatives. The letter 88597
shall declare the additional appropriation estimated to be needed 88598
and shall show a breakdown of how the additional appropriation 88599
will be used. The Director of Job and Family Services shall obtain 88600
the approval of the Controlling Board for any supplemental 88601
appropriation, if required. The amount approved by the Controlling 88602
Board is hereby appropriated. The use of state funds for program 88603
costs as provided in this section shall in no way obligate the 88604
state to fund further program costs, as the program is a discount 88605

program, not an entitlement program. 88606

OHIO'S BEST RX ADMINISTRATION 88607

The foregoing appropriation item 600-673, Ohio's Best Rx 88608
Administration, shall be used on an ongoing basis to cover 88609
expenses associated with the Ohio's Best Rx Program defined in 88610
section 5110.33 of the Revised Code. If receipts to the fund 88611
exceed the appropriated amount, the Director of Job and Family 88612
Services may request that the Director of Budget and Management 88613
increase the appropriation of this fund. Upon approval from the 88614
Director of Budget and Management, the additional amounts are 88615
hereby appropriated. 88616

Section 206.66.21. TANF TRANSFERS 88617

(A) Notwithstanding any provision of law to the contrary, 88618
through June 30, 2007, if the Director of Budget and Management 88619
determines that the estimated ending fund balance of the General 88620
Revenue Fund will be greater than the amounts assumed in this act 88621
for either fiscal year, the director may transfer the excess 88622
balance, up to a total of \$96,000,000 to Fund 5AX, Public 88623
Assistance Reconciliation Fund, to pay the state's outstanding 88624
TANF liability to the federal government. Upon transfer, these 88625
amounts are hereby appropriated. This division does not apply to 88626
division (A) of Section 312.09, Budget Stabilization Fund 88627
Transfers, of this act. 88628

(B) In executing division (A) of this section and division 88629
(A) of Section 312.09, Budget Stabilization Fund Transfers, it is 88630
intended that these divisions be applied and construed so that 88631
both of the transfers authorized under these divisions may be made 88632
through June 30, 2007. 88633

Section 206.66.22. FISCAL YEAR 2006 AND FISCAL YEAR 2007 88634
MEDICAID REIMBURSEMENT SYSTEM FOR ICFs/MR 88635

(A) As used in this section: 88636

"2003 cost report" means a complete and adequate Medicaid 88637
cost report covering calendar year 2003 filed with the Department 88638
of Job and Family Services under section 5111.26 of the Revised 88639
Code. 88640

"Intermediate care facility for the mentally retarded" has 88641
the same meaning as in section 5111.20 of the Revised Code. 88642

"ICF/MR services" means intermediate care facility for the 88643
mentally retarded services covered by the Medicaid program that an 88644
intermediate care facility for the mentally retarded provides to a 88645
resident of the facility who is a Medicaid recipient eligible for 88646
Medicaid-covered intermediate care facility for the mentally 88647
retarded services. 88648

(B) Except as provided in division (C) of this section, an 88649
intermediate care facility for the mentally retarded that has a 88650
valid Medicaid provider agreement on June 30, 2005, and a valid 88651
Medicaid provider agreement for fiscal years 2006 and 2007 shall 88652
be paid, for ICF/MR services the facility provides during fiscal 88653
years 2006 and 2007, the per diem rate the facility is paid for 88654
providing ICF/MR services on June 30, 2005. 88655

(C) If an intermediate care facility for the mentally 88656
retarded undergoes a change of provider during fiscal year 2006 or 88657
2007, the facility shall be paid, for ICF/MR services the facility 88658
provides during the period beginning on the effective date of the 88659
change of provider and ending June 30, 2007, the per diem rate 88660
paid to the previous provider for ICF/MR services that the 88661
previous provider provided on the day immediately before the 88662
effective date of the change of provider. 88663

(D) If, during fiscal year 2006 or 2007, an intermediate care 88664
facility for the mentally retarded obtains certification as an 88665
intermediate care facility for the mentally retarded from the 88666

Director of Health and begins participation in the Medicaid 88667
program, the facility shall be paid, for ICF/MR services the 88668
facility provides during the period beginning on the date the 88669
facility begins participation in the Medicaid program and ending 88670
June 30, 2007, a per diem rate that is the median of all per diem 88671
rates paid to intermediate care facilities for the mentally 88672
retarded on July 1, 2005. 88673

(E) If, during fiscal year 2006 or 2007, one or more Medicaid 88674
certified beds are added to an intermediate care facility for the 88675
mentally retarded with a valid Medicaid provider agreement for the 88676
time that the beds are added, the facility shall be paid a per 88677
diem rate for the new beds that is the same as the facility's per 88678
diem rate for the Medicaid certified beds that are in the facility 88679
on the day before the new beds are added. 88680

(F) An adjustment necessitated by an audit of an intermediate 88681
care facility for the mentally retarded's 2003 cost report may be 88682
applied to a per diem rate established under this section for the 88683
facility. 88684

(G) The Department of Job and Family Services shall follow 88685
this section in determining the per diem rate to be paid an 88686
intermediate care facility for the mentally retarded under the 88687
Medicaid program for ICF/MR services provided during fiscal years 88688
2006 and 2007 notwithstanding anything to the contrary in sections 88689
5111.20 to 5111.33 of the Revised Code. 88690

Section 206.66.23. FISCAL YEAR 2006 MEDICAID REIMBURSEMENT 88691
SYSTEM FOR NURSING FACILITIES 88692

(A) As used in this section: 88693

"2003 cost report" means a complete and adequate Medicaid 88694
cost report covering calendar year 2003 filed with the Department 88695
of Job and Family Services under section 5111.26 of the Revised 88696

Code. 88697

"Direct care peer group" means the peer group specified in 88698
rules adopted under division (E) of section 5111.23 of the Revised 88699
Code, as that section existed on June 30, 2005, into which a 88700
nursing facility is placed as part of the calculation of the 88701
nursing facility's rate for direct care costs. 88702

"Franchise permit fee" means the fee imposed by sections 88703
3721.50 to 3721.58 of the Revised Code. 88704

"Medicaid days" means all days during which a resident who is 88705
a Medicaid recipient eligible for nursing facility services 88706
occupies a bed in a nursing facility that is included in the 88707
nursing facility's certified capacity under Title XIX of the 88708
"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as 88709
amended. Therapeutic or hospital leave days for which payment is 88710
made under section 5111.33 of the Revised Code are considered 88711
Medicaid days proportionate to the percentage of the nursing 88712
facility's per resident per day rate paid for those days. 88713

"Nursing facility" has the same meaning as in section 5111.20 88714
of the Revised Code. 88715

"Nursing facility services" means nursing facility services 88716
covered by the Medicaid program that a nursing facility provides 88717
to a resident of the nursing facility who is a Medicaid recipient 88718
eligible for Medicaid-covered nursing facility services. 88719

(B) Except as provided in division (C) of this section, a 88720
nursing facility with a valid Medicaid provider agreement for 88721
fiscal year 2006 shall be paid the following rate for nursing 88722
facility services the nursing facility provides during fiscal year 88723
2006: 88724

(1) If the nursing facility had a valid Medicaid provider 88725
agreement on June 30, 2005, and a 2003 cost report, the rate shall 88726

be determined as follows: 88727

(a) Calculate the nursing facility's rate using the method 88728
that was used to calculate the nursing facility's rate for nursing 88729
facility services provided on July 1, 2004, with the following 88730
modifications: 88731

(i) Use the nursing facility's 2003 cost report; 88732

(ii) Set the maximum cost per case-mix unit for the nursing 88733
facility's peer group at an amount equal to ninety-eight per cent 88734
of the maximum cost per case-mix unit that, under division 88735
(B)(2)(a) of section 5111.23 of the Revised Code, as that section 88736
existed on June 30, 2005, was set for the nursing facility's peer 88737
group for direct care costs for nursing facility services provided 88738
on July 1, 2004; 88739

(iii) For the average case-mix score that is used in the 88740
multiplication performed under division (C)(1) of section 5111.23 88741
of the Revised Code, as that section existed on June 30, 2005, use 88742
the nursing facility's quarterly case-mix score that is based on 88743
the data the nursing facility submitted to the Department under 88744
division (B) of section 5111.231 of the Revised Code, as that 88745
section existed on June 30, 2005, for the quarter ending December 88746
31, 2004; 88747

(iv) For the inflation rate that is used in the calculation 88748
made under division (C)(2) of section 5111.23 of the Revised Code, 88749
as that section existed on June 30, 2005, use an inflation rate of 88750
six and twenty-eight-hundredths per cent; 88751

(v) Use the annual average case-mix score that was calculated 88752
under division (B) of section 5111.231 of the Revised Code, as 88753
that section existed on June 30, 2005, and used to calculate the 88754
nursing facility's rate for direct care costs for nursing facility 88755
services provided on June 30, 2005; 88756

(vi) For the inflation rate used in the calculation of the nursing facility's other protected costs under section 5111.235 of the Revised Code, as that section existed on June 30, 2005, use an inflation rate of seventy-nine-hundredths per cent;

(vii) For the inflation rate used in the calculation of the nursing facility's indirect care costs under division (A)(1) of section 5111.24 of the Revised Code, as that section existed on June 30, 2005, use an inflation rate of ninety-one-hundredths per cent;

(viii) Set the pre-inflation adjusted maximum rate for indirect care costs for the nursing facility's peer group at an amount equal to ninety-eight per cent of the pre-inflation adjusted maximum rate for indirect care costs that, under division (B) of section 5111.24 of the Revised Code, as that section existed on June 30, 2005, was set for the nursing facility's peer group for nursing facility services provided on July 1, 2004;

(ix) For the inflation rate used in the calculation of the maximum rate for indirect care costs for the nursing facility's peer group under division (B)(1) of section 5111.24 of the Revised Code, as that section existed on June 30, 2005, use an inflation rate of negative seven-hundredths per cent;

(x) For the inflation rate used in the calculations made under divisions (A)(1)(b)(iii) and (D)(2)(b) and the second to last paragraph of division (E) of section 5111.25 of the Revised Code, as that section existed on June 30, 2005, use an inflation rate of one and seventy-nine-hundredths per cent.

(b) Reduce the rate calculated under division (B)(1)(a) of this section by six and sixty-two hundredths per cent;

(c) Adjust the rate calculated under division (B)(1)(b) of this section by an amount equal to any rate adjustment implemented during fiscal year 2005 pursuant to section 5111.28 or 5111.29 of

the Revised Code, as those sections existed on June 30, 2005; 88788

(d) Determine the nursing facility's rate per case-mix unit 88789
by dividing the nursing facility's rate determined under division 88790
(B)(1)(b) of this section by the nursing facility's annual average 88791
case-mix score that was used for the nursing facility under 88792
division (B)(1)(a)(v) of this section; 88793

(e) Array from low rate per case-mix unit to high rate per 88794
case-mix unit each of the nursing facilities that are in the 88795
nursing facility's direct care peer group and for which a rate is 88796
determined under division (B)(1) of this section; 88797

(f) Determine the nursing facility's facility-specific 88798
estimated Medicaid costs by multiplying the nursing facility's 88799
rate determined under division (B)(1)(c) of this section by the 88800
number of the nursing facility's Medicaid days for calendar year 88801
2003 as reported to the Department on May 31, 2004, in the 88802
Medicaid Management Information System; 88803

(g) Determine the total estimated Medicaid costs for all of 88804
the nursing facilities that are in the nursing facility's direct 88805
care peer group and for which a rate is determined under division 88806
(B)(1) of this section by calculating the sum of all of those 88807
nursing facilities' facility-specific estimated Medicaid costs 88808
determined under division (B)(1)(f) of this section; 88809

(h) Divide the nursing facilities included in the array made 88810
under division (B)(1)(e) of this section into three sub-peer 88811
groups such that each of the following is the case: 88812

(i) The first sub-peer group consists of those nursing 88813
facilities with the lowest rate per case-mix unit whose combined 88814
facility-specific estimated Medicaid costs equals, as close as 88815
possible, one-third of the total estimated Medicaid costs 88816
determined under division (B)(1)(g) of this section; 88817

(ii) The second sub-peer group consists of those nursing facilities with the middle rate per case-mix unit whose combined facility-specific estimated Medicaid costs equals, as close as possible, one-third of the total estimated Medicaid costs determined under division (B)(1)(g) of this section;

(iii) The third sub-peer group consists of those nursing facilities with the highest rate per case-mix unit whose combined facility-specific estimated Medicaid costs equals, as close as possible, one-third of the total estimated Medicaid costs determined under division (B)(1)(g) of this section.

(i) If the nursing facility is part of the first sub-peer group created under division (B)(1)(h)(i) of this section, increase the nursing facility's rate determined under division (B)(1)(c) of this section by two and one-half per cent;

(j) If the nursing facility is part of the second sub-peer group created under division (B)(1)(h)(ii) of this section, do not increase or decrease the nursing facility's rate determined under division (B)(1)(c) of this section;

(k) If the nursing facility is part of the third sub-peer group created under division (B)(1)(h)(iii) of this section, decrease the nursing facility's rate determined under division (B)(1)(c) of this section by two and one-half per cent;

(1) Unless the nursing facility is exempt from paying the franchise permit fee, increase the nursing facility's rate determined under division (B)(1)(i), (j), or (k) of this section by one dollar and ninety-five cents.

(2) If the nursing facility had a valid Medicaid provider agreement on June 30, 2005, and was not required to file a cost report covering calendar year 2003, the rate shall be determined as follows:

(a) Reduce the rate the nursing facility was paid for nursing facility services provided on June 30, 2005, by three per cent; 88848
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(b) Unless the nursing facility is exempt from paying the franchise permit fee, increase the nursing facility's rate determined under division (B)(2)(a) of this section by one dollar and ninety-five cents. 88850
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(C) If a nursing facility undergoes a change of operator on July 1, 2005, the nursing facility shall be paid, for nursing facility services the nursing facility provides during fiscal year 2006, the rate that would have been paid to the exiting operator of the nursing facility for nursing facility services provided on July 1, 2005. 88854
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If a nursing facility undergoes a change of operator during the period beginning July 2, 2005, and ending June 30, 2006, the nursing facility shall be paid, for nursing facility services the nursing facility provides during the period beginning on the effective date of the change of operator and ending June 30, 2006, the rate paid to the exiting operator for nursing facility services that the exiting operator provided on the day immediately before the effective date of the change of operator. 88860
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(D) If, during fiscal year 2006, a nursing facility obtains certification as a nursing facility from the Director of Health and begins participation in the Medicaid program, the nursing facility shall be paid, for nursing facility services the nursing facility provides during the period beginning on the date the nursing facility begins participation in the Medicaid program and ending June 30, 2006, a rate that is the median of all rates paid to nursing facilities on July 1, 2005. 88868
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(E) If, during fiscal year 2006, one or more Medicaid certified beds are added to a nursing facility with a valid Medicaid provider agreement for fiscal year 2006, the nursing 88876
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facility shall be paid a rate for the new beds that is the same as 88879
the nursing facility's rate for the Medicaid certified beds that 88880
are in the nursing facility on the day before the new beds are 88881
added. 88882

(F) If the United States Centers for Medicare and Medicaid 88883
Services requires that the franchise permit fee be reduced or 88884
eliminated, the Department of Job and Family Services shall reduce 88885
the amount it pays nursing facilities under this section as 88886
necessary to reflect the loss to the state of the revenue and 88887
federal financial participation generated from the franchise 88888
permit fee. 88889

(G) A nursing facility's rate established under this section 88890
shall not be subject to any adjustments except as follows: 88891

(1) An adjustment resulting from an audit of the nursing 88892
facility's 2003 cost report may be applied to a rate established 88893
under this section for the nursing facility not later than three 88894
years after the first day of the fiscal year for which the rate is 88895
established. 88896

(2) The nursing facility's rate established under this 88897
section may be adjusted pursuant to a process established in rules 88898
adopted under section 5111.02 of the Revised Code to reflect a 88899
change in the nursing facility's capital costs due to either of 88900
the following: 88901

(a) A change of provider agreement that goes into effect 88902
before July 1, 2005, and for which a rate adjustment is not 88903
implemented before June 30, 2005; 88904

(b) A reviewable activity, as defined in section 3702.51 of 88905
the Revised Code, for which a certificate of need application is 88906
filed with the Director of Health before July 1, 2005, costs are 88907
incurred before June 30, 2005, and a rate adjustment is not 88908
implemented before June 30, 2005. 88909

(H) The Department of Job and Family Services shall follow 88910
this section in determining the rate to be paid a nursing facility 88911
under the Medicaid program for nursing facility services provided 88912
during fiscal year 2006 notwithstanding anything to the contrary 88913
in sections 5111.20 to 5111.33 of the Revised Code. 88914

Section 206.66.24. FISCAL YEAR 2007 MEDICAID REIMBURSEMENT 88915
SYSTEM FOR NURSING FACILITIES 88916

(A) As used in this section: 88917

"2003 cost report" means a complete and adequate Medicaid 88918
cost report covering calendar year 2003 filed with the Department 88919
of Job and Family Services under section 5111.26 of the Revised 88920
Code. 88921

"Franchise permit fee" means the fee imposed by sections 88922
3721.50 to 3721.58 of the Revised Code. 88923

"Nursing facility" has the same meaning as in section 5111.20 88924
of the Revised Code. 88925

"Nursing facility services" means nursing facility services 88926
covered by the Medicaid program that a nursing facility provides 88927
to a resident of the nursing facility who is a Medicaid recipient 88928
eligible for Medicaid-covered nursing facility services. 88929

(B) Except as provided in division (C) of this section, a 88930
nursing facility that has a valid Medicaid provider agreement on 88931
June 30, 2006, and a valid Medicaid provider agreement for fiscal 88932
year 2007 shall be paid, for nursing facility services the nursing 88933
facility provides during fiscal year 2007, the rate the nursing 88934
facility is paid for providing nursing facility services on June 88935
30, 2006. 88936

(C) If a nursing facility undergoes a change of operator 88937
during fiscal year 2007, the nursing facility shall be paid, for 88938
nursing facility services the nursing facility provides during the 88939

period beginning on the effective date of the change of operator 88940
and ending June 30, 2007, the rate paid to the exiting operator 88941
for nursing facility services that the exiting operator provided 88942
on the day immediately before the effective date of the change of 88943
operator. 88944

(D) If, during fiscal year 2007, a nursing facility obtains 88945
certification as a nursing facility from the Director of Health 88946
and begins participation in the Medicaid program, the nursing 88947
facility shall be paid, for nursing facility services the nursing 88948
facility provides during the period beginning on the date the 88949
nursing facility begins participation in the Medicaid program and 88950
ending June 30, 2007, a rate that is the median of all rates paid 88951
to nursing facilities on July 1, 2006. 88952

(E) If, during fiscal year 2007, one or more Medicaid 88953
certified beds are added to a nursing facility with a valid 88954
Medicaid provider agreement for fiscal year 2007, the nursing 88955
facility shall be paid a rate for the new beds that is the same as 88956
the nursing facility's rate for the Medicaid certified beds that 88957
are in the nursing facility on the day before the new beds are 88958
added. 88959

(F) If the United States Centers for Medicare and Medicaid 88960
Services requires that the franchise permit fee be reduced or 88961
eliminated, the Department of Job and Family Services shall reduce 88962
the amount it pays nursing facilities under this section as 88963
necessary to reflect the loss to the state of the revenue and 88964
federal financial participation generated from the franchise 88965
permit fee. 88966

(G) A nursing facility's rate established under this section 88967
shall not be subject to any adjustments except as follows: 88968

(1) An adjustment resulting from an audit of the nursing 88969
facility's 2003 cost report may be applied to a rate established 88970

under this section for the nursing facility not later than three 88971
years after the first day of the fiscal year for which the rate is 88972
established. 88973

(2) The nursing facility's rate established under this 88974
section may be adjusted pursuant to a process established in rules 88975
adopted under section 5111.02 of the Revised Code to reflect a 88976
change in the nursing facility's capital costs due to either of 88977
the following: 88978

(a) A change of provider agreement that goes into effect 88979
before July 1, 2005, and for which a rate adjustment is not 88980
implemented before June 30, 2006; 88981

(b) A reviewable activity, as defined in section 3702.51 of 88982
the Revised Code, for which a certificate of need application is 88983
filed with the Director of Health before July 1, 2005, costs are 88984
incurred before June 30, 2005, and a rate adjustment is not 88985
implemented before June 30, 2006. 88986

(H) The Department of Job and Family Services shall follow 88987
this section in determining the rate to be paid a nursing facility 88988
under the Medicaid program for nursing facility services provided 88989
during fiscal year 2007 notwithstanding anything to the contrary 88990
in sections 5111.20 to 5111.33 of the Revised Code. 88991

Section 209.66.25. TRANSITION METHODOLOGY FOR MEDICAID 88992
REIMBURSEMENT FOR NURSING FACILITIES 88993

The Department of Job and Family Services shall prepare a 88994
report that includes a recommendation on the methodology that 88995
should be used to transition paying providers of nursing 88996
facilities the rate determined for nursing facilities for fiscal 88997
year 2007 pursuant to the section of this act entitled "FISCAL 88998
YEAR 2007 MEDICAID REIMBURSEMNT SYSTEM FOR NURISNG FACILITIES" to 88999
the rate determined for nursing facilities for fiscal years 2008 89000

and thereafter pursuant to sections 5111.20 to 5111.33 of the
Revised Code. The Department shall submit the report to the
Governor, President and Minority Leader of the Senate, and Speaker
and Minority Leader of the House of Representatives not later than
June 30, 2006.

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Section 206.66.27. FISCAL YEARS 2006 AND 2007 INCREASED
PAYMENT TO ICFs/MR

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(A) As used in this section:

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"Active treatment" has the same meaning as in section 5126.12
of the Revised Code.

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"Community alternative funding system" means the former
system under which habilitation center services were reimbursed
under the Medicaid program pursuant to former section 5111.041 of
the Revised Code and former rules adopted under that section.

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(B) The Director of Job and Family Services may increase the
rate paid to intermediate care facilities for the mentally
retarded under Section 206.66.28 of this act for fiscal years 2006
and 2007 by an amount specified in rules adopted under section
5111.02 of the Revised Code to reimburse the facilities for active
treatment day programming because of the termination of the
community alternative funding system.

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***Section 206.66.36. ASSISTED LIVING MEDICAID WAIVER PROGRAM**

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(A) As used in this section, "Assisted Living Program" has
the same meaning as in section 5111.89 of the Revised Code.

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(B) After the Department of Job and Family Services enters
into a contract with the Department of Aging under section 5111.91
of the Revised Code for the Department of Aging to administer the
Assisted Living Program, the Director of Job and Family Services
shall quarterly certify to the Director of Budget and Management

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the estimated costs of the Assisted Living Program for the 89030
upcoming quarter. The estimate shall include the state and federal 89031
share of the costs. On receipt of the certified estimated costs 89032
for an upcoming quarter, the Director of Budget and Management 89033
shall do all of the following: 89034

(1) Transfer the state share of the amount of the estimated 89035
costs from GRF appropriation item 600-525, Health Care/Medicaid, 89036
to GRF appropriation item 490-422, Assisted Living; 89037

(2) Transfer the federal share of the amount of the estimated 89038
costs from GRF appropriation item 600-525, Health Care/Medicaid, 89039
to Fund 3C4, appropriation item 490-622, Assisted Living - 89040
Federal; 89041

(3) Increase the appropriation in JFS Fund 3G5, appropriation 89042
item 600-655, Interagency Reimbursement, by the federal share of 89043
the amount of the estimated costs. 89044

(C) The funds that the Director of Budget and Management 89045
transfers and increases under this section are hereby 89046
appropriated. 89047

***Section 206.66.37.** Section 206.66.36 of this act takes 89048
effect October 1, 2005. 89049

Section 206.66.38. MEDICAID VOUCHER PILOT PROGRAM 89050

Each quarter, the Department of Aging shall certify to the 89051
Director of Budget and Management the estimated costs of the 89052
Medicaid voucher pilot program for the individuals enrolled 89053
pursuant to section 5111.971 of the Revised Code. 89054

On a quarterly basis, on receipt of the certified costs, the 89055
Director of Budget and Management shall do all of the following: 89056

(1) Transfer the state share of the amount of the estimated 89057
costs from the GRF appropriation item 600-525, Health 89058

Care/Medicaid, to GRF appropriation item 490-403, PASSPORT, for	89059
the remainder of the biennium;	89060
(2) Increase the appropriation in Department of Aging Fund	89061
3C4, appropriation item 490-607, PASSPORT, by the federal share of	89062
the amount of the estimated costs;	89063
(3) Reduce the federal share of GRF appropriation item	89064
600-525, Health Care/Medicaid, by the federal share of the amount	89065
of the estimated costs;	89066
(4) Increase the appropriation in Department of Job and	89067
Family Services Fund 3G5, appropriation item 600-655, Interagency	89068
Reimbursement, by the federal share of the amount of the estimated	89069
costs.	89070
The funds that the Director of Budget and Management	89071
transfers and increases under this section are hereby	89072
appropriated.	89073
Section 206.66.39. MEDICAID ELIGIBILITY REDUCTIONS	89074
The Director of Job and Family Services shall, not later than	89075
ninety days after the effective date of this section, submit to	89076
the United States Secretary of Health and Human Services an	89077
amendment to the state Medicaid plan to reduce to ninety per cent	89078
of the federal poverty guidelines the amount specified in division	89079
(A)(2) of section 5111.019 of the Revised Code as it existed	89080
immediately prior to the amendment made by this act. The reduction	89081
shall be implemented not earlier than ninety days after the	89082
effective date of this section and not later than the effective	89083
date of federal approval.	89084
Section 206.66.42. TERMINATION OF THE DISABILITY MEDICAL	89085
ASSISTANCE PROGRAM	89086
(A) The Department of Job and Family Services shall terminate	89087

the Disability Medical Assistance Program effective October 1, 89088
2005. All rules, standards, guidelines, or orders adopted or 89089
issued by the Director of Job and Family Services to govern the 89090
Disability Medical Assistance Program before its termination shall 89091
remain in effect on and after October 1, 2005, for the following 89092
purposes: 89093

(1) To establish the legal obligations of the Department for 89094
claims arising from the Program; 89095

(2) To determine an individual's previous eligibility for the 89096
Program; 89097

(3) To determine the validity of a claim for services under 89098
the Program; 89099

(4) To recover erroneous payments, as defined in section 89100
5115.23 of the Revised Code, made before October 1, 2005. 89101

(B) The Department may use funds appropriated to it to 89102
satisfy Program claims or contingent claims existing before 89103
October 1, 2005. The Department shall not pay claims for services 89104
rendered on or after October 1, 2005. 89105

(C) The Department shall pay a claim for services rendered by 89106
a medical provider to a Disability Medical Assistance Program 89107
recipient before October 1, 2005, only if the claim is received by 89108
the Department not later than April 1, 2006. 89109

(D) A judge or other person designated to make a decision in 89110
a state hearing, administrative appeal, or judicial proceeding 89111
initiated under section 5101.35 of the Revised Code may adjudicate 89112
an appeal of a determination made by the Department under the 89113
Program before October 1, 2005. No person may adjudicate an appeal 89114
of a determination made by the Department under the Program on or 89115
after October 1, 2005. 89116

(E) Notwithstanding the termination of the Disability Medical 89117

Assistance Program, the following remain effective on and after 89118
October 1, 2005: 89119

(1) As described in section 5101.58 of the Revised Code, the 89120
Department's and a county's right of recovery against the 89121
liability of a third party for the cost of medical services and 89122
care; 89123

(2) As described in section 5101.59 of the Revised Code, the 89124
assignment of a Program recipient's right to medical support made 89125
by court or administrative order or payments from a third party. 89126

(F) The Department may take reasonable steps to inform 89127
Program recipients about the termination of the Program. A county 89128
department of job and family services shall take action with 89129
respect to these activities when requested by the Department. 89130

(G) An action taken under division (F) of this section shall 89131
not be the basis for requiring the Department to extend the 89132
Program or to approve or extend a person's eligibility for the 89133
Program on or after October 1, 2005. 89134

(H) The Director may adopt rules in accordance with section 89135
111.15 of the Revised Code to implement this section. 89136

Section 206.66.44. MEDICAID COVERAGE OF DENTAL SERVICES 89137

For fiscal years 2006 and 2007, the Medicaid program shall do 89138
the following: 89139

(A) For Medicaid recipients under twenty-one years of age, 89140
the Medicaid program shall cover dental services. This section 89141
does not limit the ability of the Department of Job and Family 89142
Services to adopt, amend, or rescind rules applicable to dental 89143
services, including rules that limit or reduce covered services, 89144
reduce reimbursement levels, or subject covered services to 89145
co-payments. 89146

(B) For Medicaid recipients twenty-one years of age or older, 89147
the Medicaid program shall cover dental services in an amount, 89148
duration, and scope specified in rules that the Director of Job 89149
and Family Services shall adopt under section 5111.02 of the 89150
Revised Code but shall be less in amount, duration, and scope than 89151
the Medicaid program covered those services immediately before the 89152
effective date of this amendment. 89153

Section 206.66.45. MEDICAID COVERAGE OF VISION SERVICES 89154

For fiscal years 2006 and 2007, the Medicaid program shall 89155
cover vision services. This section does not limit the ability of 89156
the Department of Job and Family Services to adopt, amend, or 89157
rescind rules applicable to vision services, including rules that 89158
limit or reduce covered services, reduce reimbursement levels, or 89159
subject covered services to copayments. 89160

Section 206.66.46. DISABILITY DETERMINATIONS 89161

(A) A study shall be conducted by the state and local 89162
government entities actively engaged in providing programs or 89163
services for which disability is an eligibility requirement, 89164
including the Department of Job and Family Services, county 89165
departments of job and family services, and Rehabilitation 89166
Services Commission. The study shall consider all of the 89167
following: 89168

(1) The feasibility of an interagency agreement among the 89169
state and local government entities actively engaged in providing 89170
programs or services for which disability is an eligibility 89171
requirement, including the Department of Job and Family Services, 89172
county departments of job and family services, and the 89173
Rehabilitation Services Commission whereby one of these state or 89174
local government entities would perform disability determinations 89175
for all programs and services provided by a state or local 89176

government entity in which disability is an eligibility
requirement; 89177
89178

(2) Which of the state and local government entities engaged 89179
in providing programs or services for which disability is an 89180
eligibility requirement should perform disability determinations 89181
under an interagency agreement described in division (A)(1) of 89182
this section. 89183

(3) Potential cost-savings and other advantages, as well as 89184
any potential disadvantages, that might result from the 89185
interagency agreement; 89186

(4) Processes by which the interagency agreement could be 89187
implemented, including an estimate of the approximate time needed 89188
to implement it. 89189

(B) Not later than six months after the effective date of 89190
this section, a written report of the results of the study results 89191
shall be prepared and submitted to the Speaker of the House of 89192
Representatives and the President of the Senate. 89193

Section 206.66.47. HEALTH CARE/MEDICAID 89194

The foregoing appropriation item 600-525, Health 89195
Care/Medicaid, shall not be limited by section 131.33 of the 89196
Revised Code. 89197

Section 206.66.48. STATE MEDICAID PLAN AMENDMENT REGARDING 89198
ESTATE RECOVERY 89199

The Director of Job and Family Services shall submit a state 89200
Medicaid plan amendment to the United States Secretary of Health 89201
and Human Services as necessary for the implementation of the 89202
amendments by this act to sections 5111.11 and 5111.111 of the 89203
Revised Code. 89204

Section 206.66.49. SINGLE AUDIT OF MEDICAID DURING FY 2006 89205
AND 2007 89206

The auditor of state may, during fiscal years 2006 and 2007, 89207
conduct a single performance audit of the medicaid program, as 89208
defined in section 5111.01 of the Revised Code, to determine ways 89209
of reducing or eliminating fraud, waste, and abuse in the program, 89210
making the program more efficient, and enhancing the program's 89211
results. An audit conducted under this section shall be conducted 89212
in accordance with generally accepted government auditing 89213
standards. Expenses incurred by the Auditor of State to conduct 89214
the performance audit shall be reimbursed by the Department of Job 89215
and Family Services. 89216

Section 206.66.51. MEDICAID PAYMENT FOR GRADUATE MEDICAL 89217
EDUCATION COSTS 89218

The Director of Job and Family Service may submit to the 89219
United States Secretary of Health and Human Services an amendment 89220
to the state Medicaid plan to implement section 5111.191 of the 89221
Revised Code. The Department may implement that section upon the 89222
Secretary's approval of the amendment. 89223

MEDICARE PART D 89224

The foregoing appropriation item 600-526, Medicare Part D, 89225
may be used by the Department of Job and Family Services for the 89226
implementation and operation of the Medicare Part D requirements 89227
contained in the "Medicare Prescription Drug, Improvement, and 89228
Modernization Act of 2003," Pub. L. No. 108-173, as amended. Upon 89229
the request of the Department of Job and Family Services, the 89230
Director of Budget and Management may increase the state share of 89231
appropriations in either appropriation item 600-525, Health 89232
Care/Medicaid, or appropriation item 600-526, Medicare Part D, 89233
with a corresponding decrease in the state share of the other 89234

appropriation item to allow the Department of Job and Family Services to implement and operate the new Medicare Part D requirements. If the state share of appropriation item 600-525, Health Care/Medicaid, is adjusted, the Director of Budget and Management shall adjust the federal share accordingly. 89235
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Section 206.66.52. MEDICAID ADMINISTRATIVE STUDY COUNCIL 89240

(A) There is hereby created the Medicaid Administrative Study Council to make recommendations as to the most effective organization of all executive agencies that administer services under Ohio's Medicaid program. The Council shall be composed of the following: 89241
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89243
89244
89245

(1) The Director of Job and Family Services or the Director's designee; 89246
89247

(2) The Director of Aging or the Director's designee; 89248

(3) The Director of Drug and Alcohol Addiction Services or the Director's designee; 89249
89250

(4) The Director of Health or the Director's designee; 89251

(5) The Director of Mental Health or the Director's designee; 89252

(6) The Director of Mental Retardation and Developmental Disabilities or the Director's designee; 89253
89254

(7) The Director of Budget and Management or the Director's designee; 89255
89256

(8) The State Chief Information Officer or the Officer's designee; 89257
89258

(9) An individual appointed by the Speaker of the House of Representatives; 89259
89260

(10) An individual appointed by the President of the Senate; 89261

(11) A representative of the Governor, appointed by the 89262

Governor. 89263

The Governor shall appoint a member of the Council to serve 89264
as the chairperson of the Council. 89265

(B) The Council shall make recommendations regarding all of 89266
the following: 89267

(1) The optimal administrative structure for the 89268
administration of the Medicaid program, including recommendations 89269
on whether the fiscal and operational objectives of the Medicaid 89270
program would be best achieved through creation of a new 89271
department, utilization of existing executive agencies, or some 89272
other administrative structure. The Council shall include in its 89273
considerations of an optimal administrative structure the role of 89274
local government entities that administer Medicaid services in 89275
such a structure. 89276

(2) A centralized financing function to coordinate the 89277
activities of all executive agencies that deliver Medicaid 89278
services; 89279

(3) If the recommendations of division (B)(1) of this section 89280
include the future creation of a Medicaid department, 89281
recommendations regarding all of the following: 89282

(a) The scope and structure of the department; 89283

(b) A business plan to direct the transition of the Medicaid 89284
program from the Department of Job and Family Services and other 89285
executive agencies to the new department including a plan to 89286
address the fiscal and operational impact of the transition; 89287

(c) Resources required to implement the business plan 89288
described in division (B)(3)(b) of this section. 89289

89290

(C) In developing the recommendations specified in division 89291
(B) of this section, the Council shall consider the following: 89292

(1) The fiscal and operational impact on county departments of job and family services and other local government entities that perform Medicaid administrative functions;	89293 89294 89295
(2) The fiscal and operational impact on the remaining duties and functions of the Department of Job and Family Services and other state agencies;	89296 89297 89298
(3) The recommendations of the Ohio Commission to Reform Medicaid.	89299 89300
(D) The Council may study the feasibility of developing a plan to create a unified long-term care budget managed across all state and local agencies and service settings, as recommended by the Ohio Commission to Reform Medicaid. The plan shall designate the Department of Aging as the state agency responsible for the unified budget. The plan shall require the Director of Aging, in consultation with the Director of Job and Family Services, to designate a unified long-term care budget officer to manage the unified budget.	89301 89302 89303 89304 89305 89306 89307 89308 89309
(E) By not later than July 1, 2006, the Council shall submit to the Governor a written report of the Council's recommendations.	89310 89311
(F) The Department of Job and Family Services may provide staff support and up to \$500,000 for contractual services and other resources necessary for the Medicaid Administrative Study Council to develop the recommendations set forth in division (B) of this section.	89312 89313 89314 89315 89316
Section 206.66.57. ODJFS FUNDS	89317
AGENCY FUND GROUP	89318
The Agency Fund Group and Holding Account Redistribution Fund Group shall be used to hold revenues until the appropriate fund is determined or until the revenues are directed to the appropriate governmental agency other than the Department of Job and Family	89319 89320 89321 89322

Services. If it is determined that additional appropriation 89323
authority is necessary, such amounts are hereby appropriated. 89324

Section 206.66.60. EMPLOYER SURCHARGE 89325

The surcharge and the interest on the surcharge amounts due 89326
for calendar years 1988, 1989, and 1990 as required by Am. Sub. 89327
H.B. 171 of the 117th General Assembly, Am. Sub. H.B. 111 of the 89328
118th General Assembly, and section 4141.251 of the Revised Code 89329
as it existed prior to its repeal by Sub. H.B. 478 of the 122nd 89330
General Assembly, again shall be assessed and collected by, 89331
accounted for, and made available to the Department of Job and 89332
Family Services in the same manner as set forth in section 89333
4141.251 of the Revised Code as it existed prior to its repeal by 89334
Sub. H.B. 478 of the 122nd General Assembly, notwithstanding the 89335
repeal of the surcharge for calendar years after 1990, pursuant to 89336
Sub. H.B. 478 of the 122nd General Assembly, except that amounts 89337
received by the Director on or after July 1, 2001, shall be 89338
deposited into the Unemployment Compensation Special 89339
Administrative Fund (Fund 4A9) established pursuant to section 89340
4141.11 of the Revised Code. 89341

Section 206.66.63. TRANSFER OF FUNDS TO THE DEPARTMENT OF 89342
AGING 89343

The Department of Job and Family Services shall transfer, 89344
through intrastate transfer vouchers, cash from Fund 4J5, Home and 89345
Community-Based Services for the Aged, to Fund 4J4, PASSPORT, in 89346
the Department of Aging. The sum of the transfers shall be 89347
\$33,268,052 in fiscal year 2006 and \$33,263,984 in fiscal year 89348
2007. The transfer may occur on a quarterly basis or on a schedule 89349
developed and agreed to by both departments. 89350

Section 206.66.64. INDIVIDUALS MOVED FROM NURSING FACILITIES 89351

TO PASSPORT	89352
(A) As used in this section:	89353
(1) "Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.	89354 89355
(2) "Long-Term Care Consultation Program" means the program the Department of Aging is required to develop under section 173.42 of the Revised Code.	89356 89357 89358
(3) "Long-Term Care Consultation Program administrator" or "administrator" means the Department of Aging or, if the Department contracts with an area agency on aging or other entity to administer the Long-Term Care Consultation Program for a particular area, that agency or entity.	89359 89360 89361 89362 89363
(4) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.	89364 89365
(5) "PASSPORT program" means the program created under section 173.40 of the Revised Code.	89366 89367
(B) Each month during fiscal years 2006 and 2007, each area agency on aging shall determine whether individuals who reside in the area that the area agency on aging serves and are on a waiting list for the PASSPORT program have been admitted to a nursing facility. If an area agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the Long-Term Care Consultation Program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the PASSPORT program is appropriate for the individual and whether the individual would rather participate in the PASSPORT program than continue residing in the nursing facility. If the administrator determines that the PASSPORT program is appropriate for the individual and the individual would rather participate in the	89368 89369 89370 89371 89372 89373 89374 89375 89376 89377 89378 89379 89380 89381

PASSPORT program than continue residing in the nursing facility, 89382
the administrator shall so notify the Department of Aging. On 89383
receipt of the notice from the administrator, the Department of 89384
Aging shall approve the enrollment of the individual in the 89385
PASSPORT program regardless of whether other individuals who are 89386
not in a nursing facility are ahead of the individual on the 89387
PASSPORT program's waiting list. Each quarter, the Department of 89388
Aging shall certify to the Director of Budget and Management the 89389
estimated increase in costs of the PASSPORT program for the 89390
individuals enrolled in the PASSPORT program pursuant to this 89391
section. 89392

(C) On a quarterly basis, on receipt of the certified costs, 89393
the Director of Budget and Management shall do all of the 89394
following: 89395

(1) Transfer the state share of the amount of the estimated 89396
costs from GRF appropriation item 450-525, Health Care/Medicaid, 89397
to GRF appropriation item 490-403, PASSPORT, for the remainder of 89398
the biennium; 89399

(2) Increase the appropriation in Ohio Department of Aging 89400
Fund 3C4, appropriation item 490-607, PASSPORT, by the federal 89401
share of the amount of the estimated costs; 89402

(3) Increase the appropriation in JFS Fund 3G5, appropriation 89403
item 600-655, Interagency Reimbursement, by the federal share of 89404
the amount of the estimated costs. 89405

The funds that the Director of Budget and Management 89406
transfers and increases under this division are hereby 89407
appropriated. 89408

(D) The individuals placed in the PASSPORT program pursuant 89409
to this section shall be in addition to the individuals placed in 89410
the PASSPORT program during fiscal years 2006 and 2007 based on 89411
the amount of money that is in GRF appropriation item 490-403, 89412

PASSPORT; Fund 4J4, appropriation item 490-610, 89413
PASSPORT/Residential State Supplement; Fund 4U9, appropriation 89414
item 490-602, PASSPORT Fund; and Fund 3C4, appropriation item 89415
490-607, PASSPORT, before any transfers to GRF appropriation item 89416
490-403, PASSPORT, and Fund 3C4, appropriation item 490-607, 89417
PASSPORT, are made under this section. 89418

(E) The Director of Job and Family Services shall submit to 89419
the United States Secretary of Health and Human Services an 89420
amendment to the Medicaid waiver authorizing the PASSPORT program 89421
as necessary for the implementation of this section. 89422

Section 206.66.66. OHIO ACCESS SUCCESS PROJECT 89423

Notwithstanding any limitations in sections 3721.51 and 89424
3721.56 of the Revised Code, in each fiscal year, cash from Fund 89425
4J5, Home and Community-Based Services for the Aged, in excess of 89426
the amounts needed for the transfers may be used by the Department 89427
of Job and Family Services for the following purposes: (A) up to 89428
\$1.0 million in each fiscal year to fund the state share of audits 89429
of Medicaid cost reports filed with the Department of Job and 89430
Family Services by nursing facilities and intermediate care 89431
facilities for the mentally retarded; and (B) up to \$350,000 in 89432
fiscal year 2006 and up to \$350,000 in fiscal year 2007 to provide 89433
one-time transitional benefits under the Ohio Access Success 89434
Project that the Director of Job and Family Services may establish 89435
under section 5111.88 of the Revised Code. 89436

Section 206.66.69. OHIO ASSOCIATION OF SECOND HARVEST FOOD 89437
BANKS 89438

As used in this section, "federal poverty guidelines" has the 89439
same meaning as in section 5101.46 of the Revised Code. 89440

Notwithstanding section 5101.46 of the Revised Code, and 89441
prior to making any allocation to county departments of job and 89442

family services, the Department of Job and Family Services shall 89443
provide \$5,500,000 in each fiscal year from the foregoing 89444
appropriation item 600-620, Social Services Block Grant, for use 89445
in funding a grant agreement with the Ohio Association of Second 89446
Harvest Food Banks. The Department shall enter into a grant 89447
agreement with the Ohio Association of Second Harvest Food Banks 89448
to reimburse it for costs incurred in the purchase of food 89449
products and the distribution of those food products to agencies 89450
participating in the emergency food distribution program. 89451
Notwithstanding section 5101.46 of the Revised Code, the grant may 89452
permit the Ohio Association of Second Harvest Food Banks to use up 89453
to 5 per cent of the annual funding for administrative costs. The 89454
Department may advance funds to the grantee under section 5101.10 89455
of the Revised Code. 89456

Prior to entering into the grant agreement, the Ohio 89457
Association of Second Harvest Food Banks shall submit to the 89458
Department for approval a plan for the distribution of the food 89459
products to local food distribution agencies. If the plan meets 89460
the requirements and conditions established by the Department, the 89461
plan shall be incorporated into the grant agreement. The grant 89462
agreement shall also require the Ohio Association of Second 89463
Harvest Food Banks to ensure that local agencies will limit 89464
participation of individuals and families who receive any of the 89465
food products purchased with these funds to those who have an 89466
income at or below 200 per cent of the federal poverty guidelines. 89467
The Department and the Ohio Association of Second Harvest Food 89468
Banks shall agree on reporting requirements to be incorporated 89469
into the grant agreement, including a statement of expected 89470
performance outcomes from the Ohio Association of Second Harvest 89471
Food Banks and a requirement for their evaluation of their success 89472
in achieving those outcomes. 89473

Section 206.66.72. TRANSFER OF FUNDS TO THE DEPARTMENT OF 89474
MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES 89475

The Department of Job and Family Services shall transfer, 89476
through intrastate transfer vouchers, cash from Fund 4K1, ICF/MR 89477
Bed Assessments, to Fund 4K8, Home and Community-Based Services, 89478
in the Department of Mental Retardation and Developmental 89479
Disabilities. The amount transferred shall equal \$12,000,000 in 89480
fiscal year 2006 and \$12,000,000 in fiscal year 2007. The transfer 89481
may occur on a quarterly basis or on a schedule developed and 89482
agreed to by both departments. 89483

Section 206.66.75. FUNDING FOR HABILITATIVE SERVICES 89484

Notwithstanding any limitations contained in sections 5112.31 89485
and 5112.37 of the Revised Code, in each fiscal year, cash from 89486
Fund 4K1, ICF/MR Bed Assessments, in excess of the amounts needed 89487
for transfers to Fund 4K8, Home and Community-Based Services, in 89488
the Department of Mental Retardation and Developmental 89489
Disabilities, may be used by the Department of Job and Family 89490
Services to cover costs of care provided to participants in a 89491
waiver with an ICF/MR level of care requirement administered by 89492
the Department of Job and Family Services. 89493

Section 206.66.78. COMMUNITY ALTERNATIVE FUNDING SYSTEM 89494

(A) As used in this section, "habilitation center services" 89495
has the same meaning as in former section 5111.041 of the Revised 89496
Code as that section existed on June 30, 2005. 89497

(B) The Director of Job and Family Services may adopt rules 89498
under section 111.15 of the Revised Code as necessary to terminate 89499
the community alternative funding system on July 1, 2005. 89500

(C) The Department of Job and Family Services may inform 89501
individuals who received habilitation center services under the 89502

community alternative funding system on June 30, 2005, and such
individuals' representatives about alternative services that may
be available for the individuals. The Department may require
county departments of job and family services to provide such
information to the individuals and their representatives.

(D) Habilitation center services provided before July 1,
2005, are subject to the laws, rules, standards, guidelines, and
orders regarding habilitation center services that were in effect
at the time the services were provided. This includes such laws,
rules, standards, guidelines, and orders regarding the
responsibility for the nonfederal share of the services, the fee
assessed under division (D) of section 5123.041 of the Revised
Code as that section existed on the day the services were
provided, cost reports, audits, and the recovery of erroneous
payments.

(E) The Department of Job and Family Services may use funds
appropriated to the Department for the purpose of habilitation
center services to satisfy a claim or contingent claim for
habilitation center services provided before July 1, 2005, if the
Department receives the claim or contingent claim before July 1,
2006. The Department has no liability to satisfy either of the
following:

(1) A claim for habilitation center services provided before
July 1, 2005, if the Department receives the claim on or after
July 1, 2006.

(2) A claim for habilitation center services provided on or
after July 1, 2005.

(F) To the extent authorized by section 5101.35 of the
Revised Code, an individual may initiate or continue a state
hearing, administrative appeal, or appeal to a court of common
pleas regarding a decision or order concerning habilitation center

services that were available before July 1, 2005. A decision 89534
resulting from a state hearing, administrative appeal, or appeal 89535
to a court of common pleas may not extend an individual's 89536
eligibility for habilitation center services beyond June 30, 2005. 89537
No individual may utilize section 5101.35 of the Revised Code to 89538
contest the July 1, 2005, termination of the community alternative 89539
funding system. 89540

(G) Neither of the following are abrogated by the termination 89541
of the community alternative funding system: 89542

(1) The right of recovery given to the Department of Job and 89543
Family Services or a county department of job and family services 89544
under section 5101.58 of the Revised Code for habilitation center 89545
services provided before July 1, 2005. 89546

(2) The right to medical support or payments from a third 89547
party that is assigned to the Department under section 5101.59 of 89548
the Revised Code for habilitation center services provided before 89549
July 1, 2005. 89550

Section 206.66.79. CHILDREN'S HOSPITALS 89551

The foregoing appropriation items 600-635, Children's 89552
Hospitals - Federal, and 600-636, Children's Hospitals - State, 89553
shall be used by the Department of Job and Family Services to 89554
create a program under which it makes supplemental Medicaid 89555
payments to children's hospitals for inpatient services based on 89556
federal upper payment limits for children's hospitals. The 89557
Department shall submit to the United States Secretary of Health 89558
and Human Services an amendment to the State Medicaid Plan for the 89559
purpose of requesting federal approval to implement the program. 89560
On receipt of federal approval, the Department shall implement the 89561
program. Under the program, the Department shall pay children's 89562
hospitals the federally allowable supplemental payment for 89563

hospital discharges qualifying for the program and occurring in 89564
fiscal year 2006 and fiscal year 2007, except that the amount used 89565
for the program shall not exceed \$6 million (state share) plus the 89566
corresponding federal match, if available, for the qualifying 89567
discharges in fiscal year 2006 and fiscal year 2007. 89568

Section 206.66.84. CHILDREN'S TRUST FUND 89569

Notwithstanding sections 3109.13 to 3109.18 of the Revised 89570
Code, in fiscal year 2006, the Director of Budget and Management 89571
shall transfer \$1,500,000 cash from the Children's Trust Fund 89572
(Fund 198 in the Department of Job and Family Services) to the 89573
Partnerships for Success Fund (Fund 5BH in the Department of Youth 89574
Services). On or before January 1, 2007, the Director of Budget 89575
and Management shall transfer to the Children's Trust Fund (Fund 89576
198) any amount of cash that remains unspent in the Partnerships 89577
for Success Fund (Fund 5BH). 89578

Section 206.66.85. HOSPITAL CARE ASSURANCE MATCH FUND 89579

Appropriation item 600-650, Hospital Care Assurance Match, 89580
shall be used by the Department of Job and Family Services in 89581
accordance with division (B) of section 5112.18 of the Revised 89582
Code. 89583

Section 206.66.87. HEALTH CARE SERVICES ADMINISTRATION 89584

The foregoing appropriation item 600-654, Health Care 89585
Services Administration, shall be used by the Department of Job 89586
and Family Services for costs associated with the administration 89587
of the Medicaid program. 89588

Section 206.66.90. HEALTH CARE SERVICES ADMINISTRATION FUND 89589

Of the amount received by the Department of Job and Family 89590
Services during fiscal year 2006 and fiscal year 2007 from the 89591

first installment of assessments paid under section 5112.06 of the Revised Code and intergovernmental transfers made under section 5112.07 of the Revised Code, the Director of Job and Family Services shall deposit \$350,000 in each fiscal year into the state treasury to the credit of the Health Care Services Administration Fund (Fund 5U3).

Section 206.66.91. The Department of Job and Family Services shall retain \$1,820,000 of the federal incentives that are described in division (A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that the Department of Job and Family Services receives from the United States Department of Human Services to reimburse the Department of Job and Family Services for the state share of payments made by the Department of Job and Family Services for mandatory contracts utilized by county child support enforcement agencies in the program of child support enforcement authorized by sections 3125.03 and 3125.11 of the Revised Code. This revenue shall be deposited in the Child Support Operating Fund 5BE in the Department of job and Family Services).

Section 206.66.92. Based on the actual usage of optional contracts by each county, the Department of Job and Family Services shall retain a portion of the federal incentives described in division (A) of section 3125.19 of the Revised Code and authorized by 42 U.S.C. 658a that the Department of Job and Family Services receives from the United States Department of Human Services that are paid to the county child support enforcement agencies each month based on the Department's estimate of what the county child support enforcement agency will earn in federal incentives. The portion retained by the Department of Job and Family Services shall reimburse the Department for the state share of the contractual obligation for the monthly utilization of optional contracts by each county child support enforcement agency

in the program of child support enforcement authorized by sections 89623
3125.03 and 3125.11 of the Revised Code. This revenue shall be 89624
deposited in the Child Support Operating Fund (Fund 5BE in the 89625
Department of Job and Family Services). 89626

Section 206.66.93. CHILD SUPPORT COLLECTIONS/TANF MOE 89627

The foregoing appropriation item 600-658, Child Support 89628
Collections, shall be used by the Department of Job and Family 89629
Services to meet the TANF maintenance of effort requirements of 89630
Pub. L. No. 104-193. Once the state is assured that it will meet 89631
the maintenance of effort requirement, the Department of Job and 89632
Family Services may use funds from appropriation item 600-658, 89633
Child Support Collections, to support public assistance 89634
activities. 89635

Section 206.66.96. MEDICAID PROGRAM SUPPORT FUND - STATE 89636

The foregoing appropriation item 600-671, Medicaid Program 89637
Support, shall be used by the Department of Job and Family 89638
Services to pay for Medicaid services and contracts. The 89639
Department may also deposit to Fund 5C9 revenues received from 89640
other state agencies for Medicaid services under the terms of 89641
interagency agreements between the Department and other state 89642
agencies, and all funds the Department recovers because the 89643
benefits a person received under the disability medical assistance 89644
program established in section 5115.10 of the Revised Code were 89645
determined to be covered by the medical assistance program 89646
established under Chapter 5111. of the Revised Code. 89647

Section 206.66.99. TRANSFERS OF IMD/DSH CASH TO THE 89648
DEPARTMENT OF MENTAL HEALTH 89649

The Department of Job and Family Services shall transfer, 89650
through intrastate transfer voucher, cash from Fund 5C9, Medicaid 89651

Program Support, to the Department of Mental Health's Fund 4X5, 89652
OhioCare, in accordance with an interagency agreement that 89653
delegates authority from the Department of Job and Family Services 89654
to the Department of Mental Health to administer specified 89655
Medicaid services. 89656

Section 206.67.03. FEDERAL UNEMPLOYMENT PROGRAMS 89657

All unexpended funds remaining at the end of fiscal year 2005 89658
that were appropriated and made available to the state under 89659
section 903(d) of the Social Security Act, as amended, in the 89660
foregoing appropriation item 600-678, Federal Unemployment 89661
Programs (Fund 3V4), are hereby appropriated to the Department of 89662
Job and Family Services. Upon the request of the Director of Job 89663
and Family Services, the Director of Budget and Management shall 89664
increase the appropriation for fiscal year 2006 by the amount 89665
remaining unspent from the fiscal year 2005 appropriation and 89666
shall increase the appropriation for fiscal year 2007 by the 89667
amount remaining unspent from the fiscal year 2006 appropriation. 89668
The appropriation shall be used under the direction of the 89669
Department of Job and Family Services to pay for administrative 89670
activities for the Unemployment Insurance Program, employment 89671
services, and other allowable expenditures under section 903(d) of 89672
the Social Security Act, as amended. 89673

The amounts obligated pursuant to this section shall not 89674
exceed at any time the amount by which the aggregate of the 89675
amounts transferred to the account of the state under section 89676
903(d) of the Social Security Act, as amended, exceeds the 89677
aggregate of the amounts obligated for administration and paid out 89678
for benefits and required by law to be charged against the amounts 89679
transferred to the account of the state. 89680

Section 206.67.06. WORKFORCE DEVELOPMENT GRANT AGREEMENT 89681

The Department of Job and Family Services may use 89682
appropriations from appropriation item 600-688, Workforce 89683
Investment Act, to provide financial assistance for workforce 89684
development activities included in a grant agreement entered into 89685
by the department in accordance with section 5101.20 of the 89686
Revised Code. 89687

Section 206.67.07. ACCOUNTABILITY AND CREDIBILITY TOGETHER 89688

Of the foregoing appropriation item 600-689, TANF Block 89689
Grant, \$1 million in each fiscal year shall be allocated to 89690
Accountability and Credibility Together (ACT) to continue its 89691
welfare diversion program for TANF eligible individuals. 89692

Section 206.67.08. KINSHIP PERMANENCY INCENTIVE PROGRAM 89693

Of the foregoing appropriation item 600-689, TANF Block Grant 89694
(Fund 3V6), \$10 million per fiscal year shall be used to support 89695
the activities of the Kinship Permanency Incentive Program created 89696
under section 5101.802 of the Revised Code. 89697

The Department of Job and Family Services shall prepare 89698
reports concerning both of the following: 89699

(A) Stability and permanency outcomes for children for whom 89700
incentive payments are made under the Kinship Permanency Incentive 89701
Program; 89702

(B) The total amount of payments made under the Program, 89703
patterns of expenditures made per child under the Program, and 89704
cost savings realized through the Program from placement with 89705
kinship caregivers rather than other out-of-home placements. 89706

The Department shall submit a report to the Governor, the 89707
Speaker and Minority Leader of the House of Representatives, and 89708
the President and Minority Leader of the Senate not later than 89709
December 31, 2008, and December 31, 2010. 89710

Section 206.67.09. OHIO ALLIANCE OF BOYS AND GIRLS CLUBS 89711

Of the foregoing appropriation item 600-689, TANF Block Grant 89712
(Fund 3V6), the Department of Job and Family Services shall use 89713
\$600,000 in each fiscal year to support expenditures of the Ohio 89714
Alliance of Boys and Girls Clubs to provide after-school programs 89715
that protect at-risk children and enable youth to become 89716
responsible adults. The Ohio Alliance of Boys and Girls Clubs 89717
shall provide nutritional meals, snacks, and educational, youth 89718
development, and career development services to TANF eligible 89719
children participating in programs and activities operated by 89720
eligible Boys and Girls Clubs. 89721

The Department shall provide an annual grant of \$600,000 in 89722
each fiscal year to the Ohio Alliance of Boys and Girls Clubs. As 89723
soon as possible after entering into a grant agreement at the 89724
beginning of each fiscal year, the Department of Job and Family 89725
Services shall distribute the grant funds in one single payment. 89726
The Department of Job and Family Services and the Ohio Alliance of 89727
Boys and Girls Clubs shall agree on reporting requirements to be 89728
incorporated into the grant agreement. 89729

The Ohio Alliance of Boys and Girls Clubs shall return any 89730
fiscal year 2006 funds from this grant remaining unspent on June 89731
30, 2006, to the Ohio Department of Job and Family Services not 89732
later than November 1, 2006. The Ohio Alliance of Boys and Girls 89733
Clubs shall return any fiscal year 2007 funds from this grant 89734
remaining unspent on June 30, 2007, to the Ohio Department of Job 89735
and Family Services not later than November 1, 2007. 89736

CHILD WELFARE TRAINING INITIATIVE 89737

Of the foregoing appropriation item 600-689, TANF Block Grant 89738
(Fund 3V6), \$200,000 per fiscal year shall be provided to the 89739
National Center for Adoption Law and Policy to fund a 89740

multi-disciplinary child welfare training initiative. The 89741
Department of Job and Family Services shall coordinate with the 89742
National Center for Adoption Law and Policy to determine the focus 89743
of the training provided each year and to ensure that the training 89744
is designed to meet one of the four purposes of the Temporary 89745
Assistance to Needy Families program. 89746

PEOPLE WORKING COOPERATIVELY 89747

Of the foregoing appropriation item 600-689, TANF Block Grant 89748
(Fund 3V6), \$50,000 in each fiscal year shall be allocated to 89749
People Working Cooperatively in Cincinnati to fund services for 89750
TANF eligible individuals. The Department of Job and Family 89751
Services shall coordinate with People Working Cooperatively to 89752
ensure that the services provided meet one of the four purposes of 89753
the Temporary Assistance for Needy Families Program. 89754

TALBERT HOUSE 89755

Of the foregoing appropriation item 600-689, TANF Block Grant 89756
(Fund 3V6), \$75,000 in each fiscal year shall be distributed 89757
directly to the Talbert House to provide TANF eligible non-medical 89758
substance or alcohol abuse services. 89759

CHILDREN'S HUNGER ALLIANCE 89760

Of the foregoing appropriation item 600-689, TANF Block Grant 89761
(Fund 3V6), \$500,000 in each fiscal year shall be allocated to the 89762
Children's Hunger Alliance for Child Nutrition Program outreach 89763
efforts. 89764

PROJECT GRAD 89765

Of the foregoing appropriation item 600-689, TANF Block Grant 89766
(Fund 3V6), up to \$185,000 in each fiscal year shall be used in 89767
TANF eligible activities to reduce the dropout rate by addressing 89768
the academic and social problems of inner-city students through 89769
Project GRAD. 89770

*Section 206.67.10. EMPLOYMENT RETENTION INCENTIVE PROGRAM	89771
(A) As used in this section:	89772
(1) "Assistance group" has the same meaning as in section 5107.02 of the Revised Code.	89773 89774
(2) "Ohio Works First" means the program established under Chapter 5107. of the Revised Code.	89775 89776
(B) Subject to section 5101.801 of the Revised Code, in fiscal year 2007 the Department of Job and Family Services may establish and administer the Employment Retention Incentive Program under which the Department provides cash payments to eligible assistance groups. The Department shall use the foregoing appropriation item 600-689, TANF Block Grant, to fund the program.	89777 89778 89779 89780 89781 89782
To be eligible for the Employment Retention Incentive Program, an assistance group must meet all of the following requirements:	89783 89784 89785
(1) The assistance group must apply using an application that contains all of the information that rules specified in this section require in accordance with the application process established in those rules;	89786 89787 89788 89789
(2) The assistance group must have ceased to participate in Ohio Works First in accordance with rules specified in this section;	89790 89791 89792
(3) The assistance group must include a member who was employed during the last month the assistance group participated in Ohio Works First in accordance with rules specified in this section;	89793 89794 89795 89796
(4) That member of the assistance group must remain employed in accordance with rules specified in this section;	89797 89798
(5) The assistance group must meet all other eligibility	89799

requirements established in rules specified in this section. 89800

(C) If the Department establishes the Employment Retention 89801
Incentive Program, the Department shall provide cash payments 89802
under the program in a manner that enables the cash payments to be 89803
excluded from the definition of "assistance" in 45 C.F.R. 89804
260.31(a) and instead be benefits that 45 C.F.R. 260.31(b) 89805
excludes from the definition of assistance. Each county Department 89806
of Job and Family Services shall make eligibility determinations 89807
for the program and perform other administrative duties for the 89808
program in accordance with rules specified in this section. 89809

(D) If the Department establishes the Employment Retention 89810
Incentive Program, the Department shall adopt rules under division 89811
(C) of section 5101.801 of the Revised Code to establish all of 89812
the following for the program: 89813

(1) The information that an application for the program must 89814
contain; 89815

(2) The application process for the program, including the 89816
process to verify eligibility for the program; 89817

(3) The manner in which an assistance group must have ceased 89818
to participate in Ohio Works First for the assistance group to 89819
qualify for the program; 89820

(4) The manner in which an assistance group member must have 89821
been employed during the last month the assistance group 89822
participated in Ohio Works First for the assistance group to 89823
qualify for the program; 89824

(5) The manner in which an assistance group member must 89825
remain employed for the assistance group to qualify for the 89826
program; 89827

(6) Other eligibility requirements for the program; 89828

(7) The amounts that eligible assistance groups are to 89829

receive as cash payments under the program;	89830
(8) The frequency and duration that eligible assistance groups are to receive cash payments under the program;	89831 89832
(9) Requirements governing county departments' administrative duties regarding the program.	89833 89834
(E) In adopting rules under division (D)(2) of this section establishing the application process for the Employment Retention Incentive Program, the director may not require that application be submitted to county departments of job and family services.	89835 89836 89837 89838
*Section 206.67.11. Section 206.67.10 of this act takes effect July 1, 2006.	89839 89840
Section 206.67.12. EARLY LEARNING INITIATIVE	89841
(A) As used in this section:	89842
(1) "Title IV-A services" means benefits and services that are allowable under Title IV-A of the "Social Security Act," as specified in 42 U.S.C. 604(a), except that they shall not be benefits and services included in the term "assistance" as defined in 45 C.F.R. 260.31(a) and shall be benefits and services that are excluded from the definition of the term "assistance" under 45 C.F.R. 260.31(b).	89843 89844 89845 89846 89847 89848 89849
(2) "Title IV-A funds" means funds provided under the temporary assistance for needy families block grant established by Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.	89850 89851 89852 89853
(3) "Child care" has the same meaning as in section 5104.01 of the Revised Code.	89854 89855
(4) "Eligible child" means a child who is at least three years of age but not of compulsory school age or enrolled in	89856 89857

kindergarten, is eligible for Title IV-A services, and whose
family income does not exceed one hundred eighty-five per cent of
the federal poverty line at application. If the family income of a
child receiving early learning services under this section exceeds
one hundred ninety-five per cent of the federal poverty line, the
child ceases to be eligible for an early learning program.

(5) "Early learning program" means a program for eligible
children that is funded with Title IV-A funds and provides Title
IV-A services that are both of the following:

(a) Early learning services, as defined by the Department of
Education pursuant to division (C)(1) of Section 206.09.54 of this
act;

(b) Child care.

(6) "Early learning provider" means an entity that is
receiving Title IV-A funds to operate an early learning program.

(7) "Early learning agency" means an early learning provider
or an entity that has entered into an agreement with an early
learning provider requiring the early learning provider to operate
an early learning program on behalf of the entity.

(8) "Federal poverty line" has the same meaning as in section
5104.01 of the Revised Code.

(9) "Of compulsory school age" has the same meaning as in
section 3321.01 of the Revised Code.

(B) The Department of Job and Family Services and the
Department of Education shall administer the Early Learning
Initiative, established under Section 206.09.54 of this act, in
accordance with sections 5101.80 and 5101.801 of the Revised Code.
The Initiative shall provide early learning programs and child
care to eligible children. Early learning programs may provide
early learning services on a full-day basis, a part-day basis, or

both a full-day and part-day basis. 89888

(C) The Department of Job and Family Services shall do all of 89889
the following: 89890

(1) Enter into a contract with each early learning agency in 89891
accordance with Section 206.09.54 of this act; 89892

(2) Reimburse early learning agencies for Title IV-A services 89893
provided to eligible children according to the terms of the 89894
contract and the rules adopted under division (C)(3) of this 89895
section; 89896

(3) In consultation with the Department of Education, adopt 89897
rules in accordance with Chapter 119. of the Revised Code to 89898
implement the Early Learning Initiative. The rules shall include 89899
all of the following: 89900

(a) Provisions regarding the establishment of co-payments for 89901
families of eligible children whose family income is more than one 89902
hundred sixty-five per cent of the federal poverty line but equal 89903
to or less than one hundred ninety-five per cent of the federal 89904
poverty line; 89905

(b) An exemption from co-payment requirements for families 89906
whose family income is equal to or less than one hundred 89907
sixty-five per cent of the federal poverty line; 89908

(c) A definition of "weekly attendance rate" for the purpose 89909
of reimbursing early learning agencies; 89910

(d) Provisions that establish the following reimbursement 89911
rates for early learning agencies based on the attendance of 89912
eligible children: 89913

(i) If an eligible child attends twenty-five or more hours in 89914
a given week, the weekly reimbursement shall not be less than two 89915
hundred dollars and seventy-three cents; 89916

(ii) If an eligible child attends fifteen or more hours but 89917

less than twenty-five hours in a given week, the weekly 89918
reimbursement rate shall not be less than one hundred sixty 89919
dollars and fifty-eight cents; 89920

(iii) If an eligible child attends less than fifteen hours in 89921
a given week, the hourly reimbursement rate shall not be less than 89922
eight dollars and three cents. 89923

(4) If, on the effective date of this section and Section 89924
206.09.54 of this act, no early learning agencies have been 89925
approved for a given county, the Department of Job and Family 89926
Services, in consultation with the Department of Education, shall 89927
establish a deadline for the submission of applications to be an 89928
early learning agency that occurs after the effective date of this 89929
section. 89930

(5)(a) Subject to division (C)(6)(b) of this Section and in 89931
consultation with the Department of Education, establish a 89932
caretaker employment eligibility requirement for participation in 89933
the Early Learning Initiative that specifies the minimum number of 89934
hours that the caretaker of the eligible child must be employed 89935
and the time period over which the minimum number of hours is to 89936
be measured. These minimum hours may, but are not required to, 89937
overlap the period during the day or week in which the child 89938
participates in the early learning program. This caretaker 89939
employment eligibility requirement shall permit the child to be 89940
determined to be, and to remain, an eligible child for up to 89941
thirty days if the county department of job and family services 89942
determines that the caretaker is expected to begin engaging in an 89943
approved activity within that thirty-day period. The county 89944
department of job and family services shall inform both the early 89945
learning provider and the Department of Job and Family Services of 89946
this determination. The Department of Job and Family Services 89947
shall designate by rule the activities that constitute approved 89948
activities for purposes of this requirement. 89949

(b) The Department shall periodically review the requirement 89950
described in division (C)(6)(a) of this Section to ensure that it 89951
complies with federal law and regulations. 89952

(D) Each early learning provider shall determine eligibility 89953
for Title IV-A services for children seeking to enroll in an early 89954
learning program. 89955

(E) Each county department of job and family services shall 89956
establish co-payment requirements in accordance with the rules 89957
adopted under division (C)(3) of this section. 89958

(F)(1) The Department of Job and Family Services shall ensure 89959
that all reimbursements paid to an early learning agency under 89960
this section are only for Title IV-A services provided to eligible 89961
children. 89962

(2) In calculating reimbursements, the Department shall 89963
reimburse the early learning agency for up to twenty-five days per 89964
year in which an eligible child is absent from the early learning 89965
program on a day the child is scheduled to attend the program. 89966

(G) The provision of early learning services in an early 89967
learning program shall not prohibit or otherwise prevent an 89968
individual from obtaining certificates for payment under division 89969
(C) of section 5104.32 of the Revised Code that the individual may 89970
use to purchase services from any provider qualified to provide 89971
publicly funded child care under section 5104.31 of the Revised 89972
Code for periods during which the child is not in an early 89973
learning program. If the individual must meet employment and 89974
training requirements for a certificate for payment, the 89975
individual may, but shall not be required to, meet these 89976
requirements concurrently with the time the child is participating 89977
in an early learning program or receiving child care as a result 89978
of the certificate. 89979

(H) Upon the transfer of appropriation from Department of 89980

Education appropriation line 200-663, Early Learning Initiative 89981
(Fund 5W2), to Department of Job and Family Services appropriation 89982
item 600-689, TANF Block Grant (Fund 3V6), up to \$104,380,000 in 89983
fiscal year 2006 and up to \$125,256,000 in fiscal year 2007 shall 89984
be used to reimburse early learning agencies under this section. 89985
The Department of Job and Family Services shall provide up to 89986
10,000 slots of services for eligible children in fiscal year 2006 89987
and up to 12,000 slots of services for eligible children in fiscal 89988
year 2007 through the Early Learning Initiative. In each fiscal 89989
year, the Department shall allocate at least seventeen slots of 89990
services to each county in the state. 89991

If, on or after the thirty-first day of December of each 89992
fiscal year, the Director of Budget and Management, in 89993
consultation with the Director of Job and Family Services and the 89994
Superintendent of Public Instruction, determines that there is a 89995
balance of funds in the Early Learning Initiative in either fiscal 89996
year 2006 or fiscal year 2007, the Director of Budget and 89997
Management may approve the use of the funds by the Department of 89998
Job and Family Services to provide publicly funded child care, as 89999
defined in section 5104.01 of the Revised Code. 90000

Of the foregoing appropriation item 600-689, TANF Block Grant 90001
(Fund 3V6), up to \$800,000 in each fiscal year may be used by the 90002
Department of Job and Family Services for administration of the 90003
Early Learning Initiative. 90004

The Director of Budget and Management, at the request of the 90005
Director of Job and Family Services, may transfer in each fiscal 90006
year up to \$2,200,000 cash from the Temporary Assistance for Needy 90007
Families Federal Fund (Fund 3V6) to the Early Learning Initiative 90008
(Fund 5W2) for administration of the Early Learning Initiative by 90009
the Department of Education. 90010

(I) Any contract executed prior to July 1, 2005, between an 90011

early learning agency, the Department of Job and Family Services, 90012
and the Department of Education shall be deemed to be effective as 90013
of July 1, 2005, upon issuance of a state purchase order even if 90014
such purchase order is approved at some later date, unless the 90015
executed contract expressly provides for a start date after July 90016
1, 2005. 90017

REIMBURSEMENT CEILINGS FOR PUBLICLY FUNDED CHILD CARE 90018
PROVIDERS 90019

The Department of Job and Family Services shall estimate the 90020
monthly average of children the Department expects to enroll in 90021
publicly funded child care from December 2005 through March 2006. 90022
The Department shall then determine the actual monthly average of 90023
children enrolled in publicly funded child care for that period. 90024
If the estimated monthly average exceeds the actual monthly 90025
average by at least two thousand, the Department may increase, for 90026
fiscal year 2007, the reimbursement ceilings for providers of 90027
publicly funded child care to not less than sixty-five per cent of 90028
the market's usual and customary cost to the public based on the 90029
most recently conducted market rate survey required by 48 C.F.R. 90030
98.16. 90031

Section 206.67.13. MARKET RATE SURVEY 90032

The Department of Job and Family Services shall conduct a 90033
study of the market rates for the provision of child care to 90034
establish new rates for the funding of publicly funded child care. 90035
The Department shall complete this study and establish new rates 90036
for reimbursement not later than July 1, 2006. 90037

Each child care provider shall cooperate with the Department 90038
on this study. A provider that fails to cooperate with the 90039
Department shall not receive publicly funded child care funds in 90040
fiscal year 2006. 90041

Section 206.67.15. PRESCRIPTION DRUG REBATE FUND 90042

The foregoing appropriation item 600-692, Health Care 90043
Services, shall be used by the Department of Job and Family 90044
Services in accordance with section 5111.081 of the Revised Code. 90045
Moneys recovered by the Department for either hospital settlements 90046
or pursuant to the Department's rights of recovery under section 90047
5101.58 of the Revised Code, that are not directed to the Health 90048
Care Services Administration Fund (Fund 5U3) under section 5111.94 90049
of the Revised Code, shall also be deposited into Fund 5P5. 90050

Section 206.67.18. MEDICAID COVERAGE OF ALCOHOL, DRUG 90051
ADDICTION, AND MENTAL HEALTH SERVICES 90052

(A) To the maximum extent possible, the amendments to section 90053
5111.911 of the Revised Code shall be implemented in a manner that 90054
is consistent with the "State of Ohio Community Behavioral Health 90055
Medicaid Business Plan" finalized in August 2004, by the 90056
Departments of Job and Family Services, Mental Health, and Alcohol 90057
and Drug Addiction Services and the Ohio Association of Behavioral 90058
Health Authorities. 90059

(B) As soon as practicable, the Departments of Job and Family 90060
Services, Mental Health, and Alcohol and Drug Addiction Services, 90061
in conjunction with behavioral health providers, shall specify 90062
procedures that are consistent with federal law for the 90063
implementation of the "State of Ohio Community Behavioral Health 90064
Medicaid Business Plan." If it is determined that any portion of 90065
the Plan does not comply with federal law, the Departments, in 90066
conjunction with behavioral health providers, shall specify 90067
procedures to work toward implementation of that portion of the 90068
Plan. 90069

(C) A report of the progress of the implementation of the 90070
"State of Ohio Community Behavioral Health Medicaid Business Plan" 90071

shall be submitted to the Speaker of the House of Representatives 90072
and the President of the Senate not later than the first day of 90073
March and first day of October of each year until all components 90074
of the Plan have been fully implemented. 90075

Section 206.67.21. TRANSFER OF TOBACCO MASTER SETTLEMENT 90076
AGREEMENT FUNDS TO SUPPORT THE AGED, BLIND, AND DISABLED MANAGED 90077
CARE PILOT PROGRAMS 90078

(A) Not later than June 30, 2006, the Director of Job and 90079
Family Services, in conjunction with the Office of Budget and 90080
Management, shall determine the amounts necessary to implement the 90081
Aged, Blind, and Disabled Managed Care Pilot Programs established 90082
under sections 5111.163 and 5111.164 of the Revised Code. 90083

(B)(1) Notwithstanding section 183.02 of the Revised Code, on 90084
July 1, 2006, or as soon as possible thereafter, the Director of 90085
Budget and Management shall transfer cash equal to the state share 90086
of the amount determined pursuant to division (A) of this section 90087
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 90088
the ABD Managed Care Pilot Programs - State Fund (Fund 5BZ in the 90089
Department of Job and Family Services), which is hereby created. 90090
Of the tobacco revenue that is credited to the Tobacco Master 90091
Settlement Agreement Fund (Fund 087) in fiscal year 2006, the 90092
share that is determined pursuant to section 183.02 of the Revised 90093
Code to be the amount transferred by the Director of Budget and 90094
Management from the Tobacco Master Settlement Agreement Fund (Fund 90095
087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund 90096
H87) shall be reduced by the amount that is transferred from the 90097
Tobacco Master Settlement Agreement Fund (Fund 087) to the ABD 90098
Managed Care Pilot Programs - State Fund (Fund 5BZ) in accordance 90099
with this section. The amounts transferred under this division are 90100
hereby appropriated to appropriation item 600-698, ABD Managed 90101
Care Pilot Programs - State. 90102

(2) Not later than ninety days after the Department of Job and Family Services terminates the pilot programs, the Director of Budget and Management shall transfer the unencumbered cash balance of the ABD Managed Care Pilot Programs - State Fund (Fund 5BZ) to the Tobacco Use Prevention and Cessation Trust Fund (Fund H87).

(C) The Department of Job and Family Services shall deposit federal reimbursement received for the Aged, Blind, and Disabled Managed Care Pilot Programs into the ABD Managed Care Pilot Programs - Federal Fund (Fund 3AZ), which is hereby created. Amounts deposited into Fund 3AZ are hereby appropriated to appropriation item 600-699, ABD Managed Care Pilot Programs - Federal.

Section 206.67.24. WAIVER OF FOOD STAMP WORK REQUIREMENTS

Pursuant to 7 U.S.C. 2015(o)(4)(A)(i), the Department of Job and Family Services shall request that the United States Secretary of Agriculture waive the applicability of the work requirement of 7 U.S.C. 2015(o)(2) during fiscal years 2006 and 2007 to food stamp benefit recipients who reside in a county of this state that the Department determines has an unemployment rate of over 10 per cent or does not have a sufficient number of jobs to provide employment for the recipients. The Department shall make monthly determinations of which counties the waiver shall be in effect in. No individual may be exempted from the work requirements for more than a total of twelve months beginning July 1, 2005, and ending June 30, 2007.

The Department shall report to the Speaker and Minority Leader of the House of Representatives and President and Minority Leader of the Senate on receipt or rejection of the waiver sought under this section.

Section 206.72. JCO JUDICIAL CONFERENCE OF OHIO

General Revenue Fund				90133
GRF 018-321 Operating Expenses	\$	957,000	\$ 957,000	90134
TOTAL GRF General Revenue Fund	\$	957,000	\$ 957,000	90135
General Services Fund Group				90136
403 018-601 Ohio Jury Instructions	\$	225,000	\$ 225,000	90137
TOTAL GSF General Services Fund	\$	225,000	\$ 225,000	90138
Group				
TOTAL ALL BUDGET FUND GROUPS	\$	1,182,000	\$ 1,182,000	90139
STATE COUNCIL OF UNIFORM STATE LAWS				90140
Notwithstanding section 105.26 of the Revised Code, of the				90141
foregoing appropriation item 018-321, Operating Expenses, up to				90142
\$66,000 in fiscal year 2006 and up to \$68,000 in fiscal year 2007				90143
may be used to pay the expenses of the State Council of Uniform				90144
State Laws, including membership dues to the National Conference				90145
of Commissioners on Uniform State Laws.				90146
OHIO JURY INSTRUCTIONS FUND				90147
The Ohio Jury Instructions Fund (Fund 403) shall consist of				90148
grants, royalties, dues, conference fees, bequests, devises, and				90149
other gifts received for the purpose of supporting costs incurred				90150
by the Judicial Conference of Ohio in dispensing educational and				90151
informational data to the state's judicial system. Fund 403 shall				90152
be used by the Judicial Conference of Ohio to pay expenses				90153
incurred in dispensing educational and informational data to the				90154
state's judicial system. All moneys accruing to Fund 403 in excess				90155
of \$225,000 in fiscal year 2006 and in excess of \$225,000 in				90156
fiscal year 2007 are hereby appropriated for the purposes				90157
authorized.				90158
No money in the Ohio Jury Instructions Fund shall be				90159
transferred to any other fund by the Director of Budget and				90160
Management or the Controlling Board.				90161

Section 206.75. JSC THE JUDICIARY/SUPREME COURT				90162
General Revenue Fund				90163
GRF 005-321	Operating Expenses -	\$ 118,855,655	\$ 121,441,259	90164
	Judiciary/Supreme Court			
GRF 005-401	State Criminal	\$ 328,676	\$ 343,730	90165
	Sentencing Council			
GRF 005-406	Law-Related Education	\$ 216,131	\$ 222,615	90166
GRF 005-502	Commission for Legal	\$ 435,000	\$ 875,000	90167
	Education Opportunity			
TOTAL GRF	General Revenue Fund	\$ 119,835,462	\$ 122,882,604	90168
General Services Fund Group				90169
672 005-601	Continuing Judicial	\$ 130,000	\$ 130,000	90170
	Education			
TOTAL GSF	General Services Fund	\$ 130,000	\$ 130,000	90171
Group				
Federal Special Revenue Fund Group				90172
3J0 005-603	Federal Grants	\$ 848,070	\$ 861,382	90173
TOTAL FED	Federal Special Revenue	\$ 848,070	\$ 861,382	90174
Fund Group				
State Special Revenue Fund Group				90175
4C8 005-605	Attorney Registration	\$ 3,169,774	\$ 3,264,867	90176
5T8 005-609	Grants and Awards	\$ 10,000	\$ 10,000	90177
6A8 005-606	Supreme Court	\$ 1,410,718	\$ 1,453,042	90178
	Admissions			
643 005-607	Commission on	\$ 569,203	\$ 586,261	90179
	Continuing Legal Education			
TOTAL SSR	State Special Revenue	\$ 5,159,695	\$ 5,314,170	90180
Fund Group				
TOTAL ALL BUDGET FUND GROUPS		\$ 125,973,227	\$ 129,188,156	90181

LAW-RELATED EDUCATION 90182

The foregoing appropriation item 005-406, Law-Related 90183
Education, shall be distributed directly to the Ohio Center for 90184
Law-Related Education for the purposes of providing continuing 90185
citizenship education activities to primary and secondary 90186
students, expanding delinquency prevention programs, increasing 90187
activities for at-risk youth, and accessing additional public and 90188
private money for new programs. 90189

COMMISSION FOR LEGAL EDUCATION OPPORTUNITY 90190

The foregoing appropriation item 005-502, Commission for 90191
Legal Education Opportunity, shall be used to fund activities of 90192
the Commission for Legal Education Opportunity created by the 90193
Chief Justice of the Supreme Court of Ohio for purposes of 90194
assisting minority, low-income, and educationally disadvantaged 90195
college graduates in transition to legal education. Moneys 90196
appropriated to the Commission for Legal Education Opportunity may 90197
be used to establish and provide intensive course study designed 90198
to prepare eligible college graduates for law education, provide 90199
annual stipends for students who successfully complete the course 90200
of study and are admitted to and maintain satisfactory academic 90201
standing in an Ohio law school, and pay the administrative costs 90202
associated with the program. 90203

CONTINUING JUDICIAL EDUCATION 90204

The Continuing Judicial Education Fund (Fund 672) shall 90205
consist of fees paid by judges and court personnel for attending 90206
continuing education courses and other gifts and grants received 90207
for the purpose of continuing judicial education. The foregoing 90208
appropriation item 005-601, Continuing Judicial Education, shall 90209
be used to pay expenses for continuing education courses for 90210
judges and court personnel. If it is determined by the 90211
Administrative Director of the Supreme Court that additional 90212

appropriations are necessary, the amounts are hereby appropriated. 90213

No money in the Continuing Judicial Education Fund shall be 90214
transferred to any other fund by the Director of Budget and 90215
Management or the Controlling Board. Interest earned on moneys in 90216
the Continuing Judicial Education Fund shall be credited to the 90217
fund. 90218

FEDERAL GRANTS 90219

The Federal Grants Fund (Fund 3J0) shall consist of grants 90220
and other moneys awarded to the Supreme Court (The Judiciary) by 90221
the United States Government or other entities that receive the 90222
moneys directly from the United States Government and distribute 90223
those moneys to the Supreme Court (The Judiciary). The foregoing 90224
appropriation item 005-603, Federal Grants, shall be used in a 90225
manner consistent with the purpose of the grant or award. If it is 90226
determined by the Administrative Director of the Supreme Court 90227
that additional appropriations are necessary, the amounts are 90228
hereby appropriated. 90229

No money in the Federal Grants Fund shall be transferred to 90230
any other fund by the Director of Budget and Management or the 90231
Controlling Board. However, interest earned on moneys in the 90232
Federal Grants Fund shall be credited or transferred to the 90233
General Revenue Fund. 90234

ATTORNEY REGISTRATION 90235

In addition to funding other activities considered 90236
appropriate by the Supreme Court, the foregoing appropriation item 90237
005-605, Attorney Registration, may be used to compensate 90238
employees and to fund appropriate activities of the following 90239
offices established by the Supreme Court under the Rules for the 90240
Government of the Bar of Ohio: the Office of Disciplinary Counsel, 90241
the Board of Commissioners on Grievances and Discipline, the 90242
Clients' Security Fund, the Board of Commissioners on the 90243

Unauthorized Practice of Law, and the Office of Attorney 90244
Registration. If it is determined by the Administrative Director 90245
of the Supreme Court that additional appropriations are necessary, 90246
the amounts are hereby appropriated. 90247

No moneys in the Attorney Registration Fund shall be 90248
transferred to any other fund by the Director of Budget and 90249
Management or the Controlling Board. Interest earned on moneys in 90250
the Attorney Registration Fund shall be credited to the fund. 90251

GRANTS AND AWARDS 90252

The Grants and Awards Fund (Fund 5T8) shall consist of grants 90253
and other moneys awarded to the Supreme Court (The Judiciary) by 90254
the State Justice Institute, the Division of Criminal Justice 90255
Services, or other entities. The foregoing appropriation item 90256
005-609, Grants and Awards, shall be used in a manner consistent 90257
with the purpose of the grant or award. If it is determined by the 90258
Administrative Director of the Supreme Court that additional 90259
appropriations are necessary, the amounts are hereby appropriated. 90260

No moneys in the Grants and Awards Fund shall be transferred 90261
to any other fund by the Director of Budget and Management or the 90262
Controlling Board. However, interest earned on moneys in the 90263
Grants and Awards Fund shall be credited or transferred to the 90264
General Revenue Fund. 90265

SUPREME COURT ADMISSIONS 90266

The foregoing appropriation item 005-606, Supreme Court 90267
Admissions, shall be used to compensate Supreme Court employees 90268
who are primarily responsible for administering the attorney 90269
admissions program under the Rules for the Government of the Bar 90270
of Ohio, and to fund any other activities considered appropriate 90271
by the court. Moneys shall be deposited into the Supreme Court 90272
Admissions Fund (Fund 6A8) under the Supreme Court Rules for the 90273
Government of the Bar of Ohio. If it is determined by the 90274

Administrative Director of the Supreme Court that additional	90275
appropriations are necessary, the amounts are hereby appropriated.	90276
No moneys in the Supreme Court Admissions Fund shall be	90277
transferred to any other fund by the Director of Budget and	90278
Management or the Controlling Board. Interest earned on moneys in	90279
the Supreme Court Admissions Fund shall be credited to the fund.	90280
CONTINUING LEGAL EDUCATION	90281
The foregoing appropriation item 005-607, Commission on	90282
Continuing Legal Education, shall be used to compensate employees	90283
of the Commission on Continuing Legal Education established under	90284
the Supreme Court Rules for the Government of the Bar of Ohio, and	90285
to fund other activities of the commission considered appropriate	90286
by the court. If it is determined by the Administrative Director	90287
of the Supreme Court that additional appropriations are necessary,	90288
the amounts are hereby appropriated.	90289
No moneys in the Continuing Legal Education Fund shall be	90290
transferred to any other fund by the Director of Budget and	90291
Management or the Controlling Board. Interest earned on moneys in	90292
the Continuing Legal Education Fund shall be credited to the fund.	90293
Section 206.78. LEC LAKE ERIE COMMISSION	90294
State Special Revenue Fund Group	90295
4C0 780-601 Lake Erie Protection \$ 875,000 \$ 875,000	90296
Fund	
5D8 780-602 Lake Erie Resources \$ 486,072 \$ 492,794	90297
Fund	
TOTAL SSR State Special Revenue	90298
Fund Group \$ 1,361,072 \$ 1,367,794	90299
TOTAL ALL BUDGET FUND GROUPS \$ 1,361,072 \$ 1,367,794	90300
CASH TRANSFER	90301
Not later than the thirtieth day of November of each fiscal	90302

year, the Executive Director of the Ohio Lake Erie Office, with
the approval of the Lake Erie Commission, shall certify to the
Director of Budget and Management the cash balance in the Lake
Erie Resources Fund (Fund 5D8) in excess of amounts needed to meet
operating expenses of the Lake Erie Office. The Lake Erie Office
may request the Director of Budget and Management to transfer up
to the certified amount from the Lake Erie Resources Fund (Fund
5D8) to the Lake Erie Protection Fund (Fund 4C0). The Director of
Budget and Management may transfer the requested amount, or the
Director may transfer a different amount up to the certified
amount. Cash transferred shall be used for the purposes described
in division (A) of section 1506.23 of the Revised Code. The amount
transferred by the director is hereby appropriated to the
foregoing appropriation item 780-601, Lake Erie Protection Fund,
which shall be increased by the amount transferred.

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Section 206.81. LRS LEGAL RIGHTS SERVICE

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General Revenue Fund				90319
GRF 054-100 Personal Services	\$	162,281	\$ 162,281	90320
GRF 054-200 Maintenance	\$	33,938	\$ 33,938	90321
GRF 054-300 Equipment	\$	1,856	\$ 1,856	90322
GRF 054-401 Ombudsman	\$	291,247	\$ 291,247	90323
TOTAL GRF General Revenue Fund	\$	489,322	\$ 489,322	90324
General Services Fund Group				90325
416 054-601 Gifts and Donations	\$	1,352	\$ 1,352	90326
5M0 054-610 Settlements	\$	75,000	\$ 75,000	90327
TOTAL GSF General Services				90328
Fund Group	\$	76,352	\$ 76,352	90329
Federal Special Revenue Fund Group				90330
3AG 054-613 Protection and Advocacy - Voter Accessibility	\$	114,089	\$ 114,089	90331

3B8	054-603	Protection and Advocacy - Mentally Ill	\$	1,059,041	\$	1,059,041	90332
3N3	054-606	Protection and Advocacy - Individual Rights	\$	550,283	\$	550,283	90333
3N9	054-607	Assistive Technology	\$	141,686	\$	141,686	90334
3R9	054-604	Family Support Collaborative	\$	50,000	\$	50,000	90335
3T2	054-609	Client Assistance Program	\$	400,553	\$	400,553	90336
3X1	054-611	Protection and Advocacy for Beneficiaries of Social Security	\$	187,784	\$	187,784	90337
3Z6	054-612	Traumatic Brain Injury	\$	65,138	\$	65,138	90338
305	054-602	Protection and Advocacy - Developmentally Disabled	\$	1,369,082	\$	1,369,082	90339
TOTAL FED	Federal Special Revenue						90340
Fund Group			\$	3,937,656	\$	3,937,656	90341
State Special Revenue Fund Group							90342
5AE	054-614	Grants and Contracts	\$	75,000	\$	75,000	90343
TOTAL SSR	State Special Revenue		\$	75,000	\$	75,000	90344
Fund Group							
TOTAL ALL BUDGET FUND GROUPS			\$	4,578,330	\$	4,578,330	90345
Section 206.84.	JLE JOINT LEGISLATIVE ETHICS COMMITTEE						90347
General Revenue Fund							90348
GRF	028-321	Legislative Ethics Committee	\$	550,000	\$	550,000	90349

TOTAL GRF General Revenue Fund	\$	550,000	\$	550,000	90350
TOTAL ALL BUDGET FUND GROUPS	\$	550,000	\$	550,000	90351

Section 206.87. LSC LEGISLATIVE SERVICE COMMISSION 90353

General Revenue Fund 90354

GRF 035-321 Operating Expenses	\$	14,870,000	\$	14,870,000	90355
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GRF 035-402 Legislative Interns	\$	1,012,000	\$	1,012,000	90356
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GRF 035-404 Legislative Office of	\$	1,256,427	\$	1,256,427	90357
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Education Oversight

GRF 035-405 Correctional	\$	375,000	\$	390,000	90358
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Institution Inspection

Committee

GRF 035-409 National Associations	\$	445,000	\$	456,000	90359
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GRF 035-410 Legislative	\$	3,625,000	\$	3,625,000	90360
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Information Systems

TOTAL GRF General Revenue Fund	\$	21,583,427	\$	21,609,427	90361
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General Services Fund Group 90362

4F6 035-603 Legislative Budget	\$	152,000	\$	152,500	90363
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Services

410 035-601 Sale of Publications	\$	25,000	\$	25,000	90364
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TOTAL GSF General Services 90365

Fund Group	\$	177,000	\$	177,500	90366
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TOTAL ALL BUDGET FUND GROUPS	\$	21,760,427	\$	21,786,927	90367
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JOINT LEGISLATIVE COMMITTEE ON MEDICAID TECHNOLOGY AND REFORM 90368

Of the foregoing appropriation item 035-321, Operating 90369

Expenses, \$100,000 in each fiscal year shall be used for costs 90370

associated with employing an executive director for the Joint 90371

Legislative Committee on Medicaid Technology and Reform as 90372

authorized by division (C) of section 101.391 of the Revised Code. 90373

Section 206.90. LIB STATE LIBRARY BOARD 90374

General Revenue Fund 90375

GRF 350-321	Operating Expenses	\$	6,298,677	\$	6,298,677	90376
GRF 350-400	Ohio Public Library	\$	4,330,000	\$	4,330,000	90377
	Information Network					
GRF 350-401	Ohioana Rental	\$	124,816	\$	124,816	90378
	Payments					
GRF 350-501	Library for the	\$	535,615	\$	535,615	90379
	Blind-Cincinnati					
GRF 350-502	Regional Library	\$	1,010,441	\$	1,010,441	90380
	Systems					
GRF 350-503	Library for the	\$	805,642	\$	805,642	90381
	Blind-Cleveland					
TOTAL GRF	General Revenue Fund	\$	13,105,191	\$	13,105,191	90382
	General Services Fund Group					90383
139 350-602	Intra-Agency Service	\$	9,000	\$	9,000	90384
	Charges					
4S4 350-604	OPLIN Technology	\$	3,000,000	\$	3,000,000	90385
459 350-602	Interlibrary Service	\$	2,469,925	\$	2,708,092	90386
	Charges					
TOTAL GSF	General Services					90387
	Fund Group	\$	5,478,925	\$	5,717,092	90388
	Federal Special Revenue Fund Group					90389
313 350-601	LSTA Federal	\$	5,643,905	\$	5,643,905	90390
TOTAL FED	Federal Special Revenue					90391
	Fund Group	\$	5,643,905	\$	5,643,905	90392
TOTAL ALL BUDGET FUND GROUPS		\$	24,228,021	\$	24,466,188	90393
	OHIOANA RENTAL PAYMENTS					90394
	The foregoing appropriation item 350-401, Ohioana Rental					90395
	Payments, shall be used to pay the rental expenses of the Martha					90396
	Kinney Cooper Ohioana Library Association pursuant to section					90397
	3375.61 of the Revised Code.					90398
	LIBRARY FOR THE BLIND-CINCINNATI					90399

The foregoing appropriation item 350-501, Library for the 90400
Blind-Cincinnati, shall be used for the Talking Book program, 90401
which assists the blind and disabled. 90402

REGIONAL LIBRARY SYSTEMS 90403

The foregoing appropriation item 350-502, Regional Library 90404
Systems, shall be used to support regional library systems 90405
eligible for funding under sections 3375.83 and 3375.90 of the 90406
Revised Code. 90407

LIBRARY FOR THE BLIND-CLEVELAND 90408

The foregoing appropriation item 350-503, Library for the 90409
Blind-Cleveland, shall be used for the Talking Book program, which 90410
assists the blind and disabled. 90411

OHIO PUBLIC LIBRARY INFORMATION NETWORK 90412

The foregoing appropriation items 350-604, OPLIN Technology, 90413
and 350-400, Ohio Public Library Information Network, shall be 90414
used for an information telecommunications network linking public 90415
libraries in the state and such others as may be certified as 90416
participants by the Ohio Public Library Information Network Board. 90417

The Ohio Public Library Information Network Board shall 90418
consist of eleven members appointed by the State Library Board 90419
from among the staff of public libraries and past and present 90420
members of boards of trustees of public libraries, based on the 90421
recommendations of the Ohio library community. The Ohio Public 90422
Library Information Network Board, in consultation with the State 90423
Library, shall develop a plan of operations for the network. The 90424
board may make decisions regarding use of the foregoing 90425
appropriation items 350-400, Ohio Public Library Information 90426
Network, and 350-604, OPLIN Technology, may receive and expend 90427
grants to carry out the operations of the network in accordance 90428
with state law, and may appoint and fix the compensation of a 90429

director and necessary staff. The State Library shall be the 90430
fiscal agent for the network and shall have fiscal accountability 90431
for the expenditure of funds. The Ohio Public Library Information 90432
Network Board members shall be reimbursed for actual travel and 90433
necessary expenses incurred in carrying out their 90434
responsibilities. 90435

In order to limit access to obscene and illegal materials 90436
through internet use at Ohio Public Library Information Network 90437
(OPLIN) terminals, local libraries with OPLIN computer terminals 90438
shall adopt and implement policies that control access to obscene 90439
and illegal materials. These policies may include use of 90440
technological systems to select or block certain internet access. 90441
The OPLIN shall condition provision of its funds, goods, and 90442
services on compliance with these policies. The OPLIN Board shall 90443
also adopt and communicate specific recommendations, including 90444
recommendations related to computer filtering, to local libraries 90445
on methods to control such improper usage. These methods may 90446
include each library implementing a written policy controlling 90447
such improper use of library terminals and requirements for 90448
parental involvement or written authorization for juvenile 90449
internet usage. 90450

Of the foregoing appropriation item 350-400, Ohio Public 90451
Library Information Network, up to \$100,000 in each fiscal year 90452
shall be used to help local libraries purchase or maintain filters 90453
to screen out obscene and illegal internet materials. At least 50 90454
per cent of the funds used for these purposes in each fiscal year 90455
shall be used for the purchase of filters. 90456

The OPLIN Board shall research and assist or advise local 90457
libraries with regard to emerging technologies and methods that 90458
may be effective means to control access to obscene and illegal 90459
materials. The OPLIN Executive Director shall biannually provide 90460
written reports to the Governor, the Speaker and Minority Leader 90461

of the House of Representatives, and the President and Minority
 Leader of the Senate on any steps being taken by OPLIN and public
 libraries in the state to limit and control such improper usage as
 well as information on technological, legal, and law enforcement
 trends nationally and internationally affecting this area of
 public access and service.

The Ohio Public Library Information Network, INFOhio, and
 OhioLINK shall, to the extent feasible, coordinate and cooperate
 in their purchase or other acquisition of the use of electronic
 databases for their respective users and shall contribute funds in
 an equitable manner to such effort.

Section 206.93. LCO LIQUOR CONTROL COMMISSION

Liquor Control Fund Group				90474
043 970-321 Operating Expenses	\$	781,181	\$ 803,348	90475
TOTAL LCF Liquor Control Fund Group	\$	781,181	\$ 803,348	90476
TOTAL ALL BUDGET FUND GROUPS	\$	781,181	\$ 803,348	90477

Section 206.96. LOT STATE LOTTERY COMMISSION

General Services Fund Group				90480
231 950-604 Charitable Gaming	\$	1,200,000	\$ 1,200,000	90481
Oversight				
TOTAL GSF General Services Fund	\$	1,200,000	\$ 1,200,000	90482
Group				
State Lottery Fund Group				90483
044 950-100 Personal Services	\$	24,969,422	\$ 25,457,016	90484
044 950-200 Maintenance	\$	17,642,894	\$ 17,954,156	90485
044 950-300 Equipment	\$	2,517,533	\$ 2,494,718	90486
044 950-402 Game and Advertising	\$	70,524,000	\$ 70,024,000	90487
Contracts				
044 950-500 Problem Gambling	\$	335,000	\$ 335,000	90488
Subsidy				

044 950-601 Prizes, Bonuses, and	\$	150,952,466	\$	147,716,286	90489
Commissions					
871 950-602 Annuity Prizes	\$	148,680,031	\$	138,918,557	90490
TOTAL SLF State Lottery Fund					90491
Group	\$	415,621,346	\$	402,899,733	90492
TOTAL ALL BUDGET FUND GROUPS	\$	416,821,346	\$	404,099,733	90493

OPERATING EXPENSES 90494

Notwithstanding sections 127.14 and 131.35 of the Revised 90495
Code, the Controlling Board may, at the request of the State 90496
Lottery Commission, authorize additional appropriations for 90497
operating expenses of the State Lottery Commission from the State 90498
Lottery Fund up to a maximum of 15 per cent of anticipated total 90499
revenue accruing from the sale of lottery tickets. 90500

PRIZES, BONUSES, AND COMMISSIONS 90501

Any amounts, in addition to the amounts appropriated in 90502
appropriation item 950-601, Prizes, Bonuses, and Commissions, that 90503
the Director of the State Lottery Commission determines to be 90504
necessary to fund prizes, bonuses, and commissions are hereby 90505
appropriated. 90506

ANNUITY PRIZES 90507

With the approval of the Office of Budget and Management, the 90508
State Lottery Commission shall transfer cash from the State 90509
Lottery Fund Group (Fund 044) to the Deferred Prizes Trust Fund 90510
(Fund 871) in an amount sufficient to fund deferred prizes. The 90511
Treasurer of State, from time to time, shall credit the Deferred 90512
Prizes Trust Fund (Fund 871) the pro rata share of interest earned 90513
by the Treasurer of State on invested balances. 90514

Any amounts, in addition to the amounts appropriated in 90515
appropriation item 950-602, Annuity Prizes, that the Director of 90516
the State Lottery Commission determines to be necessary to fund 90517
deferred prizes and interest earnings are hereby appropriated. 90518

TRANSFERS TO THE LOTTERY PROFITS EDUCATION FUND 90519

The Ohio Lottery Commission shall transfer an amount greater 90520
than or equal to \$637,900,000 in fiscal year 2006 and \$637,900,000 90521
in fiscal year 2007 to the Lottery Profits Education Fund. 90522
Transfers from the Commission to the Lottery Profits Education 90523
Fund shall represent the estimated net income from operations for 90524
the Commission in fiscal year 2006 and fiscal year 2007. Transfers 90525
by the Commission to the Lottery Profits Education Fund shall be 90526
administered as the statutes direct. 90527

Section 206.99. MHC MANUFACTURED HOMES COMMISSION 90528

General Services Fund Group 90529
4K9 996-609 Operating Expenses \$ 272,500 \$ 0 90530
TOTAL GSF General Services 90531
Fund Group \$ 272,500 \$ 0 90532
TOTAL ALL BUDGET FUND GROUPS \$ 272,500 \$ 0 90533

INCREASED APPROPRIATION THROUGH CONTROLLING BOARD 90534

The Manufactured Homes Commission shall seek Controlling 90535
Board approval in fiscal year 2006 for a planned increase of at 90536
least \$356,250 in appropriation item 996-609, Operating Expenses. 90537

Section 209.03. MED STATE MEDICAL BOARD 90538

General Services Fund Group 90539
5C6 883-609 Operating Expenses \$ 7,467,317 \$ 7,467,317 90540
TOTAL GSF General Services 90541
Fund Group \$ 7,467,317 \$ 7,467,317 90542
TOTAL ALL BUDGET FUND GROUPS \$ 7,467,317 \$ 7,467,317 90543

Section 209.04. AMB MEDICAL TRANSPORTATION BOARD 90545

General Services Fund Group 90546
4N1 915-601 Operating Expenses \$ 388,450 \$ 0 90547

TOTAL GSF General Services				90548
Fund Group	\$	388,450	\$	0 90549
TOTAL ALL BUDGET FUND GROUPS	\$	388,450	\$	0 90550

Section 209.06. DMH DEPARTMENT OF MENTAL HEALTH 90552

General Services Fund Group 90553

151 235-601 General Administration \$ 89,614,180 \$ 93,898,713 90554

TOTAL ISF Intragovernmental 90555

Service Fund Group \$ 89,614,180 \$ 93,898,713 90556

Division of Mental Health-- 90557

Psychiatric Services to Correctional Facilities 90558

General Revenue Fund 90559

GRF 332-401 Forensic Services \$ 4,338,858 \$ 4,338,858 90560

TOTAL GRF General Revenue Fund \$ 4,338,858 \$ 4,338,858 90561

FORENSIC SERVICES 90562

The foregoing appropriation item 332-401, Forensic Services, 90563

shall be used to provide psychiatric services to courts of common 90564

pleas. The appropriation shall be allocated through community 90565

mental health boards to certified community agencies and shall be 90566

distributed according to the criteria delineated in rule 90567

5122:4-1-01 of the Administrative Code. These community forensic 90568

funds may also be used to provide forensic training to community 90569

mental health boards and to forensic psychiatry residency programs 90570

in hospitals operated by the Department of Mental Health and to 90571

provide evaluations of patients of forensic status in facilities 90572

operated by the Department of Mental Health prior to conditional 90573

release to the community. 90574

In addition, appropriation item 332-401, Forensic Services, 90575

may be used to support projects involving mental health, substance 90576

abuse, courts, and law enforcement to identify and develop 90577

appropriate alternative services to institutionalization for 90578

Expansion						
324	333-605	Medicaid/Medicare	\$ 150,000	\$ 150,000	90604	
TOTAL Federal Special Revenue					90605	
Fund Group			\$ 5,197,694	\$ 5,102,570	90606	
State Special Revenue Fund Group					90607	
4X5	333-607	Behavioral Health	\$ 3,000,634	\$ 3,000,634	90608	
Medicaid Services						
5V2	333-611	Non-Federal	\$ 35,000	\$ 35,000	90609	
Miscellaneous						
485	333-632	Mental Health	\$ 134,233	\$ 134,233	90610	
Operating						
TOTAL State Special Revenue					90611	
Fund Group			\$ 3,169,867	\$ 3,169,867	90612	
TOTAL ALL BUDGET FUND GROUPS				\$ 60,042,808	\$ 60,495,097	90613
RESIDENCY TRAINEESHIP PROGRAMS					90614	
The foregoing appropriation item 333-402, Resident Trainees,					90615	
shall be used to fund training agreements entered into by the					90616	
Department of Mental Health for the development of curricula and					90617	
the provision of training programs to support public mental health					90618	
services.					90619	
PRE-ADMISSION SCREENING EXPENSES					90620	
The foregoing appropriation item 333-403, Pre-Admission					90621	
Screening Expenses, shall be used to pay for costs to ensure that					90622	
uniform statewide methods for pre-admission screening are in place					90623	
to perform assessments for persons in need of mental health					90624	
services or for whom institutional placement in a hospital or in					90625	
another inpatient facility is sought. Pre-admission screening					90626	
includes the following activities: pre-admission assessment,					90627	
consideration of continued stay requests, discharge planning and					90628	
referral, and adjudication of appeals and grievance procedures.					90629	
LEASE-RENTAL PAYMENTS					90630	

The foregoing appropriation item 333-415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2005, to June 30, 2007, by the Department of Mental Health under leases and agreements made under section 154.20 of the Revised Code, but limited to the aggregate amount of \$47,129,800. Nothing in this act shall be deemed to contravene the obligation of the state to pay, without necessity for further appropriation, from the sources pledged thereto, the bond service charges on obligations issued under section 154.20 of the Revised Code.

BEHAVIORAL HEALTH MEDICAID SERVICES

The Department of Mental Health shall administer specified Medicaid Services as delegated by the Department of Job and Family Services in an interagency agreement. The foregoing appropriation item 333-607, Behavioral Health Medicaid Services, may be used to make payments for free-standing psychiatric hospital inpatient services as defined in an interagency agreement with the Department of Job and Family Services.

Section 209.06.03. DIVISION OF MENTAL HEALTH - HOSPITALS

General Revenue Fund				90650
GRF 334-408 Community and Hospital	\$ 390,424,545	\$ 400,324,545		90651
Mental Health Services				
GRF 334-506 Court Costs	\$ 976,652	\$ 976,652		90652
TOTAL GRF General Revenue Fund	\$ 391,401,197	\$ 401,301,197		90653
General Services Fund Group				90654
149 334-609 Hospital Rotary -	\$ 24,408,053	\$ 24,408,053		90655
Operating Expenses				
150 334-620 Special Education	\$ 120,930	\$ 120,930		90656
TOTAL GSF General Services				90657
Fund Group	\$ 24,528,983	\$ 24,528,983		90658

Federal Special Revenue Fund Group					90659
3A6 334-608 Subsidy for Federal Grants	\$	586,224	\$	586,224	90660
3A8 334-613 Federal Letter of Credit	\$	200,000	\$	200,000	90661
3B0 334-617 Elementary and Secondary Education Act	\$	171,930	\$	178,807	90662
3B1 334-635 Hospital Medicaid Expansion	\$	2,000,000	\$	2,000,000	90663
324 334-605 Medicaid/Medicare	\$	11,764,280	\$	11,873,408	90664
TOTAL FED Federal Special Revenue Fund Group	\$	14,722,434	\$	14,838,439	90665
State Special Revenue Fund Group					90666
485 334-632 Mental Health Operating	\$	2,476,297	\$	2,476,297	90667
692 334-636 Community Mental Health Board Risk Fund	\$	80,000	\$	80,000	90668
TOTAL SSR State Special Revenue Fund Group	\$	2,556,297	\$	2,556,297	90669
TOTAL ALL BUDGET FUND GROUPS	\$	433,208,911	\$	443,224,916	90670
COMMUNITY MENTAL HEALTH BOARD RISK FUND					90671
The foregoing appropriation item 334-636, Community Mental Health Board Risk Fund, shall be used to make payments under section 5119.62 of the Revised Code.					90672
Section 209.06.06. DIVISION OF MENTAL HEALTH - COMMUNITY SUPPORT SERVICES					90673
General Revenue Fund					90674
GRF 335-404 Behavioral Health Services-Children	\$	5,865,265	\$	6,865,265	90675

GRF 335-405	Family & Children	\$	2,260,000	\$	2,260,000	90681
	First					
GRF 335-419	Community Medication	\$	7,959,798	\$	7,959,798	90682
	Subsidy					
GRF 335-505	Local Mental Health	\$	94,687,868	\$	99,687,868	90683
	Systems of Care					
TOTAL GRF	General Revenue Fund	\$	110,772,931	\$	116,772,931	90684
	General Services Fund Group					90685
4P9 335-604	Community Mental	\$	250,000	\$	250,000	90686
	Health Projects					
TOTAL GSF	General Services					90687
Fund Group		\$	250,000	\$	250,000	90688
	Federal Special Revenue Fund Group					90689
3A6 335-608	Federal Miscellaneous	\$	1,089,699	\$	678,699	90690
3A7 335-612	Social Services Block	\$	8,657,288	\$	8,657,288	90691
	Grant					
3A8 335-613	Federal Grant -	\$	2,407,040	\$	2,407,040	90692
	Community Mental					
	Health Board Subsidy					
3A9 335-614	Mental Health Block	\$	14,969,400	\$	14,969,400	90693
	Grant					
3B1 335-635	Community Medicaid	\$	264,088,404	\$	282,807,902	90694
	Expansion					
TOTAL FED	Federal Special Revenue	\$	291,211,831	\$	309,520,329	90695
	Fund Group					
	State Special Revenue Fund Group					90696
5AU 335-615	Behavioral Healthcare	\$	4,690,000	\$	4,690,000	90697
5CH 335-622	Residential State	\$	1,500,000	\$	1,500,000	90698
	Supplement					
5CS 335-624	Adult Emergency	\$	4,000,000	\$	4,000,000	90699
	Assistance					
632 335-616	Community Capital	\$	350,000	\$	350,000	90700

Replacement

TOTAL SSR State Special Revenue	\$	10,540,000	\$	10,540,000	90701
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	412,774,762	\$	437,083,260	90702
DEPARTMENT TOTAL					90703
GENERAL REVENUE FUND	\$	556,679,460	\$	573,116,860	90704
DEPARTMENT TOTAL					90705
GENERAL SERVICES FUND GROUP	\$	115,901,936	\$	120,196,482	90706
DEPARTMENT TOTAL					90707
FEDERAL SPECIAL REVENUE					90708
FUND GROUP	\$	311,131,959	\$	329,461,338	90709
DEPARTMENT TOTAL					90710
STATE SPECIAL REVENUE FUND GROUP	\$	16,266,164	\$	16,266,164	90711
DEPARTMENT TOTAL					90712
TOTAL DEPARTMENT OF MENTAL HEALTH	\$	999,979,519	\$	1,039,040,844	90713

Section 209.06.09. COMMUNITY MEDICATION SUBSIDY 90715

The foregoing appropriation item 335-419, Community Medication Subsidy, shall be used to provide subsidized support for psychotropic medication needs of indigent citizens in the community to reduce unnecessary hospitalization because of lack of medication and to provide subsidized support for methadone costs. 90716
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LOCAL MENTAL HEALTH SYSTEMS OF CARE 90721

The foregoing appropriation item 335-505, Local Mental Health Systems of Care, shall be used for mental health services provided by community mental health boards in accordance with a community mental health plan submitted under section 340.03 of the Revised Code and as approved by the Department of Mental Health. 90722
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Of the foregoing appropriation, not less than \$34,818,917 in fiscal year 2006 and not less than \$34,818,917 in fiscal year 2007 shall be distributed by the Department of Mental Health on a per capita basis to community mental health boards. 90727
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Of the foregoing appropriation, \$100,000 in each fiscal year 90731
shall be used to fund family and consumer education and support. 90732

BEHAVIORAL HEALTH - CHILDREN 90733

The foregoing appropriation item 335-404, Behavioral Health 90734
Services-Children, shall be used to provide behavioral health 90735
services for children and their families. Behavioral health 90736
services include mental health and alcohol and other drug 90737
treatment services and other necessary supports. 90738

Of the foregoing appropriation item 335-404, Behavioral 90739
Health Services-Children, an amount up to \$5.0 million in fiscal 90740
year 2006 and \$6.0 million in fiscal year 2007 shall be 90741
distributed to local Alcohol, Drug Addiction, and Mental Health 90742
Boards; Community Mental Health Boards; and Alcohol and Drug 90743
Addiction Boards, based upon a formula and an approved children's 90744
behavioral health transformation plan developed and endorsed by 90745
the local Family and Children First Council with the leadership 90746
from the Alcohol, Drug Addiction, and Mental Health Board, or the 90747
Community Mental Health Board, and the Alcohol and Drug Addiction 90748
Services Board. The use of these funds shall be approved by a team 90749
of state and local stakeholders appointed by the Ohio Family and 90750
Children First Cabinet Council. This team shall be appointed not 90751
later than July 1, 2005, and shall include, but not be limited to, 90752
all of the following: 90753

(A) At least one representative from each of the Departments 90754
of Alcohol and Drug Addiction Services, Mental Health, Education, 90755
Health, Job and Family Services, Mental Retardation and 90756
Developmental Disabilities, and the Department of Youth Services; 90757

(B) At least one person representing local public children's 90758
services agencies; 90759

(C) At least one person representing juvenile courts; 90760

(D) At least one person representing local Alcohol, Drug	90761
Addiction, and Mental Health Boards; Community Mental Health	90762
Boards; and Alcohol and Drug Addiction Boards;	90763
(E) At least one person representing local Family and	90764
Children First Council Coordinators;	90765
(F) At least one family representative.	90766
Children's behavioral health transformation plans shall be	90767
congruent with the development and implementation of the process	90768
described in division (B)(2)(b) of section 121.37 of the Revised	90769
Code and shall address all of the following as determined by a	90770
team of state and local stakeholders appointed by the Ohio Family	90771
and Children First Cabinet Council:	90772
(A) Specific strategies and actions for use of all funds	90773
allocated for the Access to Better Care Initiative by all Ohio	90774
Family and Children First Cabinet Council agencies that will	90775
further the transformation of the local Children's Behavioral	90776
Health Care System;	90777
(B) Providing services to children with behavioral health	90778
disorders, particularly those with intensive needs, and their	90779
families, across all child-serving systems, including child	90780
welfare and juvenile justice and for those youth whose parents	90781
would otherwise have to relinquish custody to obtain needed	90782
behavioral health services;	90783
(C) Assuring that families are included in all service	90784
planning activities and have access to advocates to assist them if	90785
they choose;	90786
(D) Implementation of home-based services and other	90787
alternatives to out-of-home placement;	90788
(E) Assuring that all individual service plans for children	90789
and their families address the academic achievement of the child;	90790

(F) Coordinating the most efficient and effective use of federal, state, and local funds to meet the needs of children and their families. 90791
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Funds may be used to support the following services and activities: 90794
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(A) Mental health services provided by the Ohio Department of Mental Health certified agencies and alcohol and other drug services provided by Department of Alcohol and Drug Addiction Services certified agencies; 90796
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(B) Services and supports for children and their families that further the implementation of their individual service plans; 90800
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(C) Treatment services in out-of-home settings, including residential facilities, when other alternatives are not available or feasible; 90802
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90804

(D) Administrative support for efforts associated with this initiative; 90805
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(E) These funds shall not be used to supplant existing efforts. 90807
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The Ohio Family and Children First Cabinet Council appointed team shall approve the plans for local behavioral health services and ensure the plans are components of and properly coordinated with the county service coordination plan as defined in section 121.37 of the Revised Code. In addition to approving the plans for new behavioral health funding, this team shall design a mechanism to provide technical assistance to local communities, monitor the plans, and may, as part of the monitoring role, conduct site visits. 90809
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Of the foregoing appropriation item 335-404, Behavioral Health Services-Children, an amount up to \$1.0 million in fiscal year 2006 and \$1.0 million in fiscal year 2007 shall be used to 90818
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support projects, as determined by the Ohio Family and Children
First Cabinet Council, in select areas around the state to focus
on improving behavioral health services for children involved in
the child welfare and juvenile justice systems. At least one of
these projects shall focus on services for adolescent girls that
are involved in or at risk of involvement with the juvenile
justice system.

Of the foregoing appropriation item 335-405, Family &
Children First, an amount up to \$500,000 in fiscal year 2006 and
\$500,000 in fiscal year 2007 shall be used for children who do not
have behavioral health disorders but require assistance through
the County Family and Children First Council.

RESIDENTIAL STATE SUPPLEMENT

The foregoing appropriation item 335-622, Residential State
Supplement, shall be used to provide subsidized support for
licensed adult care facilities which serve individuals with mental
illness.

ADULT EMERGENCY ASSISTANCE

The foregoing appropriation item 335-624, Adult Emergency
Assistance, shall be used by the Department of Mental Health to
provide pharmaceuticals for adults who are not eligible for
Medicaid and whose income is below seventy-five per cent of the
federal poverty guideline.

Section 209.06.15. The Department of Mental Health, with the
Bureau of Workers' Compensation, Department of Rehabilitation and
Correction, the Department of Youth Services, and any other state
or local government agency that purchases prescription drugs,
other than the Department of Job and Family Services for the
purposes of the Medicaid program shall do all of the following:

(A) Study intrastate consolidated prescription drug

purchasing systems currently in effect in other states under which 90851
a single entity administers the state's prescription drug 90852
purchases; 90853

(B) Estimate potential cost-savings and other advantages, as 90854
well as any potential disadvantages, that might result if Ohio 90855
were to consolidate its executive agencies' prescription drug 90856
purchases under a prescription drug purchasing program; 90857

(C) Design a consolidated prescription drug purchasing 90858
program appropriate to the prescription drug purchasing needs of 90859
the state, including the following elements: 90860

(1) The scope and structure of the consolidated prescription 90861
drug purchasing program; 90862

(2) A business plan to direct the implementation of the 90863
program and the transition of prescription drug purchasing from 90864
the state's executive agencies to the consolidated prescription 90865
drug purchasing program; 90866

(3) Identification of the resources required to implement the 90867
business plan described in division (C)(2) of this section; 90868

(4) A schedule of the amount of time required to implement 90869
the business plan described in division (C)(2) of this section. 90870

(D) By not later than January 1, 2006, prepare and submit a 90871
written report of its findings to the Governor, the Speaker and 90872
Minority Leader of the House of Representatives, and the President 90873
and Minority Leader of the Senate. The report shall include an 90874
analysis of any costs Ohio may incur in creating a consolidated 90875
prescription drug purchasing program. 90876

Section 209.09. DMR DEPARTMENT OF MENTAL RETARDATION AND 90877
DEVELOPMENTAL DISABILITIES 90878

Section 209.09.03. GENERAL ADMINISTRATION AND STATEWIDE 90879

SERVICES				90880
General Revenue Fund				90881
GRF 320-321 Central Administration	\$	9,357,877	\$ 9,357,874	90882
GRF 320-412 Protective Services	\$	2,463,000	\$ 2,463,000	90883
GRF 320-415 Lease-Rental Payments	\$	23,296,200	\$ 23,833,600	90884
TOTAL GRF General Revenue Fund	\$	35,117,077	\$ 35,654,474	90885
General Services Fund Group				90886
4B5 320-640 Conference/Training	\$	300,000	\$ 300,000	90887
TOTAL GSF General Services				90888
Fund Group	\$	300,000	\$ 300,000	90889
Federal Special Revenue Fund Group				90890
3A4 320-605 Administrative Support	\$	13,492,892	\$ 13,492,892	90891
3A5 320-613 DD Council Operating	\$	895,440	\$ 895,440	90892
Expenses				90893
325 320-634 Protective Services	\$	100,000	\$ 100,000	90894
TOTAL FED Federal Special Revenue				90895
Fund Group	\$	14,488,332	\$ 14,488,332	90896
State Special Revenue Fund Group				90897
5S2 590-622 Medicaid	\$	8,000,000	\$ 8,000,000	90898
Administration &				
Oversight				
TOTAL SSR State Special Revenue				90899
Fund Group	\$	8,000,000	\$ 8,000,000	90900
TOTAL ALL GENERAL ADMINISTRATION				90901
AND STATEWIDE SERVICES				90902
BUDGET FUND GROUPS	\$	57,905,409	\$ 58,442,806	90903
LEASE-RENTAL PAYMENTS				90904
The foregoing appropriation item 320-415, Lease-Rental				90905
Payments, shall be used to meet all payments at the times they are				90906
required to be made during the period from July 1, 2005, to June				90907
30, 2007, by the Department of Mental Retardation and				90908

Developmental Disabilities under leases and agreements made under 90909
 section 154.20 of the Revised Code, but limited to the aggregate 90910
 amount of \$47,129,800. Nothing in this act shall be deemed to 90911
 contravene the obligation of the state to pay, without necessity 90912
 for further appropriation, from the sources pledged thereto, the 90913
 bond service charges on obligations issued under section 154.20 of 90914
 the Revised Code. 90915

Section 209.09.06. COMMUNITY SERVICES

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General Revenue Fund 90917

GRF 322-405 State Use Program \$ 20,000 \$ 0 90918

GRF 322-413 Residential and \$ 7,423,021 \$ 7,423,021 90919

Support Services

GRF 322-416 Waiver State Match \$ 103,090,738 \$ 104,397,504 90920

GRF 322-417 Supported Living \$ 43,160,198 \$ 43,160,198 90921

GRF 322-451 Family Support \$ 6,938,898 \$ 6,938,898 90922

Services

GRF 322-452 Service and Support \$ 8,672,730 \$ 8,672,730 90923

Administration

GRF 322-501 County Boards \$ 32,193,542 \$ 32,193,542 90924

Subsidies

GRF 322-503 Tax Equity \$ 14,500,000 \$ 14,500,000 90925

TOTAL GRF General Revenue Fund \$ 215,999,127 \$ 217,285,893 90926

General Services Fund Group 90927

4J6 322-645 Intersystem Services \$ 300,000 \$ 0 90928

for Children

4U4 322-606 Community MR and DD \$ 300,000 \$ 50,000 90929

Trust

488 322-603 Provider Audit Refunds \$ 350,000 \$ 350,000 90930

TOTAL GSF General Services 90931

Fund Group \$ 950,000 \$ 400,000 90932

Federal Special Revenue Fund Group 90933

3A4	322-605	Community Program	\$	1,500,000	\$	1,500,000	90934
		Support					
3A5	322-613	DD Council Grants	\$	3,204,240	\$	3,204,240	90935
3G6	322-639	Medicaid Waiver	\$	373,772,814	\$	373,772,814	90936
3M7	322-650	CAFS Medicaid	\$	125,924,299	\$	103,773,730	90937
325	322-608	Grants for Infants and	\$	1,763,165	\$	1,763,165	90938
		Families with					
		Disabilities					
325	322-612	Community Social	\$	11,500,000	\$	11,500,000	90939
		Service Programs					
TOTAL FED Federal Special Revenue							90940
Fund Group			\$	517,664,518	\$	495,513,949	90941
State Special Revenue Fund Group							90942
4K8	322-604	Waiver - Match	\$	12,000,000	\$	12,000,000	90943
5H0	322-619	Medicaid Repayment	\$	25,000	\$	25,000	90944
5Z1	322-624	County Board Waiver	\$	82,000,000	\$	82,000,000	90945
		Match					
TOTAL SSR State Special Revenue							90946
Fund Group			\$	94,025,000	\$	94,025,000	90947
TOTAL ALL COMMUNITY SERVICES							90948
BUDGET FUND GROUPS			\$	828,638,645	\$	807,224,842	90949
RESIDENTIAL AND SUPPORT SERVICES							90950
The Department of Mental Retardation and Developmental							90951
Disabilities may designate a portion of appropriation item							90952
322-413, Residential and Support Services, for the following:							90953
(A) Sermak Class Services used to implement the requirements							90954
of the agreement settling the consent decree in <i>Sermak v. Manuel</i> ,							90955
Case No. c-2-80-220, United States District Court for the Southern							90956
District of Ohio, Eastern Division;							90957
(B) Medicaid-reimbursed programs other than home and							90958
community-based waiver services, in an amount not to exceed							90959

\$1,000,000 in each fiscal year, that enable persons with mental
retardation and developmental disabilities to live in the
community.

WAIVER STATE MATCH

The purposes for which the foregoing appropriation item
322-416, Waiver State Match, shall be used include the following:

(A) Home and community-based waiver services under Title XIX
of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301,
as amended.

(B) Services contracted by county boards of mental
retardation and developmental disabilities.

(C) To pay the nonfederal share of the cost of one or more
new intermediate-care-facility-for-the-mentally-retarded certified
beds in a county where the county board of mental retardation and
developmental disabilities does not initiate or support the
development or certification of such beds, if the Director of
Mental Retardation and Developmental Disabilities is required by
this act to transfer to the Director of Job and Family Services
funds to pay such nonfederal share.

The Department of Mental Retardation and Developmental
Disabilities may designate a portion of appropriation item
322-416, Waiver State Match, to county boards of mental
retardation and developmental disabilities that have greater need
for various residential and support services because of a low
percentage of residential and support services development in
comparison to the number of individuals with mental retardation or
developmental disabilities in the county.

Of the foregoing appropriation item 322-416, Waiver State
Match, \$9,850,000 in each year of the biennium shall be
distributed by the Department to county boards of mental

retardation and developmental disabilities to support existing 90990
residential facilities waiver and individual options waiver 90991
related to Medicaid activities provided for in the component of a 90992
county board's plan developed under division (A)(2) of section 90993
5126.054 of the Revised Code and approved under section 5123.046 90994
of the Revised Code. Up to \$3,000,000 of these funds in each 90995
fiscal year may be used to implement day-to-day program management 90996
services under division (A)(2) of section 5126.054 of the Revised 90997
Code. Up to \$4,200,000 in each fiscal year may be used to 90998
implement the program and health and welfare requirements of 90999
division (A)(2) of section 5126.054 of the Revised Code. 91000

In fiscal years 2006 and 2007 not less than \$2,650,000 of 91001
these funds shall be used to recruit and retain, under division 91002
(A)(2) of section 5126.054 of the Revised Code, the direct care 91003
staff necessary to implement the services included in an 91004
individualized service plan in a manner that ensures the health 91005
and welfare of the individuals being served. 91006

The method utilized by the department to determine each 91007
residential facilities waiver and individual options provider's 91008
allocation of such funds in fiscal year 2005 shall be used for 91009
allocation purposes to such providers in fiscal years 2006 and 91010
2007, respectively. 91011

SUPPORTED LIVING 91012

The purposes for which the foregoing appropriation item 91013
322-417, Supported Living, shall be used include supported living 91014
services contracted by county boards of mental retardation and 91015
developmental disabilities under sections 5126.40 to 5126.47 of 91016
the Revised Code and paying the nonfederal share of the cost of 91017
one or more new 91018
intermediate-care-facility-for-the-mentally-retarded certified 91019
beds in a county where the county board of mental retardation and 91020

developmental disabilities does not initiate or support the 91021
development or certification of such beds, if the Director of 91022
Mental Retardation and Developmental Disabilities is required by 91023
this act to transfer to the Director of Job and Family Services 91024
funds to pay such nonfederal share. 91025

OTHER RESIDENTIAL AND SUPPORT SERVICE PROGRAMS 91026

Notwithstanding Chapters 5123. and 5126. of the Revised Code, 91027
the Department of Mental Retardation and Developmental 91028
Disabilities may develop residential and support service programs 91029
funded by appropriation item 322-413, Residential and Support 91030
Services; appropriation item 322-416, Waiver State Match; or 91031
appropriation item 322-417, Supported Living, that enable persons 91032
with mental retardation and developmental disabilities to live in 91033
the community. Notwithstanding Chapter 5121. and section 5123.122 91034
of the Revised Code, the Department may waive the support 91035
collection requirements of those statutes for persons in community 91036
programs developed by the Department under this section. The 91037
Department shall adopt rules under Chapter 119. of the Revised 91038
Code or may use existing rules for the implementation of these 91039
programs. 91040

FAMILY SUPPORT SERVICES 91041

Notwithstanding sections 5123.171, 5123.19, 5123.20, and 91042
5126.11 of the Revised Code, the Department of Mental Retardation 91043
and Developmental Disabilities may implement programs funded by 91044
appropriation item 322-451, Family Support Services, to provide 91045
assistance to persons with mental retardation or developmental 91046
disabilities and their families who are living in the community. 91047
The department shall adopt rules to implement these programs. The 91048
department may also use the foregoing appropriation item 322-451, 91049
Family Support Services, to pay the nonfederal share of the cost 91050
of one or more new 91051

intermediate-care-facility-for-the-mentally-retarded certified 91052
beds in a county where the county board of mental retardation and 91053
developmental disabilities initiates or supports the development 91054
or certification of such beds, if the Director of Mental 91055
Retardation and Developmental Disabilities is required by this act 91056
to transfer to the Director of Job and Family Services funds to 91057
pay such nonfederal share. 91058

SERVICE AND SUPPORT ADMINISTRATION 91059

The foregoing appropriation item 322-452, Service and Support 91060
Administration, shall be allocated to county boards of mental 91061
retardation and developmental disabilities for the purpose of 91062
providing service and support administration services and to 91063
assist in bringing state funding for all department-approved 91064
service and support administrators within county boards of mental 91065
retardation and developmental disabilities to the level authorized 91066
in division (C) of section 5126.15 of the Revised Code. The 91067
department may request approval from the Controlling Board to 91068
transfer any unobligated appropriation authority from other state 91069
General Revenue Fund appropriation items within the department's 91070
budget to appropriation item 322-452, Service and Support 91071
Administration, to be used to meet the statutory funding level in 91072
division (C) of section 5126.15 of the Revised Code. 91073

Notwithstanding division (C) of section 5126.15 of the 91074
Revised Code and subject to funding in appropriation item 322-452, 91075
Service and Support Administration, no county may receive less 91076
than its allocation in fiscal year 1995. Wherever case management 91077
services are referred to in any law, contract, or other document, 91078
the reference shall be deemed to refer to service and support 91079
administration. No action or proceeding pending on the effective 91080
date of this section is affected by the renaming of case 91081
management services as service and support administration. 91082

The Department of Mental Retardation and Developmental Disabilities shall adopt, amend, and rescind rules as necessary to reflect the renaming of case management services as service and support administration. All boards of mental retardation and developmental disabilities and the entities with which they contract for services shall rename the titles of their employees who provide service and support administration. All boards and contracting entities shall make corresponding changes to all employment contracts.

The Department also may use the foregoing appropriation item 322-452, Service and Support Administration, to pay the nonfederal share of the cost of one or more new intermediate-care-facility-for-the-mentally-retarded certified beds in a county where the county board of mental retardation and developmental disabilities initiates or supports the development or certification of such beds, if the Director of Mental Retardation and Developmental Disabilities is required by this act to transfer to the Director of Job and Family Services funds to pay such nonfederal share.

STATE SUBSIDIES TO MR/DD BOARDS

Notwithstanding section 5126.12 of the Revised Code, for fiscal year 2006, the Department shall, if sufficient funds as determined by the Department are available, use the foregoing appropriation item 322-501, County Boards Subsidies, to pay each county board of mental retardation and developmental disabilities an amount that is equal to the amount such board received in fiscal year 2005. If the Department determines that there are not sufficient funds available in appropriation item 322-501, County Boards Subsidies, for this purpose, the Department shall pay to each county board an amount that is proportionate to the amount such board received in fiscal year 2005. Proportionality shall be determined by comparing the payment a county board received in a

category in fiscal year 2005 to the total payments distributed to 91115
all county boards for such category in fiscal year 2005. For 91116
fiscal year 2007, the Department shall pay to each county board an 91117
amount that is determined by an allocation formula to be developed 91118
by the Department that considers the applicable factors in section 91119
5126.12 of the Revised Code. 91120

The Department also may use the foregoing appropriation item 91121
322-501, County Boards Subsidies, to pay the nonfederal share of 91122
the cost of one or more new 91123
intermediate-care-facility-for-the-mentally-retarded certified 91124
beds in a county where the county board of mental retardation and 91125
developmental disabilities initiates or supports the development 91126
or certification of such beds, if the Director of Mental 91127
Retardation and Developmental Disabilities is required by this act 91128
to transfer to the Director of Job and Family Services funds to 91129
pay such nonfederal share. 91130

WAIVER - MATCH 91131

The foregoing appropriation item 322-604, Waiver - Match 91132
(Fund 4K8), shall be used as state matching funds for the home and 91133
community-based waivers. 91134

COUNTY BOARD WAIVER MATCH 91135

The Director of Mental Retardation and Developmental 91136
Disabilities shall transfer, through intrastate transfer vouchers, 91137
cash from any allowable General Revenue Fund appropriation item to 91138
Fund 5Z1, appropriation item 322-624, County Board Waiver Match. 91139
(The amounts being transferred reflect the amounts that county 91140
boards pledge from their state General Revenue Funds allocations 91141
to cover the cost of providing the non-federal match for waiver 91142
services.) 91143

TRANSFER OF FUNDS FOR THE FAMILY AND CHILDREN FIRST CABINET 91144
COUNCIL TO THE DEPARTMENT OF MENTAL HEALTH 91145

On July 1, 2005, or as soon as possible thereafter, the 91146
Director of Mental Retardation and Developmental Disabilities 91147
shall certify the remaining cash balance in Fund 4V1, 91148
Miscellaneous Use, to the Director of Budget and Management. Upon 91149
receipt of the certification, the Director of Budget and 91150
Management shall transfer that amount and re-establish existing 91151
encumbrances in the Department of Mental Health, Fund 232, Family 91152
and Children First Administration Fund. When this transfer has 91153
been completed, Fund 4V1 shall be abolished. 91154

On November 1, 2005, or as soon as possible thereafter, the 91155
Director of Mental Retardation and Developmental Disabilities 91156
shall certify the remaining cash balance in Fund 4J6, Youth 91157
Cluster, to the Director of Budget and Management, who upon 91158
receipt shall transfer that amount to the General Revenue Fund and 91159
increase the Department of Mental Health's GRF appropriation item 91160
335-404, Behavioral Health Services-Children, by the same amount. 91161
When this transfer has been completed, Fund 4J6 shall be 91162
abolished. 91163

Section 209.09.09. COMMUNITY ALTERNATIVE FUNDING SYSTEM 91164

(A) As used in this section, "habilitation center services" 91165
has the same meaning as in former section 5111.041 of the Revised 91166
Code as that section existed on June 30, 2005. 91167

(B) The Department of Mental Retardation and Developmental 91168
Disabilities may use funds appropriated to the Department for the 91169
purpose of habilitation center services to satisfy a claim or 91170
contingent claim for habilitation center services provided before 91171
July 1, 2005, if the Department receives the claim or contingent 91172
claim before July 1, 2006. The Department has no liability to 91173
satisfy either of the following: 91174

(1) A claim for habilitation center services provided before 91175

July 1, 2005, if the Department receives the claim on or after	91176
July 1, 2006.	91177
(2) A claim for habilitation center services provided on or	91178
after July 1, 2005.	91179
(C) The Department of Mental Retardation and Developmental	91180
Disabilities may inform individuals who received habilitation	91181
center services under the community alternative funding system on	91182
June 30, 2005, and such individuals' representatives about	91183
alternative services that may be available for the individuals.	91184
The Department may require county boards of mental retardation and	91185
developmental disabilities to provide such information to the	91186
individuals and their representatives.	91187
Section 209.09.12. DEVELOPMENTAL CENTER PROGRAM TO DEVELOP A	91188
MODEL BILLING FOR SERVICES RENDERED	91189
Developmental centers of the Department of Mental Retardation	91190
and Developmental Disabilities may provide services to persons	91191
with mental retardation or developmental disabilities living in	91192
the community or to providers of services to these persons. The	91193
department may develop a method for recovery of all costs	91194
associated with the provisions of these services.	91195
Section 209.09.15. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER	91196
PHARMACY PROGRAMS	91197
The Department of Mental Retardation and Developmental	91198
Disabilities shall pay the Department of Job and Family Services	91199
quarterly, through intrastate transfer voucher, the nonfederal	91200
share of Medicaid prescription drug claim costs for all	91201
developmental centers paid by the Department of Job and Family	91202
Services.	91203
Section 209.09.16. TRANSFER OF ADMINISTRATION OF FAMILY AND	91204

CHILDREN FIRST	91205
The Department of Mental Retardation and Developmental	91206
Disabilities shall transfer the administrative duties related to	91207
the operation of the Ohio Family and Children First Cabinet	91208
Council to the Department of Mental Health. As part of the	91209
transfer, all of the following shall occur on July 1, 2005, or as	91210
soon as possible thereafter as the Departments of Mental	91211
Retardation and Developmental Disabilities and Mental Health are	91212
able to make the transfers:	91213
(A) Individuals employed by the Department of Mental	91214
Retardation and Developmental Disabilities on June 30, 2005, to	91215
perform administrative functions for the Ohio Family and Children	91216
First Cabinet Council shall be transferred to the Department of	91217
Mental Health.	91218
(B) The assets, liabilities, equipment, and records,	91219
irrespective of form or medium, related to the administrative	91220
duties of the Ohio Family and Children First Cabinet Council shall	91221
transfer or be transferred to the Department of Mental Health;	91222
(C) The Department of Mental Health shall assume the	91223
obligations of the Ohio Family and Children First Cabinet	91224
Council's administrative duties.	91225
Section 209.09.18. RESIDENTIAL FACILITIES	91226
General Revenue Fund	91227
GRF 323-321 Residential Facilities \$ 101,764,366 \$ 100,457,600	91228
Operations	91229
TOTAL GRF General Revenue Fund \$ 101,764,366 \$ 100,457,600	91230
General Services Fund Group	91231
152 323-609 Residential Facilities \$ 912,177 \$ 912,177	91232
Support	91233
TOTAL GSF General Services	91234

Fund Group	\$	912,177	\$	912,177	91235
Federal Special Revenue Fund Group					91236
3A4 323-605 Developmental Center	\$	120,000,000	\$	120,000,000	91237
Operation Expenses					
325 323-608 Foster Grandparent	\$	575,000	\$	575,000	91238
Program					
TOTAL FED Federal Special Revenue					91239
Fund Group	\$	120,575,000	\$	120,575,000	91240
State Special Revenue Fund Group					91241
221 322-620 Supplement Service	\$	150,000	\$	150,000	91242
Trust					
489 323-632 Developmental Center	\$	12,125,628	\$	12,125,628	91243
Direct Care Support					
TOTAL SSR State Special Revenue					91244
Fund Group	\$	12,275,628	\$	12,275,628	91245
TOTAL ALL RESIDENTIAL FACILITIES					91246
BUDGET FUND GROUPS	\$	235,527,171	\$	234,220,405	91247
DEPARTMENT TOTAL					91248
GENERAL REVENUE FUND	\$	352,880,570	\$	353,397,967	91249
DEPARTMENT TOTAL					91250
GENERAL SERVICES FUND GROUP	\$	2,162,177	\$	1,612,177	91251
DEPARTMENT TOTAL					91252
FEDERAL SPECIAL REVENUE FUND GROUP	\$	652,727,850	\$	630,577,281	91253
DEPARTMENT TOTAL					91254
STATE SPECIAL REVENUE FUND GROUP	\$	114,300,628	\$	114,300,628	91255
TOTAL DEPARTMENT OF MENTAL					91256
RETARDATION AND DEVELOPMENTAL					91257
DISABILITIES	\$	1,122,071,225	\$	1,099,888,053	91258
Section 209.09.21. (A) As used in this section:					91260
(1) "Family support services," "home and community-based					91261
services," "service and support administration," and "supported					91262

living" have the same meaning as in section 5126.01 of the Revised Code. 91263
91264

(2) "Intermediate care facility for the mentally retarded" 91265
has the same meaning as in section 5111.20 of the Revised Code. 91266

(B) If one or more new beds obtain certification as an 91267
intermediate-care-facility-for-the-mentally-retarded bed on or 91268
after the effective date of this section, the Director of Mental 91269
Retardation and Developmental Disabilities shall transfer funds to 91270
the Department of Job and Family Services to pay the nonfederal 91271
share of the cost under the Medicaid Program for those beds. The 91272
Director shall use only the following funds for the transfer: 91273

(1) If the beds are located in a county served by a county 91274
board of mental retardation and developmental disabilities that 91275
does not initiate or support the beds' certification, funds 91276
appropriated to the Department of Mental Retardation and 91277
Developmental Disabilities for home and community-based services 91278
and supported living for which the Director is authorized to make 91279
allocations to county boards; 91280

(2) If the beds are located in a county served by a county 91281
board that initiates or supports the beds' certification, funds 91282
appropriated to the Department for family support services, 91283
service and support administration, and other services for which 91284
the Director is authorized to make allocations to counties. 91285

(C) The funds that the Director transfers under division 91286
(B)(2) of this section shall be funds that the Director has 91287
allocated to the county board serving the county in which the beds 91288
are located unless the amount of the allocation is insufficient to 91289
pay the entire nonfederal share of the cost under the Medicaid 91290
Program for those beds. If the allocation is insufficient, the 91291
Director shall use as much of such funds allocated to other 91292
counties as is needed to make up the difference. 91293

Section 209.09.24. HABILITATION CENTERS PROVIDING MEDICAID 91294
CASE MANAGEMENT SERVICES 91295

A habilitation center holding on June 30, 2005, a valid 91296
certificate issued under former section 5123.041 of the Revised 91297
Code may provide Medicaid case management services until the 91298
earlier of the following: 91299

(A) The date the United States Secretary of Health and Human 91300
Services approves an amendment to the state Medicaid plan that 91301
provides that only county boards of mental retardation and 91302
developmental disabilities may provide Medicaid case management 91303
services; 91304

(B) The habilitation center ceases to meet the requirements 91305
that were in effect on June 30, 2005, for the certificate issued 91306
under former section 5123.041 of the Revised Code. 91307

Section 209.09.27. INTENT OF SECTION 5123.045 OF THE REVISED 91308
CODE 91309

The legislative intent of section 5123.045 of the Revised 91310
Code is to continue the requirement that payment for home and 91311
community-based waiver services is limited to settings of not more 91312
than four individuals and/or the owner of the residence is not the 91313
provider of the services to the individuals living in that 91314
residence. 91315

Section 209.12. MIH COMMISSION ON MINORITY HEALTH 91316

General Revenue Fund 91317
GRF 149-321 Operating Expenses \$ 539,319 \$ 539,319 91318
GRF 149-501 Minority Health Grants \$ 670,965 \$ 670,965 91319
GRF 149-502 Lupus Program \$ 136,126 \$ 136,126 91320
TOTAL GRF General Revenue Fund \$ 1,346,410 \$ 1,346,410 91321

Federal Special Revenue Fund Group				91322
3J9 149-602 Federal Grants	\$	150,000	\$ 150,000	91323
TOTAL FED Federal Special Revenue				91324
Fund Group	\$	150,000	\$ 150,000	91325
State Special Revenue Fund Group				91326
4C2 149-601 Minority Health	\$	250,000	\$ 150,000	91327
Conference				
TOTAL SSR State Special Revenue				91328
Fund Group	\$	250,000	\$ 150,000	91329
TOTAL ALL BUDGET FUND GROUPS	\$	1,746,410	\$ 1,646,410	91330
LUPUS PROGRAM				91331
The foregoing appropriation item 149-502, Lupus Program,				91332
shall be used to provide grants for programs in patient, public,				91333
and professional education on the subject of systemic lupus				91334
erythematosus; to encourage and develop local centers on lupus				91335
information gathering and screening; and to provide outreach to				91336
minority women.				91337
Section 209.15. CRB MOTOR VEHICLE COLLISION REPAIR				91338
REGISTRATION BOARD				91339
General Service Fund Group				91340
5H9 865-609 Operating Expenses -	\$	325,047	\$ 0	91341
CRB				
TOTAL GSF General Services				91342
Fund Group	\$	325,047	\$ 0	91343
TOTAL ALL BUDGET FUND GROUPS	\$	325,047	\$ 0	91344
Section 209.18. DNR DEPARTMENT OF NATURAL RESOURCES				91346
General Revenue Fund				91347
GRF 725-401 Wildlife-GRF Central	\$	1,000,000	\$ 1,000,000	91348
Support				

GRF 725-404	Fountain Square Rental Payments - OBA	\$ 1,025,300	\$ 1,092,000	91349
GRF 725-407	Conservation Reserve Enhancement Program	\$ 1,000,000	\$ 1,000,000	91350
GRF 725-413	OPFC Lease Rental Payments	\$ 18,699,100	\$ 20,962,800	91351
GRF 725-423	Stream and Ground Water Gauging	\$ 311,910	\$ 311,910	91352
GRF 725-425	Wildlife License Reimbursement	\$ 646,319	\$ 646,319	91353
GRF 725-456	Canal Lands	\$ 332,859	\$ 332,859	91354
GRF 725-502	Soil and Water Districts	\$ 9,836,436	\$ 9,836,436	91355
GRF 725-903	Natural Resources General Obligation Debt Service	\$ 25,866,000	\$ 24,359,100	91356
GRF 727-321	Division of Forestry	\$ 8,541,511	\$ 8,541,511	91357
GRF 728-321	Division of Geological Survey	\$ 1,630,000	\$ 1,630,000	91358
GRF 729-321	Office of Information Technology	\$ 440,895	\$ 440,895	91359
GRF 730-321	Division of Parks and Recreation	\$ 37,924,841	\$ 39,874,841	91360
GRF 731-321	Office of Coastal Management	\$ 259,707	\$ 259,707	91361
GRF 733-321	Division of Water	\$ 3,207,619	\$ 3,207,619	91362
GRF 736-321	Division of Engineering	\$ 3,118,703	\$ 3,118,703	91363
GRF 737-321	Division of Soil and Water	\$ 4,074,788	\$ 4,074,788	91364
GRF 738-321	Division of Real Estate and Land Management	\$ 2,291,874	\$ 2,291,874	91365

GRF 741-321	Division of Natural Areas and Preserves	\$	3,009,505	\$	3,009,505	91366
GRF 744-321	Division of Mineral Resources Management	\$	3,068,167	\$	3,068,167	91367
TOTAL GRF	General Revenue Fund	\$	126,285,534	\$	129,059,034	91368
General Services Fund Group						91369
155 725-601	Departmental Projects	\$	3,135,821	\$	3,011,726	91370
157 725-651	Central Support Indirect	\$	6,528,675	\$	6,528,675	91371
204 725-687	Information Services	\$	4,676,627	\$	4,676,627	91372
206 725-689	REALM Support Services	\$	475,000	\$	475,000	91373
207 725-690	Real Estate Services	\$	64,000	\$	64,000	91374
223 725-665	Law Enforcement Administration	\$	2,096,225	\$	2,096,225	91375
227 725-406	Parks Projects Personnel	\$	175,000	\$	110,000	91376
4D5 725-618	Recycled Materials	\$	50,000	\$	50,000	91377
4S9 725-622	NatureWorks Personnel	\$	472,648	\$	307,648	91378
4X8 725-662	Water Resources Council	\$	125,000	\$	125,000	91379
430 725-671	Canal Lands	\$	797,582	\$	847,582	91380
508 725-684	Natural Resources Publications	\$	157,792	\$	157,792	91381
510 725-631	Maintenance - State-owned Residences	\$	260,849	\$	260,849	91382
516 725-620	Water Management	\$	2,442,956	\$	2,459,120	91383
635 725-664	Fountain Square Facilities Management	\$	3,182,223	\$	3,190,223	91384
697 725-670	Submerged Lands	\$	542,011	\$	542,011	91385
TOTAL GSF	General Services Fund Group	\$	25,182,409	\$	24,902,478	91387
Federal Special Revenue Fund Group						91388

3B3	725-640	Federal Forest Pass-Thru	\$	150,000	\$	150,000	91389
3B4	725-641	Federal Flood Pass-Thru	\$	350,000	\$	350,000	91390
3B5	725-645	Federal Abandoned Mine Lands	\$	14,310,497	\$	14,307,666	91391
3B6	725-653	Federal Land and Water Conservation Grants	\$	5,000,000	\$	5,000,000	91392
3B7	725-654	Reclamation - Regulatory	\$	2,107,292	\$	2,107,291	91393
3P0	725-630	Natural Areas and Preserves - Federal	\$	315,000	\$	315,000	91394
3P1	725-632	Geological Survey - Federal	\$	479,651	\$	479,651	91395
3P2	725-642	Oil and Gas-Federal	\$	362,933	\$	367,912	91396
3P3	725-650	Coastal Management - Federal	\$	1,592,923	\$	1,607,686	91397
3P4	725-660	Water - Federal	\$	419,766	\$	420,525	91398
3R5	725-673	Acid Mine Drainage Abatement/Treatment	\$	2,225,000	\$	2,225,000	91399
3Z5	725-657	REALM-Federal	\$	1,578,871	\$	1,578,871	91400
328	725-603	Forestry Federal	\$	1,813,827	\$	2,228,081	91401
332	725-669	Federal Mine Safety Grant	\$	258,102	\$	258,102	91402
TOTAL FED Federal Special Revenue							91403
Fund Group			\$	30,963,862	\$	31,395,785	91404
State Special Revenue Fund Group							91405
4J2	725-628	Injection Well Review	\$	93,957	\$	79,957	91406
4M7	725-631	Wildfire Suppression	\$	100,000	\$	100,000	91407
4U6	725-668	Scenic Rivers Protection	\$	407,100	\$	407,100	91408
5B3	725-674	Mining Regulation	\$	28,850	\$	28,850	91409
5BV	725-683	Soil and Water	\$	1,850,000	\$	1,850,000	91410

		Districts					
5P2	725-634	Wildlife Boater Angler	\$	4,200,000	\$	3,500,000	91411
		Administration					
509	725-602	State Forest	\$	2,291,664	\$	2,591,664	91412
511	725-646	Ohio Geological	\$	549,310	\$	549,310	91413
		Mapping					
512	725-605	State Parks Operations	\$	26,814,288	\$	26,814,288	91414
512	725-680	Parks Facilities	\$	2,576,240	\$	2,576,240	91415
		Maintenance					
514	725-606	Lake Erie Shoreline	\$	612,075	\$	657,113	91416
518	725-643	Oil and Gas Permit	\$	2,674,377	\$	2,674,378	91417
		Fees					
518	725-677	Oil and Gas Well	\$	1,200,000	\$	1,200,000	91418
		Plugging					
521	725-627	Off-Road Vehicle	\$	143,490	\$	143,490	91419
		Trails					
522	725-656	Natural Areas Checkoff	\$	1,550,670	\$	1,550,670	91420
		Funds					
526	725-610	Strip Mining	\$	1,932,492	\$	1,932,492	91421
		Administration Fee					
527	725-637	Surface Mining	\$	2,312,815	\$	2,322,702	91422
		Administration					
529	725-639	Unreclaimed Land Fund	\$	623,356	\$	631,257	91423
531	725-648	Reclamation Forfeiture	\$	2,061,861	\$	2,062,237	91424
532	725-644	Litter Control and	\$	7,100,000	\$	7,100,000	91425
		Recycling					
586	725-633	Scrap Tire Program	\$	1,000,000	\$	1,000,000	91426
615	725-661	Dam Safety	\$	365,223	\$	365,223	91427
		TOTAL SSR State Special Revenue					91428
		Fund Group	\$	60,487,768	\$	60,136,971	91429
		Clean Ohio Fund Group					91430
061	725-405	Clean Ohio Operating	\$	155,000	\$	155,000	91431
		TOTAL CLF Clean Ohio Fund Group	\$	155,000	\$	155,000	91432

Wildlife Fund Group				91433
015 740-401 Division of Wildlife Conservation	\$	49,447,500	\$ 50,447,500	91434
815 725-636 Cooperative Management Projects	\$	120,449	\$ 120,449	91435
816 725-649 Wetlands Habitat	\$	966,885	\$ 966,885	91436
817 725-655 Wildlife Conservation Checkoff Fund	\$	5,000,000	\$ 5,000,000	91437
818 725-629 Cooperative Fisheries Research	\$	1,500,000	\$ 1,500,000	91438
819 725-685 Ohio River Management	\$	128,584	\$ 128,584	91439
TOTAL WLF Wildlife Fund Group	\$	57,163,418	\$ 58,163,418	91440
Waterways Safety Fund Group				91441
086 725-414 Waterways Improvement	\$	3,792,343	\$ 3,792,343	91442
086 725-418 Buoy Placement	\$	52,182	\$ 52,182	91443
086 725-501 Waterway Safety Grants	\$	137,867	\$ 137,867	91444
086 725-506 Watercraft Marine Patrol	\$	576,153	\$ 576,153	91445
086 725-513 Watercraft Educational Grants	\$	366,643	\$ 366,643	91446
086 739-401 Division of Watercraft	\$	20,027,909	\$ 20,086,681	91447
5AW 725-682 Watercraft Revolving Loans	\$	3,000,000	\$ 1,000,000	91448
TOTAL WSF Waterways Safety Fund Group	\$	27,953,097	\$ 26,011,869	91449
Holding Account Redistribution Fund Group				91451
R17 725-659 Performance Cash Bond Refunds	\$	374,263	\$ 374,263	91452
R43 725-624 Forestry	\$	2,500,000	\$ 1,500,000	91453
TOTAL 090 Holding Account Redistribution Fund Group	\$	2,874,263	\$ 1,874,263	91455
Accrued Leave Liability Fund Group				91456

4M8 725-675 FOP Contract	\$	20,844	\$	20,844	91457
TOTAL ALF Accrued Leave					91458
Liability Fund Group	\$	20,844	\$	20,844	91459
TOTAL ALL BUDGET FUND GROUPS	\$	331,086,195	\$	331,719,662	91460

Section 209.18.03. CENTRAL SUPPORT INDIRECT 91462

With the exception of the Division of Wildlife, whose direct 91463
and indirect central support charges shall be paid out of the 91464
General Revenue Fund from the foregoing appropriation item 91465
725-401, Wildlife-GRF Central Support, the Department of Natural 91466
Resources, with approval of the Director of Budget and Management, 91467
shall utilize a methodology for determining each division's 91468
payments into the Central Support Indirect Fund (Fund 157). The 91469
methodology used shall contain the characteristics of 91470
administrative ease and uniform application in compliance with 91471
federal grant requirements. It may include direct cost charges for 91472
specific services provided. Payments to the Central Support 91473
Indirect Fund (Fund 157) shall be made using an intrastate 91474
transfer voucher. 91475

Section 209.18.06. FOUNTAIN SQUARE 91476

The foregoing appropriation item 725-404, Fountain Square 91477
Rental Payments - OBA, shall be used by the Department of Natural 91478
Resources to meet all payments required to be made to the Ohio 91479
Building Authority during the period from July 1, 2005, to June 91480
30, 2007, pursuant to leases and agreements with the Ohio Building 91481
Authority under section 152.241 of the Revised Code, but limited 91482
to the aggregate amount of \$2,117,300. 91483

The Director of Natural Resources, using intrastate transfer 91484
vouchers, shall make payments to the General Revenue Fund from 91485
funds other than the General Revenue Fund to reimburse the General 91486
Revenue Fund for the other funds' shares of the lease rental 91487

payments to the Ohio Building Authority. The transfers from the 91488
non-General Revenue funds shall be made within 10 days of the 91489
payment to the Ohio Building Authority for the actual amounts 91490
necessary to fulfill the leases and agreements pursuant to section 91491
152.241 of the Revised Code. 91492

The foregoing appropriation item 725-664, Fountain Square 91493
Facilities Management (Fund 635), shall be used for payment of 91494
repairs, renovation, utilities, property management, and building 91495
maintenance expenses for the Fountain Square Complex. Cash 91496
transferred by intrastate transfer vouchers from various 91497
department funds and rental income received by the Department of 91498
Natural Resources shall be deposited into the Fountain Square 91499
Facilities Management Fund (Fund 635). 91500

LEASE RENTAL PAYMENTS 91501

The foregoing appropriation item 725-413, OPFC Lease Rental 91502
Payments, shall be used to meet all payments at the times they are 91503
required to be made during the period from July 1, 2005, to June 91504
30, 2007, by the Department of Natural Resources pursuant to 91505
leases and agreements made under section 154.22 of the Revised 91506
Code, but limited to the aggregate amount of \$50,375,100. Nothing 91507
in this act shall be deemed to contravene the obligation of the 91508
state to pay, without necessity for further appropriation, from 91509
the sources pledged thereto, the bond service charges on 91510
obligations issued pursuant to section 154.22 of the Revised Code. 91511

NATURAL RESOURCES GENERAL OBLIGATION DEBT SERVICE 91512

The foregoing appropriation item 725-903, Natural Resources 91513
General Obligation Debt Service, shall be used to pay all debt 91514
service and related financing costs at the times they are required 91515
to be made pursuant to sections 151.01 and 151.05 of the Revised 91516
Code during the period from July 1, 2005, to June 30, 2007. The 91517
Office of the Sinking Fund or the Director of Budget and 91518

Management shall effectuate the required payments by an intrastate transfer voucher. 91519
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Section 209.18.09. WILDLIFE LICENSE REIMBURSEMENT 91521

Notwithstanding the limits of the transfer from the General Revenue Fund to the Wildlife Fund, as adopted in section 1533.15 of the Revised Code, up to the amount available in appropriation item 725-425, Wildlife License Reimbursement, may be transferred from the General Revenue Fund to the Wildlife Fund (Fund 015). Pursuant to the certification of the Director of Budget and Management of the amount of foregone revenue in accordance with section 1533.15 of the Revised Code, the foregoing appropriation item in the General Revenue Fund, appropriation item 725-425, Wildlife License Reimbursement, shall be used to reimburse the Wildlife Fund (Fund 015) for the cost of hunting and fishing licenses and permits issued after June 30, 1990, to individuals who are exempted under the Revised Code from license, permit, and stamp fees. 91522
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CANAL LANDS 91536

The foregoing appropriation item 725-456, Canal Lands, shall be used to transfer funds to the Canal Lands Fund (Fund 430) to provide operating expenses for the State Canal Lands Program. The transfer shall be made using an intrastate transfer voucher and shall be subject to the approval of the Director of Budget and Management. 91537
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SOIL AND WATER DISTRICTS 91543

In addition to state payments to soil and water conservation districts authorized by section 1515.10 of the Revised Code, the Department of Natural Resources may pay to any soil and water conservation district, from authority in appropriation item 725-502, Soil and Water Districts, an annual amount not to exceed 91544
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91546
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91548

\$30,000, upon receipt of a request and justification from the district and approval by the Ohio Soil and Water Conservation Commission. The county auditor shall credit the payments to the special fund established under section 1515.10 of the Revised Code for the local soil and water conservation district. Moneys received by each district shall be expended for the purposes of the district. The foregoing appropriation item 725-683, Soil and Water Districts, shall be expended for the purposes described above, except that the funding source for this appropriation shall be a fee applied on the disposal of construction and demolition debris as provided in section 1515.14 of the Revised Code, as amended by this act.

Of the foregoing appropriation item 725-502, Soil and Water Districts, \$25,000 in each fiscal year shall be used for the Conservation Action Project.

Of the foregoing appropriation item, 725-683, Soil and Water Districts, \$200,000 in each fiscal year shall be used to support the Heidelberg College Water Quality Laboratory.

Of the foregoing appropriation item 725-683, Soil and Water Districts, \$100,000 in each fiscal year shall be used to support the Muskingum Watershed Conservancy District.

Of the foregoing appropriation item 725-683, Soil and Water Districts, \$100,000 in each fiscal year shall be used to support the Indian Lake Watershed in Logan County.

PARKS AND RECREATION

Of the foregoing appropriation item 730-321, Division of Parks and Recreation, \$50,000 in fiscal year 2006 shall be used for the Fairport Harbor Port Authority boat launch in Lake County.

FUND CONSOLIDATION

The Director of Budget and Management shall transfer an

amount certified by the Director of Natural Resources from the 91579
Central Support Indirect Fund (Fund 157) to the Law Enforcement 91580
Administration Fund (Fund 223) and the Information Services Fund 91581
(Fund 204) to implement a direct cost recovery plan. 91582

STATE PARK DEPRECIATION RESERVE 91583

The foregoing appropriation item 725-680, Parks Facilities 91584
Maintenance, shall be used by the Division of Parks and Recreation 91585
to maintain state park revenue producing facilities in the best 91586
economic operating condition and to repair and replace equipment 91587
used in the operation of state park revenue producing facilities. 91588

Upon certification of the Director of Natural Resources, the 91589
Director of Budget and Management shall transfer the cash balance 91590
in the Depreciation Reserve Fund (Fund 161), which is abolished in 91591
section 1541.221 of the Revised Code, as amended by this act, to 91592
the State Park Fund (Fund 512), which is created in section 91593
1541.22 of the Revised Code. All outstanding encumbrances shall be 91594
cancelled on October 1, 2005. 91595

OIL AND GAS WELL PLUGGING 91596

The foregoing appropriation item 725-677, Oil and Gas Well 91597
Plugging, shall be used exclusively for the purposes of plugging 91598
wells and to properly restore the land surface of idle and orphan 91599
oil and gas wells pursuant to section 1509.071 of the Revised 91600
Code. No funds from the appropriation item shall be used for 91601
salaries, maintenance, equipment, or other administrative 91602
purposes, except for those costs directly attributed to the 91603
plugging of an idle or orphan well. Appropriation authority from 91604
this appropriation item shall not be transferred to any other fund 91605
or line item. 91606

CLEAN OHIO OPERATING EXPENSES 91607

The foregoing appropriation item 725-405, Clean Ohio 91608

Operating, shall be used by the Department of Natural Resources in 91609
administering section 1519.05 of the Revised Code. 91610

WATERCRAFT MARINE PATROL 91611

Of the foregoing appropriation item 739-401, Division of 91612
Watercraft, not more than \$200,000 in each fiscal year shall be 91613
expended for the purchase of equipment for marine patrols 91614
qualifying for funding from the Department of Natural Resources 91615
pursuant to section 1547.67 of the Revised Code. Proposals for 91616
equipment shall accompany the submission of documentation for 91617
receipt of a marine patrol subsidy pursuant to section 1547.67 of 91618
the Revised Code and shall be loaned to eligible marine patrols 91619
pursuant to a cooperative agreement between the Department of 91620
Natural Resources and the eligible marine patrol. 91621

WATERCRAFT REVOLVING LOAN PROGRAM 91622

Upon certification by the Director of Natural Resources, the 91623
Director of Budget and Management shall transfer an amount not to 91624
exceed \$3,000,000 in fiscal year 2006 and not to exceed \$1,000,000 91625
in fiscal year 2007 so certified from the Waterways Safety Fund 91626
(Fund 086) to the Watercraft Revolving Loans Fund (Fund 5AW). The 91627
moneys shall be used pursuant to section 1547.721 of the Revised 91628
Code. 91629

PARKS CAPITAL EXPENSES FUND 91630

There is hereby created in the state treasury the Parks 91631
Capital Expenses Fund (Fund 227). The fund shall be used to pay 91632
for design, engineering, and planning costs incurred by the 91633
Department of Natural Resources for capital parks projects. 91634

The Director of Natural Resources shall submit to the 91635
Director of Budget and Management the estimated design, 91636
engineering, and planning costs of capital-related work to be done 91637
by Department of Natural Resources staff for parks projects. If 91638

the Director of Budget and Management approves the estimated 91639
costs, the Director may release appropriations from appropriation 91640
item 725-406, Parks Projects Personnel, for those purposes. Upon 91641
release of the appropriations, the Department of Natural Resources 91642
shall pay for these expenses from the Parks Capital Expenses Fund 91643
(Fund 227). Expenses paid from Fund 227 shall be reimbursed by the 91644
Parks and Recreation Improvement Fund (Fund 035) using an 91645
intrastate transfer voucher. 91646

Section 209.21. NUR STATE BOARD OF NURSING 91647

General Services Fund Group 91648
4K9 884-609 Operating Expenses \$ 5,661,280 \$ 5,661,280 91649
5P8 884-601 Nursing Special Issues \$ 5,000 \$ 5,000 91650
TOTAL GSF General Services 91651
Fund Group \$ 5,666,280 \$ 5,666,280 91652
TOTAL ALL BUDGET FUND GROUPS \$ 5,666,280 \$ 5,666,280 91653

NURSING SPECIAL ISSUES 91654

The foregoing appropriation item 884-601, Nursing Special 91655
Issues (Fund 5P8), shall be used to pay the costs the Board of 91656
Nursing incurs in implementing section 4723.062 of the Revised 91657
Code. 91658

Section 209.24. PYT OCCUPATIONAL THERAPY, PHYSICAL THERAPY,
AND ATHLETIC TRAINERS BOARD 91659
91660

General Services Fund Group 91661
4K9 890-609 Operating Expenses \$ 824,057 \$ 0 91662
TOTAL GSF General Services Fund \$ 824,057 \$ 0 91663
Group
TOTAL ALL BUDGET FUND GROUPS \$ 824,057 \$ 0 91664

Section 209.27. OLA OHIOANA LIBRARY ASSOCIATION 91666

General Revenue Fund				91667
GRF 355-501 Library Subsidy	\$	100,000	\$ 100,000	91668
TOTAL GRF General Revenue Fund	\$	100,000	\$ 100,000	91669
TOTAL ALL BUDGET FUND GROUPS	\$	100,000	\$ 100,000	91670

Section 209.30. ODB OHIO OPTICAL DISPENSERS BOARD 91672

General Services Fund Group				91673
4K9 894-609 Operating Expenses	\$	316,517	\$ 0	91674
TOTAL GSF General Services				91675
Fund Group	\$	316,517	\$ 0	91676
TOTAL ALL BUDGET FUND GROUPS	\$	316,517	\$ 0	91677

Section 209.33. OPT STATE BOARD OF OPTOMETRY 91679

General Services Fund Group				91680
4K9 885-609 Operating Expenses	\$	336,771	\$ 0	91681
TOTAL GSF General Services				91682
Fund Group	\$	336,771	\$ 0	91683
TOTAL ALL BUDGET FUND GROUPS	\$	336,771	\$ 0	91684

Section 209.36. OPP STATE BOARD OF ORTHOTICS, PROSTHETICS, AND PEDORTHICS 91686
91687

General Services Fund Group				91688
4K9 973-609 Operating Expenses	\$	99,571	\$ 0	91689
TOTAL GSF General Services				91690
Fund Group	\$	99,571	\$ 0	91691
TOTAL ALL BUDGET FUND GROUPS	\$	99,571	\$ 0	91692

Section 209.39. PBR STATE PERSONNEL BOARD OF REVIEW 91693

General Revenue Fund				91694
GRF 124-321 Operating	\$	1,116,170	\$ 1,148,000	91695
TOTAL GRF General Revenue Fund	\$	1,116,170	\$ 1,148,000	91696

General Services Fund Group				91697
636 124-601 Transcript and Other	\$	12,000	\$ 15,000	91698
TOTAL GSF General Services				91699
Fund Group	\$	12,000	\$ 15,000	91700
TOTAL ALL BUDGET FUND GROUPS	\$	1,128,170	\$ 1,163,000	91701

TRANSCRIPT AND OTHER 91702

The foregoing appropriation item 124-601, Transcript and 91703
Other, may be used to defray the costs of producing an 91704
administrative record. 91705

Section 209.42. PRX STATE BOARD OF PHARMACY 91706

General Services Fund Group				91707
4A5 887-605 Drug Law Enforcement	\$	75,550	\$ 75,550	91708
4K9 887-609 Operating Expenses	\$	5,650,537	\$ 5,400,537	91709
TOTAL GSF General Services				91710
Fund Group	\$	5,726,087	\$ 5,476,087	91711
TOTAL ALL BUDGET FUND GROUPS	\$	5,726,087	\$ 5,476,087	91712

Section 209.45. PSY STATE BOARD OF PSYCHOLOGY 91714

General Services Fund Group				91715
4K9 882-609 Operating Expenses	\$	566,112	\$ 0	91716
TOTAL GSF General Services				91717
Fund Group	\$	566,112	\$ 0	91718
TOTAL ALL BUDGET FUND GROUPS	\$	566,112	\$ 0	91719

Section 209.48. PUB OHIO PUBLIC DEFENDER COMMISSION 91721

General Revenue Fund				91722
GRF 019-321 Public Defender	\$	1,295,570	\$ 1,262,439	91723
Administration				
GRF 019-401 State Legal Defense	\$	5,744,601	\$ 5,704,117	91724
Services				

GRF 019-403	Multi-County: State Share	\$	823,620	\$	823,620	91725
GRF 019-404	Trumbull County - State Share	\$	256,380	\$	256,380	91726
GRF 019-405	Training Account	\$	31,324	\$	31,324	91727
GRF 019-501	County Reimbursement	\$	30,000,000	\$	30,000,000	91728
TOTAL GRF	General Revenue Fund	\$	38,151,495	\$	38,077,880	91729
General Services Fund Group						91730
101 019-602	Inmate Legal Assistance	\$	53,086	\$	32,338	91731
406 019-603	Training and Publications	\$	16,000	\$	16,000	91732
407 019-604	County Representation	\$	186,146	\$	188,810	91733
408 019-605	Client Payments	\$	614,027	\$	762,106	91734
TOTAL GSF	General Services Fund Group	\$	869,259	\$	999,254	91735 91736
Federal Special Revenue Fund Group						91737
3S8 019-608	Federal Representation	\$	380,484	\$	315,287	91738
TOTAL FED	Federal Special Revenue Fund Group	\$	380,484	\$	315,287	91739 91740
State Special Revenue Fund Group						91741
4C7 019-601	Multi-County: County Share	\$	2,028,309	\$	2,104,367	91742
4X7 019-610	Trumbull County - County Share	\$	642,106	\$	665,860	91743
574 019-606	Legal Services Corporation	\$	16,575,000	\$	21,300,000	91744
XXX 019-XXX	Civil Case Filing Fee	\$	417,600	\$	556,800	91745
TOTAL SSR	State Special Revenue Fund Group	\$	19,663,015	\$	24,627,027	91746 91747
TOTAL ALL BUDGET FUND GROUPS		\$	59,064,253	\$	64,019,448	91748
INDIGENT DEFENSE OFFICE						91749

The foregoing appropriation items 019-404, Trumbull County - 91750
 State Share, and 019-610, Trumbull County - County Share, shall be 91751
 used to support an indigent defense office for Trumbull County. 91752

MULTI-COUNTY OFFICE 91753

The foregoing appropriation items 019-403, Multi-County: 91754
 State Share, and 019-601, Multi-County: County Share, shall be 91755
 used to support the Office of the Ohio Public Defender's 91756
 Multi-County Branch Office Program. 91757

TRAINING ACCOUNT 91758

The foregoing appropriation item 019-405, Training Account, 91759
 shall be used by the Ohio Public Defender to provide legal 91760
 training programs at no cost for private appointed counsel who 91761
 represent at least one indigent defendant at no cost and for state 91762
 and county public defenders and attorneys who contract with the 91763
 Ohio Public Defender to provide indigent defense services. 91764

FEDERAL REPRESENTATION 91765

The foregoing appropriation item 019-608, Federal 91766
 Representation, shall be used to receive reimbursements from the 91767
 federal courts when the Ohio Public Defender provides 91768
 representation in federal court cases and to support 91769
 representation in such cases. 91770

Section 209.51. DHS DEPARTMENT OF PUBLIC SAFETY 91771

General Revenue Fund 91772

GRF 763-403 Operating Expenses - \$ 4,214,697 \$ 4,214,697 91773

EMA

GRF 763-507 Individual and \$ 650,000 \$ 650,000 91774

Households Program -

State

GRF 768-424 Operating Expenses - \$ 965,899 \$ 1,276,192 91775

CJS

GRF 769-321 Food Stamp Trafficking	\$	752,000	\$	752,000	91776
Enforcement Operations					
TOTAL GRF General Revenue Fund	\$	6,582,596	\$	6,892,889	91777
General Services Fund Group					
4P6 768-601 Justice Program	\$	100,000	\$	100,000	91779
Services					
TOTAL GSF General Services Fund	\$	100,000	\$	100,000	91780
Group					
Federal Special Revenue Fund Group					
3AY 768-606 Federal Justice Grants	\$	11,200,000	\$	11,500,000	91782
3L5 768-604 Justice Program	\$	31,019,750	\$	25,214,623	91783
3V8 768-605 Federal Program	\$	50,000	\$	0	91784
Purposes FFY01					
TOTAL FED Federal Special Revenue	\$	42,269,750	\$	36,714,623	91785
Fund Group					
State Special Revenue Fund Group					
5BK 768-689 Family Violence	\$	500,000	\$	650,000	91787
Shelter Programs					
5B9 766-632 PI & Security Guard	\$	1,188,716	\$	1,188,716	91788
Provider					
5CC 768-607 Public Safety Services	\$	375,000	\$	325,000	91789
TOTAL SSR State Special Revenue	\$	2,063,716	\$	2,163,716	91790
Fund Group					
TOTAL ALL BUDGET FUND GROUPS	\$	51,016,062	\$	45,871,228	91791
OHIO TASK FORCE ONE - URBAN SEARCH AND RESCUE UNIT					
Of the foregoing appropriation item 763-403, Operating					
Expenses - EMA, \$200,000 in each fiscal year shall be used to fund					
the Ohio Task Force One - Urban Search and Rescue Unit and other					
urban search and rescue programs around the state to create a					
stronger search and rescue capability statewide.					
BACK-UP POWER GENERATION DEVICES					

Of the foregoing appropriation item 763-403, Operating 91799
Expenses - EMA, \$50,000 in each fiscal year shall be used to fund 91800
back-up power generation devices to be used for training purposes. 91801
These power generation devices shall include one reciprocating 91802
engine, one portable microturbine generator for demonstration 91803
purposes, and one stationary fuel cell device. 91804

INDIVIDUAL AND HOUSEHOLDS GRANTS STATE MATCH 91805

The foregoing appropriation item 763-507, Individual and 91806
Households Program - State, shall be used to fund the state share 91807
of costs to provide grants to individuals and households in cases 91808
of disaster. 91809

TRANSFER OF THE OFFICE OF CRIMINAL JUSTICE SERVICES TO THE 91810
DEPARTMENT OF PUBLIC SAFETY 91811

(A) On July 1, 2005: 91812

(1) The Office of Criminal Justice Services shall cease to 91813
exist. Subject to the layoff provisions of sections 124.321 to 91814
124.328 of the Revised Code, the employees of the Office of 91815
Criminal Justice Services who were employed by that Office on June 91816
30, 2005, are transferred on that date to the Department of Public 91817
Safety. The vehicles and equipment assigned to those employees are 91818
transferred to the Department of Public Safety. 91819

(2) The assets, liabilities, other equipment not provided 91820
for, and records, irrespective of form or medium, of the Office of 91821
Criminal Justice Services are transferred to the Division of 91822
Criminal Justice Services. The Division of Criminal Justice 91823
Services is the successor to, assumes the obligations of, and 91824
otherwise constitutes the continuation of the Office of Criminal 91825
Justice Services. 91826

(3) Business commenced but not completed by the Office of 91827
Criminal Justice Services on July 1, 2005, shall be completed by 91828

the Division of Criminal Justice Services, in the same manner, and 91829
with the same effect, as if completed by the Office of Criminal 91830
Justice Services. No validation, cure, right, privilege, remedy, 91831
obligation, or liability is lost or impaired by reason of the 91832
transfer required by this section but shall be administered by the 91833
Division of Criminal Justice Services. 91834

(4) The rules, orders, and determinations pertaining to the 91835
Office of Criminal Justice Services continue in effect as rules, 91836
orders, and determinations of the Division of Criminal Justice 91837
Services until modified or rescinded by that Division. 91838

(5) No judicial or administrative action or proceeding 91839
pending on July 1, 2005, is affected by the transfer of functions 91840
from the Office of Criminal Justice Services to the Division of 91841
Criminal Justice Services and shall be prosecuted or defended in 91842
the name of the Executive Director or Division of Criminal Justice 91843
Services. On application to the court or other tribunal, the 91844
Executive Director or Division of Criminal Justice Services shall 91845
be substituted as a party in those actions and proceedings. 91846

(6) When the Director or Office of Criminal Justice Services 91847
is referred to in any statute, rule, contract, grant, or other 91848
document, the reference is hereby deemed to refer to the Executive 91849
Director or Division of Criminal Justice Services. 91850

(B) On and after July 1, 2005, if necessary to ensure the 91851
integrity of the numbering of the Administrative Code, the 91852
Director of the Legislative Service Commission shall renumber the 91853
rules of the Office of Criminal Justice Services to reflect their 91854
transfer to the Division of Criminal Justice Services in the 91855
Department of Public Safety. 91856

(C) On and after July 1, 2005, notwithstanding any provision 91857
of law to the contrary, the Director of Budget and Management is 91858
authorized to take the actions described in this section with 91859

respect to budget changes made necessary by administrative 91860
reorganization, program transfers, the creation of new funds, and 91861
the consolidation of funds as authorized by this act. The Director 91862
may make any transfer of cash balances between funds. At the 91863
request of the Director of Budget and Management, the 91864
administering agency head shall certify to the Director an 91865
estimate of the amount of the cash balance to be transferred to 91866
the receiving fund. The Director may transfer the estimated amount 91867
when needed to make payments. Not more than thirty days after 91868
certifying the estimated amount, the administering agency head 91869
shall certify the final amount to the Director. The Director shall 91870
transfer the difference between any amount previously transferred 91871
and the certified final amount. The Director may cancel 91872
encumbrances and re-establish encumbrances or parts of 91873
encumbrances as needed in fiscal year 2006 in the appropriate fund 91874
and appropriation item for the same purpose and to the same 91875
vendor. As determined by the Director, the appropriation authority 91876
necessary to re-establish those encumbrances in fiscal year 2006 91877
in a different fund or appropriation item within an agency or 91878
between agencies is hereby authorized. The Director shall reduce 91879
each year's appropriation balances by the amount of the 91880
encumbrances canceled in their respective funds and appropriation 91881
items. Any fiscal year 2005 unencumbered or unallocated 91882
appropriation balances may be transferred to the appropriate item 91883
to be used for the same purposes, as determined by the Director. 91884

(D) Any advisory committees appointed by the Governor to 91885
assist the Office of Criminal Justice Services pursuant to section 91886
181.53 and existing on June 30, 2005, shall continue to exist as 91887
advisory committees to the Division of Criminal Justice Services 91888
in the Department of Public Safety beginning on July 1, 2005, 91889
subject to section 121.13 of the Revised Code. 91890

TRANSFER OF FAMILY VIOLENCE PREVENTION CENTER 91891

The Family Violence Prevention Center is transferred from the 91892
Office of Criminal Justice Services to the Department of Public 91893
Safety. The Family Violence Prevention Center shall operate as 91894
part of the Division of Criminal Justice Services in the 91895
Department of Public Safety in the same manner as it operated 91896
under the Office of Criminal Justice Services. 91897

STATE FIRE MARSHAL'S FUND CASH TRANSFERS FOR PUBLIC SAFETY 91898
SERVICES 91899

Notwithstanding section 3737.71 of the Revised Code, in 91900
fiscal year 2006, the Director of Budget and Management shall 91901
transfer \$375,000 in cash from the Department of Commerce's State 91902
Fire Marshal's Fund (Fund 546) to the Department of Public 91903
Safety's Public Safety Services Fund (Fund 5CC), which is hereby 91904
created in the state treasury, and in fiscal year 2007, the 91905
Director of Budget and Management shall transfer \$325,000 in cash 91906
from the Department of Commerce's State Fire Marshal's Fund (Fund 91907
546) to the Department of Public Safety's Public Safety Services 91908
Fund (Fund 5CC). 91909

Of the foregoing appropriation item 768-607, Public Safety 91910
Services, \$100,000 in fiscal year 2006 and \$200,000 in fiscal year 91911
2007 shall be distributed by the Department of Public Safety's 91912
Division of Criminal Justice Services to the City of Warren to 91913
assist the city in providing essential public safety services to 91914
its citizens. 91915

Of the foregoing appropriation item 768-607, Public Safety 91916
Services, \$125,000 in each fiscal year shall be distributed by the 91917
Department of Public Safety's Division of Criminal Justice 91918
Services directly to the Southern Ohio Drug Task Force. 91919

Of the foregoing appropriation item 768-607, Public Safety 91920
Services, \$150,000 in fiscal year 2006 shall be distributed by the 91921
Department of Public Safety's Division of Criminal Justice 91922

Services to the City of Eastlake to assist the city in providing				91923
essential public safety services to its citizens.				91924
Section 209.54. PUC PUBLIC UTILITIES COMMISSION OF OHIO				91925
General Services Fund Group				91926
5F6 870-622 Utility and Railroad	\$	31,272,222	\$ 31,272,223	91927
Regulation				
5F6 870-624 NARUC/NRRI Subsidy	\$	167,233	\$ 167,233	91928
5F6 870-625 Motor Transportation	\$	5,361,239	\$ 5,361,238	91929
Regulation				
TOTAL GSF General Services				91930
Fund Group	\$	36,800,694	\$ 36,800,694	91931
Federal Special Revenue Fund Group				91932
3V3 870-604 Commercial Vehicle	\$	300,000	\$ 300,000	91933
Information				
Systems/Networks				
333 870-601 Gas Pipeline Safety	\$	597,957	\$ 597,957	91934
350 870-608 Motor Carrier Safety	\$	7,027,712	\$ 7,027,712	91935
TOTAL FED Federal Special Revenue				91936
Fund Group	\$	7,925,669	\$ 7,925,669	91937
State Special Revenue Fund Group				91938
4A3 870-614 Grade Crossing	\$	1,349,757	\$ 1,349,757	91939
Protection				
Devices-State				
4L8 870-617 Pipeline Safety-State	\$	187,621	\$ 187,621	91940
4S6 870-618 Hazardous Material	\$	464,325	\$ 464,325	91941
Registration				
4S6 870-621 Hazardous Materials	\$	373,346	\$ 373,346	91942
Base State				
Registration				
4U8 870-620 Civil Forfeitures	\$	284,986	\$ 284,986	91943
559 870-605 Public Utilities	\$	4,000	\$ 4,000	91944

		Territorial				
		Administration				
560	870-607	Special Assessment	\$	100,000	\$	100,000 91945
561	870-606	Power Siting Board	\$	337,210	\$	337,210 91946
638	870-611	Biomass Energy Program	\$	40,000	\$	40,000 91947
661	870-612	Hazardous Materials	\$	900,000	\$	900,000 91948
		Transportation				
		TOTAL SSR State Special Revenue				91949
		Fund Group	\$	4,041,245	\$	4,041,245 91950
		Agency Fund Group				91951
4G4	870-616	Base State	\$	5,600,000	\$	5,600,000 91952
		Registration Program				
		TOTAL AGY Agency Fund Group	\$	5,600,000	\$	5,600,000 91953
		TOTAL ALL BUDGET FUND GROUPS	\$	54,367,608	\$	54,367,608 91954
		COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS PROJECT				91955
		The Commercial Vehicle Information Systems and Networks Fund				91956
		is hereby created in the state treasury. The fund shall receive				91957
		funding from the United States Department of Transportation's				91958
		Commercial Vehicle Intelligent Transportation System				91959
		Infrastructure Deployment Program and shall be used to deploy the				91960
		Ohio Commercial Vehicle Information Systems and Networks Project				91961
		and to expedite and improve the safety of motor carrier operations				91962
		through electronic exchange of data by means of on-highway				91963
		electronic systems.				91964
		Section 209.57. PWC PUBLIC WORKS COMMISSION				91965
		General Revenue Fund				91966
GRF	150-904	Conservation General	\$	13,687,300	\$	17,168,800 91967
		Obligation Debt				
		Service				
GRF	150-907	State Capital	\$	160,731,400	\$	172,145,100 91968
		Improvements				

General Obligation				91969
Debt Service				
TOTAL GRF General Revenue Fund	\$	174,418,700	\$	189,313,900
Clean Ohio Fund Group				91971
056 150-403 Clean Ohio Operating	\$	298,245	\$	311,509
Expenses				
TOTAL 056 Clean Ohio Fund Group	\$	298,245	\$	311,509
TOTAL ALL BUDGET FUND GROUPS	\$	174,716,945	\$	189,625,409
CONSERVATION GENERAL OBLIGATION DEBT SERVICE				91975
The foregoing appropriation item 150-904, Conservation				91976
General Obligation Debt Service, shall be used to pay all debt				91977
service and related financing costs at the times they are required				91978
to be made under sections 151.01 and 151.09 of the Revised Code				91979
during the period from July 1, 2005, to June 30, 2007. The Office				91980
of the Sinking Fund or the Director of Budget and Management shall				91981
effectuate the required payments by intrastate transfer voucher.				91982
STATE CAPITAL IMPROVEMENTS GENERAL OBLIGATION DEBT SERVICE				91983
The foregoing appropriation item 150-907, State Capital				91984
Improvements General Obligation Debt Service, shall be used to pay				91985
all debt service and related financing costs at the times they are				91986
required to be made under sections 151.01 and 151.08 of the				91987
Revised Code during the period from July 1, 2005, to June 30,				91988
2007. The Office of the Sinking Fund or the Director of Budget and				91989
Management shall effectuate the required payments by intrastate				91990
transfer voucher.				91991
REIMBURSEMENT TO THE GENERAL REVENUE FUND				91992
(A) On or before June 1, 2007, the Director of the Public				91993
Works Commission shall certify to the Director of Budget and				91994
Management the following:				91995
(1) The total amount disbursed from appropriation item				91996

700-409, Farmland Preservation, during the 2005-2007 biennium; and				91997
(2) The amount of interest earnings that have been credited				91998
to the Clean Ohio Conservation Fund (Fund 056) that are in excess				91999
of the amount needed for other purposes as calculated by the				92000
Director of the Public Works Commission.				92001
(B) If the Director of Budget and Management determines under				92002
division (A)(2) of this section that there are excess interest				92003
earnings, the Director of Budget and Management shall, on or				92004
before June 1, 2007, transfer the excess interest earnings to the				92005
General Revenue Fund in an amount equal to the total amount				92006
disbursed under division (A)(1) of this section from the Clean				92007
Ohio Conservation Fund.				92008
CLEAN OHIO OPERATING EXPENSES				92009
The foregoing appropriation item 150-403, Clean Ohio				92010
Operating Expenses, shall be used by the Ohio Public Works				92011
Commission in administering sections 164.20 to 164.27 of the				92012
Revised Code.				92013
Section 209.60. RAC STATE RACING COMMISSION				92014
State Special Revenue Fund Group				92015
5C4 875-607 Simulcast Horse Racing \$ 17,061,489 \$ 17,063,948				92016
Purse				
562 875-601 Thoroughbred Race Fund \$ 4,642,378 \$ 4,642,378				92017
563 875-602 Standardbred \$ 3,161,675 \$ 3,161,675				92018
Development Fund				
564 875-603 Quarterhorse \$ 2,000 \$ 2,000				92019
Development Fund				
565 875-604 Racing Commission \$ 4,000,000 \$ 4,000,000				92020
Operating				
TOTAL SSR State Special Revenue				92021
Fund Group \$ 28,867,542 \$ 28,870,001				92022

Holding Account Redistribution Fund Group				92023
R21 875-605 Bond Reimbursements	\$	212,900	\$ 212,900	92024
TOTAL 090 Holding Account				92025
Redistribution				
Fund Group	\$	212,900	\$ 212,900	92026
TOTAL ALL BUDGET FUND GROUPS	\$	29,080,442	\$ 29,082,901	92027
Section 209.63. BOR BOARD OF REGENTS				92029
General Revenue Fund				92030
GRF 235-321 Operating Expenses	\$	2,897,659	\$ 2,966,351	92031
GRF 235-401 Lease Rental Payments	\$	200,619,200	\$ 200,795,300	92032
GRF 235-402 Sea Grants	\$	231,925	\$ 231,925	92033
GRF 235-406 Articulation and Transfer	\$	2,900,000	\$ 2,900,000	92034
GRF 235-408 Midwest Higher Education Compact	\$	90,000	\$ 90,000	92035
GRF 235-409 Information System	\$	1,146,510	\$ 1,175,172	92036
GRF 235-414 State Grants and Scholarship Administration	\$	1,352,811	\$ 1,382,881	92037
GRF 235-415 Jobs Challenge	\$	9,348,300	\$ 9,348,300	92038
GRF 235-417 Ohio Learning Network	\$	3,119,496	\$ 3,119,496	92039
GRF 235-418 Access Challenge	\$	73,513,302	\$ 73,004,671	92040
GRF 235-420 Success Challenge	\$	52,601,934	\$ 52,601,934	92041
GRF 235-428 Appalachian New Economy Partnership	\$	1,176,068	\$ 1,176,068	92042
GRF 235-433 Economic Growth Challenge	\$	20,343,097	\$ 23,186,194	92043
GRF 235-434 College Readiness and Access	\$	6,375,975	\$ 7,655,425	92044
GRF 235-435 Teacher Improvement Initiatives	\$	2,597,506	\$ 2,597,506	92045

GRF 235-451	Eminent Scholars	\$	0	\$	1,370,988	92046
GRF 235-455	EnterpriseOhio Network	\$	1,373,941	\$	1,373,941	92047
GRF 235-474	Area Health Education Centers Program Support	\$	1,571,756	\$	1,571,756	92048
GRF 235-501	State Share of Instruction	\$	1,559,096,031	\$	1,559,096,031	92049
GRF 235-502	Student Support Services	\$	795,790	\$	795,790	92050
GRF 235-503	Ohio Instructional Grants	\$	121,151,870	\$	92,496,969	92051
GRF 235-504	War Orphans Scholarships	\$	4,672,321	\$	4,672,321	92052
GRF 235-507	OhioLINK	\$	6,887,824	\$	6,887,824	92053
GRF 235-508	Air Force Institute of Technology	\$	1,925,345	\$	1,925,345	92054
GRF 235-510	Ohio Supercomputer Center	\$	4,021,195	\$	4,021,195	92055
GRF 235-511	Cooperative Extension Service	\$	25,644,863	\$	25,644,863	92056
GRF 235-513	Ohio University Voinovich Center	\$	336,082	\$	336,082	92057
GRF 235-515	Case Western Reserve University School of Medicine	\$	3,011,271	\$	3,011,271	92058
GRF 235-518	Capitol Scholarship Program	\$	125,000	\$	125,000	92059
GRF 235-519	Family Practice	\$	4,548,470	\$	4,548,470	92060
GRF 235-520	Shawnee State Supplement	\$	1,918,830	\$	1,822,889	92061
GRF 235-521	The Ohio State University Glenn Institute	\$	286,082	\$	286,082	92062

GRF 235-524	Police and Fire Protection	\$	171,959	\$	171,959	92063
GRF 235-525	Geriatric Medicine	\$	750,110	\$	750,110	92064
GRF 235-526	Primary Care Residencies	\$	2,245,688	\$	2,245,688	92065
GRF 235-527	Ohio Aerospace Institute	\$	1,764,957	\$	1,764,957	92066
GRF 235-530	Academic Scholarships	\$	7,800,000	\$	7,800,000	92067
GRF 235-531	Student Choice Grants	\$	50,853,276	\$	52,985,376	92068
GRF 235-534	Student Workforce Development Grants	\$	2,137,500	\$	2,137,500	92069
GRF 235-535	Ohio Agricultural Research and Development Center	\$	35,830,188	\$	35,830,188	92070
GRF 235-536	The Ohio State University Clinical Teaching	\$	13,565,885	\$	13,565,885	92071
GRF 235-537	University of Cincinnati Clinical Teaching	\$	11,157,756	\$	11,157,756	92072
GRF 235-538	Medical University of Ohio at Toledo Clinical Teaching	\$	8,696,866	\$	8,696,866	92073
GRF 235-539	Wright State University Clinical Teaching	\$	4,225,107	\$	4,225,107	92074
GRF 235-540	Ohio University Clinical Teaching	\$	4,084,540	\$	4,084,540	92075
GRF 235-541	Northeastern Ohio Universities College of Medicine Clinical Teaching	\$	4,200,945	\$	4,200,945	92076
GRF 235-543	Ohio College of	\$	250,000	\$	250,000	92077

	Podiatric Medicine Clinic Subsidy				
GRF 525-547	School of	\$	250,000	\$	250,000 92078
	International Business				
GRF 235-549	Part-time Student	\$	14,457,721	\$	10,534,617 92079
	Instructional Grants				
GRF 235-552	Capital Component	\$	19,058,863	\$	19,058,863 92080
GRF 235-553	Dayton Area Graduate	\$	2,806,599	\$	2,806,599 92081
	Studies Institute				
GRF 235-554	Priorities in	\$	2,355,548	\$	2,355,548 92082
	Collaborative Graduate Education				
GRF 235-555	Library Depositories	\$	1,696,458	\$	1,696,458 92083
GRF 235-556	Ohio Academic	\$	3,727,223	\$	3,727,223 92084
	Resources Network				
GRF 235-558	Long-term Care	\$	211,047	\$	211,047 92085
	Research				
GRF 235-561	Bowling Green State	\$	100,015	\$	100,015 92086
	University Canadian Studies Center				
GRF 235-563	Ohio College	\$	0	\$	58,144,139 92087
	Opportunity Grant				
GRF 235-572	The Ohio State	\$	1,277,019	\$	1,277,019 92088
	University Clinic Support				
GRF 235-583	Urban University	\$	4,992,937	\$	4,992,937 92089
	Program				
GRF 235-587	Rural University	\$	1,147,889	\$	1,147,889 92090
	Projects				
GRF 235-596	Hazardous Materials	\$	360,435	\$	360,435 92091
	Program				
GRF 235-599	National Guard	\$	15,128,472	\$	16,611,063 92092
	Scholarship Program				

GRF 235-909	Higher Education	\$ 137,600,300	\$ 152,114,100	92093
	General Obligation			
	Debt Service			
TOTAL GRF	General Revenue Fund	\$ 2,468,585,757	\$ 2,517,472,869	92094
	General Services Fund Group			92095
220 235-614	Program Approval and	\$ 400,000	\$ 400,000	92096
	Reauthorization			
456 235-603	Sales and Services	\$ 700,000	\$ 900,000	92097
TOTAL GSF	General Services			92098
Fund Group		\$ 1,100,000	\$ 1,300,000	92099
	Federal Special Revenue Fund Group			92100
3H2 235-608	Human Services Project	\$ 1,500,000	\$ 1,500,000	92101
3H2 235-622	Medical Collaboration	\$ 3,346,143	\$ 3,346,143	92102
	Network			
3N6 235-605	State Student	\$ 2,196,680	\$ 2,196,680	92103
	Incentive Grants			
3T0 235-610	National Health	\$ 150,001	\$ 150,001	92104
	Service Corps - Ohio			
	Loan Repayment			
312 235-609	Tech Prep	\$ 183,850	\$ 183,850	92105
312 235-611	Gear-up Grant	\$ 1,370,691	\$ 1,370,691	92106
312 235-612	Carl D. Perkins	\$ 112,960	\$ 112,960	92107
	Grant/Plan			
	Administration			
312 235-615	Professional	\$ 523,129	\$ 523,129	92108
	Development			
312 235-617	Improving Teacher	\$ 2,900,000	\$ 2,900,000	92109
	Quality Grant			
312 235-619	Ohio Supercomputer	\$ 6,000,000	\$ 6,000,000	92110
	Center			
312 235-621	Science Education	\$ 1,686,970	\$ 1,686,970	92111
	Network			

312	235-631	Federal Grants	\$	250,590	\$	250,590	92112
TOTAL FED Federal Special Revenue							92113
Fund Group			\$	20,221,014	\$	20,221,014	92114
State Special Revenue Fund Group							92115
4E8	235-602	Higher Educational Facility Commission Administration	\$	55,000	\$	55,000	92116
4P4	235-604	Physician Loan Repayment	\$	476,870	\$	476,870	92117
649	235-607	The Ohio State University Highway/Transportation Research	\$	760,000	\$	760,000	92118
682	235-606	Nursing Loan Program	\$	893,000	\$	893,000	92119
TOTAL SSR State Special Revenue							92120
Fund Group			\$	2,184,870	\$	2,184,870	92121
TOTAL ALL BUDGET FUND GROUPS			\$	2,492,091,641	\$	2,541,178,753	92122

Section 209.63.03. OPERATING EXPENSES 92124

Of the foregoing appropriation item 235-321, Operating 92125
Expenses, up to \$150,000 in each fiscal year shall be used in 92126
conjunction with funding provided in the Department of Education 92127
budget under appropriation item 200-427, Academic Standards, to 92128
create Ohio's Partnership for Continued Learning, in consultation 92129
with the Governor's Office. The Partnership, which replaces and 92130
broadens the former Joint Council of the Department of Education 92131
and the Board of Regents, shall advise and make recommendations to 92132
promote collaboration among relevant state entities in an effort 92133
to help local communities develop coherent and successful "P-16" 92134
learning systems. The Director of Budget and Management may 92135
transfer any unencumbered fiscal year 2006 balance to fiscal year 92136
2007 to support the activities of the Partnership. 92137

Section 209.63.06. LEASE RENTAL PAYMENTS 92138

The foregoing appropriation item 235-401, Lease Rental 92139
Payments, shall be used to meet all payments at the times they are 92140
required to be made during the period from July 1, 2005, to June 92141
30, 2007, by the Board of Regents under leases and agreements made 92142
under section 154.21 of the Revised Code, but limited to the 92143
aggregate amount of \$401,414,500. Nothing in this act shall be 92144
deemed to contravene the obligation of the state to pay, without 92145
necessity for further appropriation, from the sources pledged 92146
thereto, the bond service charges on obligations issued pursuant 92147
to section 154.21 of the Revised Code. 92148

Section 209.63.09. SEA GRANTS 92149

The foregoing appropriation item 235-402, Sea Grants, shall 92150
be disbursed to the Ohio State University and shall be used to 92151
conduct research on fish in Lake Erie. 92152

Section 209.63.12. ARTICULATION AND TRANSFER 92153

The foregoing appropriation item 235-406, Articulation and 92154
Transfer, shall be used by the Board of Regents to maintain and 92155
expand the work of the Articulation and Transfer Council to 92156
develop a system of transfer policies to ensure that students at 92157
state institutions of higher education can transfer and have 92158
coursework apply to their majors and degrees at any other state 92159
institution of higher education without unnecessary duplication or 92160
institutional barriers under sections 3333.16, 3333.161, and 92161
3333.162 of the Revised Code. 92162

Of the foregoing appropriation item 235-406, Articulation and 92163
Transfer, \$200,000 in each fiscal year shall be used to support 92164
the work of the Articulation and Transfer Council under division 92165
(B) of section 3333.162 of the Revised Code. 92166

Section 209.63.15. MIDWEST HIGHER EDUCATION COMPACT 92167

The foregoing appropriation item 235-408, Midwest Higher 92168
Education Compact, shall be distributed by the Board of Regents 92169
under section 3333.40 of the Revised Code. 92170

Section 209.63.18. INFORMATION SYSTEM 92171

The foregoing appropriation item 235-409, Information System, 92172
shall be used by the Board of Regents to operate the higher 92173
education information data system known as the Higher Education 92174
Information System. 92175

Section 209.63.21. STATE GRANTS AND SCHOLARSHIP 92176
ADMINISTRATION 92177

The foregoing appropriation item 235-414, State Grants and 92178
Scholarship Administration, shall be used by the Board of Regents 92179
to administer the following student financial aid programs: Ohio 92180
Instructional Grant, Part-time Student Instructional Grant, Ohio 92181
College Opportunity Grant, Ohio Student Choice Grant, Ohio 92182
Academic Scholarship, Ohio War Orphans' Scholarship, Nurse 92183
Education Assistance Loan Program, Student Workforce Development 92184
Grant, Regents Graduate/Professional Fellowship, Ohio Safety 92185
Officers College Memorial Fund, Capitol Scholarship Program, and 92186
any other student financial aid programs created by the General 92187
Assembly. The appropriation item also shall be used to administer 92188
the federal Leveraging Educational Assistance Partnership (LEAP) 92189
and Special Leveraging Educational Assistance Partnership (SLEAP) 92190
programs and other student financial aid programs created by 92191
Congress and to provide fiscal services for the Ohio National 92192
Guard Scholarship Program and the Physician Loan Repayment 92193
Program. 92194

Section 209.63.24. JOBS CHALLENGE 92195

Funds appropriated to the foregoing appropriation item 92196
235-415, Jobs Challenge, shall be distributed to state-assisted 92197
community and technical colleges, regional campuses of 92198
state-assisted universities, and other organizationally distinct 92199
and identifiable member campuses of the EnterpriseOhio Network in 92200
support of noncredit job-related training. In each fiscal year, 92201
\$2,770,773 shall be distributed as performance grants to 92202
EnterpriseOhio Network campuses based upon each campus's 92203
documented performance according to criteria established by the 92204
Board of Regents for increasing training and related services to 92205
businesses, industries, and public sector organizations. 92206

Of the foregoing appropriation item 235-415, Jobs Challenge, 92207
\$2,819,345 in each fiscal year shall be allocated to the Targeted 92208
Industries Training Grant Program to attract, develop, and retain 92209
business and industry strategically important to the state's 92210
economy. 92211

Also, in each fiscal year, \$3,758,182 shall be allocated to 92212
the Higher Skills Incentives Program to promote and deliver 92213
coordinated, comprehensive training to local employers and to 92214
reward EnterpriseOhio Network campuses for increasing the amount 92215
of non-credit skill upgrading services provided to Ohio employers 92216
and employees. The funds shall be distributed to campuses in 92217
proportion to each campus's share of noncredit job-related 92218
training revenues received by all campuses for the previous fiscal 92219
year. It is the intent of the General Assembly that this Higher 92220
Skills Incentives component of the Jobs Challenge Program reward 92221
campus noncredit job-related training efforts in the same manner 92222
that the Research Incentive Program rewards campuses for their 92223
ability to obtain sponsored research revenues. 92224

Section 209.63.27. OHIO LEARNING NETWORK 92225

The foregoing appropriation item 235-417, Ohio Learning 92226
Network, shall be used by the Board of Regents to support the 92227
continued implementation of the Ohio Learning Network, a statewide 92228
electronic collaborative effort designed to promote degree 92229
completion of students, workforce training of employees, and 92230
professional development through the use of advanced 92231
telecommunications and distance education initiatives. 92232

Section 209.63.30. ACCESS CHALLENGE 92233

In each fiscal year, the foregoing appropriation item 92234
235-418, Access Challenge, shall be distributed to Ohio's 92235
state-assisted access colleges and universities. For the purposes 92236
of this allocation, "access campuses" includes state-assisted 92237
community colleges, state community colleges, technical colleges, 92238
Shawnee State University, Central State University, Cleveland 92239
State University, the regional campuses of state-assisted 92240
universities, and, where they are organizationally distinct and 92241
identifiable, the community-technical colleges located at the 92242
University of Cincinnati, Youngstown State University, and the 92243
University of Akron. 92244

The purpose of Access Challenge is to reduce the student 92245
share of costs for resident undergraduates enrolled in lower 92246
division undergraduate courses at Ohio's access campuses. The 92247
long-term goal is to make the student share of costs for these 92248
students equivalent to the student share of costs for resident 92249
undergraduate students enrolled throughout Ohio's public colleges 92250
and universities. Access Challenge appropriations shall be used in 92251
both years of the biennium to sustain, as much as possible, the 92252
tuition restraint or tuition reduction that was achieved with 92253
Access Challenge allocations in prior years. 92254

In fiscal year 2006, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2003 and 2004 all-terms subsidy-eligible General Studies FTEs. In fiscal year 2007, Access Challenge subsidies shall be distributed by the Board of Regents to eligible access campuses on the basis of the average of each campus's share of fiscal year 2004 and 2005 all-terms subsidy-eligible General Studies FTEs.

For purposes of this calculation, Cleveland State University's enrollments shall be adjusted by the ratio of the sum of subsidy-eligible lower-division FTE student enrollments eligible for access funding to the sum of subsidy-eligible General Studies FTE student enrollments at Central State University and Shawnee State University, and for the following universities and their regional campuses: the Ohio State University, Ohio University, Kent State University, Bowling Green State University, Miami University, the University of Cincinnati, the University of Akron, and Wright State University.

Of the foregoing appropriation item 235-418, Access Challenge, \$10,172,626 in fiscal year 2006 and \$9,663,995 in fiscal year 2007 shall be used by Central State University to keep undergraduate fees below the statewide average, consistent with its mission of service to many first-generation college students from groups historically underrepresented in higher education and from families with limited incomes.

Section 209.63.33. SUCCESS CHALLENGE

The foregoing appropriation item 235-420, Success Challenge, shall be used by the Board of Regents to promote degree completion by students enrolled at a main campus of a state-assisted university.

Of the foregoing appropriation item 235-420, Success 92285
Challenge, 66.67 per cent of the appropriation in each fiscal year 92286
shall be distributed to state-assisted university main campuses in 92287
proportion to each campus's share of the total statewide 92288
bachelor's degrees granted by university main campuses to 92289
"at-risk" students. In fiscal years 2006 and 2007, an "at-risk" 92290
student means any undergraduate student who was eligible to 92291
receive an Ohio need-based financial aid award during the past ten 92292
years. An eligible institution shall not receive its share of this 92293
distribution until it has submitted a plan that addresses how the 92294
subsidy will be used to better serve at-risk students and increase 92295
their likelihood of successful completion of a bachelor's degree 92296
program. The Board of Regents shall disseminate to all 92297
state-supported institutions of higher education all such plans 92298
submitted by institutions that received Success Challenge funds. 92299

Of the foregoing appropriation item 235-420, Success 92300
Challenge, 33.33 per cent of the appropriation in each fiscal year 92301
shall be distributed to university main campuses in proportion to 92302
each campus's share of the total bachelor's degrees granted by 92303
university main campuses to undergraduate students who completed 92304
their bachelor's degrees in a "timely manner" in the previous 92305
fiscal year. For purposes of this section, "timely manner" means 92306
the normal time it would take for a full-time degree-seeking 92307
undergraduate student to complete the student's degree. Generally, 92308
for such students pursuing a bachelor's degree, "timely manner" 92309
means four years. Exceptions to this general rule shall be 92310
permitted for students enrolled in programs specifically designed 92311
to be completed in a longer time period. The Board of Regents 92312
shall collect data to assess the timely completion statistics by 92313
university main campuses. 92314

Section 209.63.36. APPALACHIAN NEW ECONOMY PARTNERSHIP 92315

The foregoing appropriation item 235-428, Appalachian New Economy Partnership, shall be distributed to Ohio University to continue a multi-campus and multi-agency coordinated effort to link Appalachia to the new economy. Ohio University shall use these funds to provide leadership in the development and implementation of initiatives in the areas of entrepreneurship, management, education, and technology.

Section 209.63.39. ECONOMIC GROWTH CHALLENGE

The foregoing appropriation item 235-433, Economic Growth Challenge, shall be used to enhance the basic research capabilities of Ohio's public and private institutions of higher education, support improved graduate programs throughout the state, and promote the transfer of technology developed by colleges and universities to private industry to further the economic goals of the state.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$18,000,000 in each fiscal year shall be used for the Research Incentive Program to enhance the basic research capabilities of public colleges and universities and accredited Ohio institutions of higher education holding certificates of authorization issued under section 1713.02 of the Revised Code, in order to strengthen academic research for pursuing Ohio's economic development goals. The Board of Regents, in consultation with the colleges and universities, shall administer the Research Incentive Program and utilize a means of matching, on a fractional basis, external funds attracted in the previous year by institutions for basic research. The program may include incentives for increasing the amount of external research funds coming to eligible institutions and for focusing research efforts upon critical state needs. Colleges and universities shall submit for review and approval to the Board of Regents plans for the institutional

allocation of state dollars received through the program. The 92347
institutional plans shall provide the rationale for the allocation 92348
in terms of the strategic targeting of funds for academic and 92349
state purposes, for strengthening research programs, for 92350
increasing the amount of external research funds, and shall 92351
include an evaluation process to provide results of the increased 92352
support. Institutional plans for the use of Research Incentive 92353
funding must demonstrate a significant investment in Third 92354
Frontier activities funded at the institution. For a college or 92355
university with multiple Third Frontier grants, as much as ten per 92356
cent of that institution's Research Incentive funding may be 92357
invested in Third Frontier Project-related activities. Each 92358
institutional plan for the investment of Research Incentive moneys 92359
shall report on existing, planned, or possible relationships with 92360
other state science and technology programs and funding recipients 92361
in order to further ongoing statewide science and technology 92362
collaboration objectives. The Board of Regents shall submit a 92363
biennial report of progress to the General Assembly. 92364

In fiscal year 2006, each state-assisted doctoral 92365
degree-granting university and those accredited Ohio institutions 92366
of higher education holding certificates of authorization under 92367
section 1713.02 of the Revised Code electing to participate in the 92368
Innovation Incentive Program shall initiate a comprehensive 92369
Innovation Incentive Plan designed to enhance doctoral programs 92370
and areas of research that have the greatest potential to attract 92371
preeminent researchers and build research capacity; enhance 92372
regional or state economic growth by creating new products and 92373
services to be commercialized; and complement Ohio's Third 92374
Frontier Project. 92375

Funding for the Innovation Incentive Program shall be 92376
generated from those state-assisted universities electing to set 92377
aside a portion of their allocation of the current doctoral 92378

reserve as provided in appropriation item 235-501, State Share of Instruction, and state matching funds provided in appropriation item 235-433, Economic Growth Challenge. Additionally, those accredited Ohio institutions of higher education holding certificates of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program shall be required to set aside an amount comparable to the state-assisted universities. The criteria for the determination of this amount shall be developed by the Board of Regents.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$2,343,097 in fiscal year 2006 and \$4,686,194 in fiscal year 2007 shall match funds set aside by the state-assisted universities for the Innovation Incentive Program. The set aside begins in fiscal year 2006 and is intended to increase incrementally over a period of ten years with the goal of setting aside a total of fifteen per cent of the doctoral reserve from appropriation item 235-501, State Share of Instruction, by 2016.

The Board of Regents shall use the combined amount of each participating state-assisted university's set aside of the doctoral reserve that has been withheld, the state matching funds earmarked under appropriation item 235-433, Economic Growth Challenge, and the amount set aside by each accredited Ohio institution of higher education holding a certificate of authorization under section 1713.02 of the Revised Code electing to participate in the Innovation Incentive Program to make awards through a competitive process under the Innovation Incentive Program. Only universities electing to set aside the prescribed amount shall be eligible to compete for and receive Innovation Incentive awards. The participating universities shall use these awards to restructure their array of doctoral programs.

Of the foregoing appropriation item 235-433, Economic Growth Challenge, \$500,000 in fiscal year 2007 shall be distributed for

the Technology Commercialization Incentive. The purpose of the 92411
Technology Commercialization Incentive is to reward public and 92412
private colleges and universities for successful technology 92413
transfer to Ohio-based business and industry resulting in the 92414
commercialization of new products, processes, and services and the 92415
establishment of new business start-ups within the state. The 92416
Third Frontier Commission, with counsel from the Third Frontier 92417
Advisory Board, shall establish the eligibility criteria for 92418
public and private colleges and universities interested in 92419
applying for Technology Commercialization Incentive funding. To 92420
qualify for the funds, public and private colleges and 92421
universities must maintain a significant investment in their own 92422
technology-transfer and commercialization operation and 92423
capabilities, and possess a significant history of successful 92424
research partnerships with Ohio-based business and industry. 92425

Section 209.63.42. COLLEGE READINESS AND ACCESS

Appropriation item 235-434, College Readiness and Access, 92426
shall be used by the Board of Regents to support programs designed 92427
to improve the academic preparation and increase the number of 92428
students that enroll and succeed in higher education such as the 92429
Ohio College Access Network, the state match for the federal 92430
Gaining Early Awareness and Readiness for Undergraduate Program, 92431
and early awareness initiatives. The appropriation item shall also 92432
be used to support innovative statewide strategies to increase 92433
student access and retention for specialized populations, and to 92434
provide for pilot projects that will contribute to improving 92435
access to higher education by specialized populations. The funds 92436
may be used for projects that improve access for nonpublic 92437
secondary students. 92438
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Of the foregoing appropriation item 235-434, College 92440
Readiness and Access, \$798,684 in fiscal year 2006 and \$822,645 in 92441

fiscal year 2007 shall be distributed to the Ohio Appalachian
Center for Higher Education at Shawnee State University. The board
of directors of the Center shall consist of the presidents of
Shawnee State University, Ohio University, Belmont Technical
College, Hocking College, Jefferson Community College, Zane State
College, Rio Grande Community College, Southern State Community
College, and Washington State Community College; the dean of one
of the Salem, Tuscarawas, and East Liverpool regional campuses of
Kent State University, as designated by the president of Kent
State University; and a representative of the Board of Regents
designated by the Chancellor.

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Of the foregoing appropriation item 235-434, College
Readiness and Access, \$169,553 in fiscal year 2006 and \$174,640 in
fiscal year 2007 shall be distributed to Miami University for the
Student Achievement in Research and Scholarship (STARS) Program.

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Of the foregoing appropriation item 235-434, College
Readiness and Access, \$1,574,535 in fiscal year 2006 and
\$2,753,985 in fiscal year 2007 shall be used in conjunction with
funding provided in the Ohio Department of Education budget under
appropriation item 200-431, School Improvement Initiatives, to
support the Early College High School Pilot Program.

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Section 209.63.45. TEACHER IMPROVEMENT INITIATIVES

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Appropriation item 235-435, Teacher Improvement Initiatives,
shall be used by the Board of Regents to support programs such as
OSI - Discovery and the Centers of Excellence in Mathematics and
Science designed to raise the quality of mathematics and science
teaching in primary and secondary education.

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Of the foregoing appropriation item 235-435, Teacher
Improvement Initiatives, \$204,049 in each fiscal year shall be
distributed to the Mathematics and Science Center in Lake County.

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Of the foregoing appropriation item 235-435, Teacher Improvement Initiatives, \$81,619 in each fiscal year shall be distributed to the Ohio Mathematics and Science Coalition.

Of the foregoing appropriation item 234-435, Teacher Improvement Initiatives, \$100,000 in each fiscal year shall be distributed to the Teacher Quality Partnerships study.

Of the foregoing appropriation item 235-435, Teacher Improvement Initiatives, \$799,871 in each fiscal year shall be distributed to the Ohio Resource Center for Mathematics, Science, and Reading. The funds shall be used to support a resource center for mathematics, science, and reading to be located at a state-assisted university for the purpose of identifying best educational practices in primary and secondary schools and establishing methods for communicating them to colleges of education and school districts. The Ohio Resource Center for Mathematics, Science, and Reading shall not make available resources that are inconsistent with the K-12 science standards and policies as adopted by the State Board of Education.

Section 209.63.48. EMINENT SCHOLARS

The foregoing appropriation item 235-451, Eminent Scholars, shall be used by the Ohio Board of Regents to continue the Ohio Eminent Scholars Program, the purpose of which is to invest educational resources to address problems that are of vital statewide significance while fostering the growth in eminence of Ohio's academic programs. Ohio Eminent Scholars endowed chairs shall allow Ohio universities to recruit senior faculty members from outside Ohio who are nationally and internationally recognized scholars in areas of science and technology that provide the basic research platforms on which the state's technology and commercialization efforts are built. Endowment grants of approximately \$685,494 to state colleges and

universities and nonprofit Ohio institutions of higher education 92503
holding certificates of authorization issued under section 1713.02 92504
of the Revised Code to match endowment gifts from nonstate sources 92505
may be made in accordance with a plan established by the Ohio 92506
Board of Regents. Matching nonstate endowment gifts shall be equal 92507
to the state's endowment grant of approximately \$685,494. The 92508
grants shall have as their purpose attracting and sustaining in 92509
Ohio scholar-leaders of national or international prominence; each 92510
grant shall assist in accelerating state economic growth through 92511
research that provides an essential basic science platform for 92512
commercialization efforts. Such scholar-leaders shall, among their 92513
duties, share broadly the benefits and knowledge unique to their 92514
fields of scholarship to the betterment of Ohio and its people and 92515
collaborate with other state technology programs and program 92516
recipients. 92517

All new Eminent Scholar awards made by the Board of Regents 92518
shall be associated with a Wright Center of Innovation, a 92519
Partnership Award from the Biomedical Research and Technology 92520
Transfer Trust Fund, or a Wright Capital Project. 92521

Section 209.63.51. ENTERPRISEOHIO NETWORK 92522

The foregoing appropriation item 235-455, EnterpriseOhio 92523
Network, shall be allocated by the Board of Regents to continue 92524
increasing the capabilities of the EnterpriseOhio Network to meet 92525
the ongoing training needs of Ohio employers. Funds shall support 92526
multicampus collaboration, best practice dissemination, and 92527
capacity building projects. The Regents Advisory Committee for 92528
Workforce Development, in its advisory role, shall advise in the 92529
development of plans and activities. 92530

Of the foregoing appropriation item 235-455, EnterpriseOhio 92531
Network, \$165,300 in each fiscal year shall be used by the Dayton 92532
Business/Sinclair College Jobs Profiling Program. 92533

Section 209.63.54. AREA HEALTH EDUCATION CENTERS 92534

The foregoing appropriation item 235-474, Area Health 92535
Education Centers Program Support, shall be used by the Board of 92536
Regents to support the medical school regional area health 92537
education centers' educational programs for the continued support 92538
of medical and other health professions education and for support 92539
of the Area Health Education Center Program. 92540

Of the foregoing appropriation item 235-474, Area Health 92541
Education Centers Program Support, \$159,158 in each fiscal year 92542
shall be disbursed to the Ohio University College of Osteopathic 92543
Medicine to operate a mobile health care unit to serve the 92544
southeastern area of the state. 92545

Of the foregoing appropriation item 235-474, Area Health 92546
Education Centers Program Support, \$119,369 in each fiscal year 92547
shall be used to support the Ohio Valley Community Health 92548
Information Network (OVCHIN) project. 92549

Section 209.63.57. STATE SHARE OF INSTRUCTION 92550

As soon as practicable during each fiscal year of the 92551
biennium ending June 30, 2007, in accordance with instructions of 92552
the Board of Regents, each state-assisted institution of higher 92553
education shall report its actual enrollment to the Board of 92554
Regents. 92555

The Board of Regents shall establish procedures required by 92556
the system of formulas set out below and for the assignment of 92557
individual institutions to categories described in the formulas. 92558
The system of formulas establishes the manner in which aggregate 92559
expenditure requirements shall be determined for each of the three 92560
components of institutional operations. In addition to other 92561
adjustments and calculations described below, the subsidy 92562
entitlement of an institution shall be determined by subtracting 92563

from the institution's aggregate expenditure requirements income 92564
to be derived from the local contributions assumed in calculating 92565
the subsidy entitlements. The local contributions for purposes of 92566
determining subsidy support shall not limit the authority of the 92567
individual boards of trustees to establish fee levels. 92568

The General Studies and Technical models shall be adjusted by 92569
the Board of Regents so that the share of state subsidy earned by 92570
those models is not altered by changes in the overall local share. 92571
A lower-division fee differential shall be used to maintain the 92572
relationship that would have occurred between these models and the 92573
baccalaureate models had an assumed share of 37.5 per cent been 92574
funded. 92575

In defining the number of full-time equivalent (FTE) students 92576
for state subsidy purposes, the Board of Regents shall exclude all 92577
undergraduate students who are not residents of Ohio, except those 92578
charged in-state fees in accordance with reciprocity agreements 92579
made under section 3333.17 of the Revised Code or employer 92580
contracts entered into under section 3333.32 of the Revised Code. 92581

(A) AGGREGATE EXPENDITURE PER FULL-TIME EQUIVALENT STUDENT 92582

(1) INSTRUCTION AND SUPPORT SERVICES 92583

MODEL	FY 2006	FY 2007	
General Studies I	\$ 4,655	\$ 4,655	92584
General Studies II	\$ 5,135	\$ 5,135	92585
General Studies III	\$ 6,365	\$ 6,365	92586
Technical I	\$ 5,926	\$ 5,926	92587
Technical III	\$ 9,107	\$ 9,107	92588
Baccalaureate I	\$ 7,160	\$ 7,160	92589
Baccalaureate II	\$ 8,235	\$ 8,235	92590
Baccalaureate III	\$ 11,841	\$ 11,841	92591
Masters and Professional I	\$ 19,088	\$ 19,088	92592
Masters and Professional II	\$ 20,984	\$ 20,984	92593

Masters and Professional III	\$ 27,234	\$ 27,234	92595
Medical I	\$ 29,143	\$ 29,143	92596
Medical II	\$ 37,172	\$ 37,172	92597
MPD I	\$ 13,645	\$ 13,645	92598

(2) STUDENT SERVICES 92599

For this purpose, FTE counts shall be weighted to reflect 92600
differences among institutions in the numbers of students enrolled 92601
on a part-time basis. The student services subsidy per FTE shall 92602
be \$890 in each fiscal year for all models. 92603

(B) PLANT OPERATION AND MAINTENANCE (POM) 92604

(1) DETERMINATION OF THE SQUARE-FOOT-BASED POM SUBSIDY 92605

Space undergoing renovation shall be funded at the rate 92606
allowed for storage space. 92607

In the calculation of square footage for each campus, square 92608
footage shall be weighted to reflect differences in space 92609
utilization. 92610

The space inventories for each campus shall be those 92611
determined in the fiscal year 2003 state share of instruction 92612
calculation, adjusted for changes attributable to the construction 92613
or renovation of facilities for which state appropriations were 92614
made or local commitments were made prior to January 1, 1995. 92615

Only 50 per cent of the space permanently taken out of 92616
operation in fiscal year 2006 or fiscal year 2007 that is not 92617
otherwise replaced by a campus shall be deleted from the plant 92618
operation and maintenance space inventory. 92619

The square-foot-based plant operation and maintenance subsidy 92620
for each campus shall be determined as follows: 92621

(a) For each standard room type category shown below, the 92622
subsidy-eligible net assignable square feet (NASF) for each campus 92623
shall be multiplied by the following rates, and the amounts summed 92624

for each campus to determine the total gross square-foot-based POM expenditure requirement: 92625
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	FY 2006	FY 2007	
Classrooms	\$5.86	\$5.86	92628
Laboratories	\$7.31	\$7.31	92629
Offices	\$5.86	\$5.86	92630
Audio Visual Data Processing	\$7.31	\$7.31	92631
Storage	\$2.59	\$2.59	92632
Circulation	\$7.39	\$7.39	92633
Other	\$5.86	\$5.86	92634

(b) The total gross square-foot POM expenditure requirement shall be allocated to models in proportion to each campus's activity-based POM weight multiplied by the two- or five-year average subsidy-eligible FTEs for all models. 92635
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(c) The amounts allocated to models in division (B)(1)(b) of this section shall be multiplied by the ratio of subsidy-eligible FTE students to total FTE students reported in each model, and the amounts summed for all models. To this total amount shall be added an amount to support roads and grounds expenditures, which shall also be multiplied by the ratio of subsidy-eligible FTE students to total FTEs reported for each model. From this total amount, the amounts for Doctoral I and Doctoral II shall be subtracted to produce the square-foot-based POM subsidy. 92639
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(2) DETERMINATION OF THE ACTIVITY-BASED POM SUBSIDY 92648

(a) The number of subsidy-eligible FTE students in each model shall be multiplied by the following rates for each campus for each fiscal year. 92649
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	FY 2006	FY 2007	
General Studies I	\$ 512	\$ 512	92652 92653
General Studies II	\$ 662	\$ 662	92654
General Studies III	\$1,464	\$1,464	92655

Technical I	\$ 752	\$ 752	92656
Technical III	\$1,343	\$1,343	92657
Baccalaureate I	\$ 639	\$ 639	92658
Baccalaureate II	\$1,149	\$1,149	92659
Baccalaureate III	\$1,262	\$1,262	92660
Masters and Professional I	\$1,258	\$1,258	92661
Masters and Professional II	\$2,446	\$2,446	92662
Masters and Professional III	\$3,276	\$3,276	92663
Medical I	\$1,967	\$1,967	92664
Medical II	\$3,908	\$3,908	92665
MPD I	\$1,081	\$1,081	92666

(b) The sum of the products for each campus determined in 92667
division (B)(2)(a) of this section for all models except Doctoral 92668
I and Doctoral II for each fiscal year shall be weighted by a 92669
factor to reflect sponsored research activity and job 92670
training-related public services expenditures to determine the 92671
total activity-based POM subsidy. 92672

(C) CALCULATION OF CORE SUBSIDY ENTITLEMENTS AND ADJUSTMENTS 92673

(1) CALCULATION OF CORE SUBSIDY ENTITLEMENTS 92674

The calculation of the core subsidy entitlement shall consist 92675
of the following components: 92676

(a) For each campus in each fiscal year, the core subsidy 92677
entitlement shall be determined by multiplying the amounts listed 92678
above in divisions (A)(1) and (2) and (B)(2) of this section less 92679
assumed local contributions, by (i) average subsidy-eligible FTEs 92680
for the two-year period ending in the prior year for all models 92681
except Doctoral I and Doctoral II; and (ii) average 92682
subsidy-eligible FTEs for the five-year period ending in the prior 92683
year for all models except Doctoral I and Doctoral II. 92684

(b) In calculating the core subsidy entitlements for Medical 92685
II models only, the Board of Regents shall use the following count 92686

of FTE students: 92687

(i) For those medical schools whose current year enrollment, 92688
including students repeating terms, is below the base enrollment, 92689
the Medical II FTE enrollment shall equal: 65 per cent of the base 92690
enrollment plus 35 per cent of the current year enrollment 92691
including students repeating terms, where the base enrollment is: 92692

The Ohio State University	1010	92693
University of Cincinnati	833	92694
Medical University of Ohio at Toledo	650	92695
Wright State University	433	92696
Ohio University	433	92697
Northeastern Ohio Universities College of Medicine	433	92698

(ii) For those medical schools whose current year enrollment, 92699
excluding students repeating terms, is equal to or greater than 92700
the base enrollment, the Medical II FTE enrollment shall equal the 92701
base enrollment plus the FTE for repeating students. 92702

(iii) Students repeating terms may be no more than five per 92703
cent of current year enrollment. 92704

(c) The Board of Regents shall compute the sum of the two 92705
calculations listed in division (C)(1)(a) of this section and use 92706
the greater sum as the core subsidy entitlement. 92707

The POM subsidy for each campus shall equal the greater of 92708
the square-foot-based subsidy or the activity-based POM subsidy 92709
component of the core subsidy entitlement. 92710

(d) The state share of instruction provided for doctoral 92711
students shall be based on a fixed percentage of the total 92712
appropriation. In each fiscal year of the biennium not more than 92713
10.34 per cent of the total state share of instruction shall be 92714
reserved to implement the recommendations of the Graduate Funding 92715
Commission. It is the intent of the General Assembly that the 92716

doctoral reserve not exceed 10.34 per cent of the total state
share of instruction to implement the recommendations of the
Graduate Funding Commission. The Board of Regents may reallocate
up to two per cent in each fiscal year of the reserve among the
state-assisted universities on the basis of a quality review as
specified in the recommendations of the Graduate Funding
Commission. No such reallocation shall occur unless the Board of
Regents, in consultation with representatives of state-assisted
universities, determines that sufficient funds are available for
this purpose.

The amount so reserved shall be allocated to universities in
proportion to their share of the total number of Doctoral I
equivalent FTEs as calculated on an institutional basis using the
greater of the two-year or five-year FTEs for the period fiscal
year 1994 through fiscal year 1998 with annualized FTEs for fiscal
years 1994 through 1997 and all-term FTEs for fiscal year 1998 as
adjusted to reflect the effects of doctoral review and subsequent
changes in Doctoral I equivalent enrollments. For the purposes of
this calculation, Doctoral I equivalent FTEs shall equal the sum
of Doctoral I FTEs plus 1.5 times the sum of Doctoral II FTEs.

If a university participates in the Innovation Incentive
Program outlined in appropriation item 235-433, Economic Growth
Challenge, then the Board of Regents shall withhold 1.5 per cent
in fiscal year 2006 and three per cent in fiscal year 2007 of the
participating university's allocation of the doctoral reserve.
This withholding is intended to increase incrementally with a goal
of setting aside 15 per cent of the total doctoral reserve by
fiscal year 2016.

The Board of Regents shall use the combined amount of each
participating state-assisted university's set aside of the
doctoral reserve that has been withheld, the state matching funds
earmarked under appropriation item 235-433, Economic Growth

Challenge, and the amount set aside by each accredited Ohio
institution of higher education holding a certificate of
authorization under section 1713.02 of the Revised Code electing
to participate in the Innovation Incentive Program to make awards
through a competitive process under the Innovation Incentive
Program. Only universities electing to set aside the prescribed
amount shall be eligible to compete for and receive Innovation
Incentive awards. The participating universities shall use these
awards to restructure their array of doctoral programs.

(2) ANNUAL STATE SHARE OF INSTRUCTION FUNDING STOP LOSS 92758

In addition to and after the other adjustment noted above, in
each fiscal year, no campus shall receive a state share of
instruction allocation that is less than 97 per cent of the prior
year's state share of instruction amount.

(3) REDUCTIONS IN EARNINGS 92763

If the total state share of instruction earnings in any
fiscal year exceeds the total appropriations available for such
purposes, the Board of Regents shall proportionately reduce the
state share of instruction earnings for all campuses by a uniform
percentage so that the system wide sum equals available
appropriations.

(4) CAPITAL COMPONENT DEDUCTION 92770

After all other adjustments have been made, state share of
instruction earnings shall be reduced for each campus by the
amount, if any, by which debt service charged in Am. H.B. No. 748
of the 121st General Assembly, Am. Sub. H.B. No. 850 of the 122nd
General Assembly, Am. Sub. H.B. No. 640 of the 123rd General
Assembly, and H.B. No. 675 of the 124th General Assembly, and Am.
Sub. H.B. 16 of the 126th General Assembly for that campus exceeds
that campus's capital component earnings. The sum of the amounts
deducted shall be transferred to appropriation item 235-552,

Capital Component, in each fiscal year.	92780
(D) EXCEPTIONAL CIRCUMSTANCES	92781
Adjustments may be made to the state share of instruction	92782
payments and other subsidies distributed by the Board of Regents	92783
to state-assisted colleges and universities for exceptional	92784
circumstances. No adjustments for exceptional circumstances may be	92785
made without the recommendation of the Chancellor and the approval	92786
of the Controlling Board.	92787
(E) MID-YEAR APPROPRIATION REDUCTIONS TO THE STATE SHARE OF	92788
INSTRUCTION	92789
The standard provisions of the state share of instruction	92790
calculation as described in the preceding sections of temporary	92791
law shall apply to any reductions made to appropriation item	92792
235-501, State Share of Instruction, before the Board of Regents	92793
has formally approved the final allocation of the state share of	92794
instruction funds for any fiscal year.	92795
Any reductions made to appropriation item 235-501, State	92796
Share of Instruction, after the Board of Regents has formally	92797
approved the final allocation of the state share of instruction	92798
funds for any fiscal year, shall be uniformly applied to each	92799
campus in proportion to its share of the final allocation.	92800
(F) DISTRIBUTION OF STATE SHARE OF INSTRUCTION	92801
The state share of instruction payments to the institutions	92802
shall be in substantially equal monthly amounts during the fiscal	92803
year, unless otherwise determined by the Director of Budget and	92804
Management pursuant to section 126.09 of the Revised Code.	92805
Payments during the first six months of the fiscal year shall be	92806
based upon the state share of instruction appropriation estimates	92807
made for the various institutions of higher education according to	92808
Board of Regents enrollment estimates. Payments during the last	92809

six months of the fiscal year shall be distributed after approval	92810
of the Controlling Board upon the request of the Board of Regents.	92811
(G) LAW SCHOOL SUBSIDY	92812
The state share of instruction to state-supported	92813
universities for students enrolled in law schools in fiscal year	92814
2006 and fiscal year 2007 shall be calculated by using the number	92815
of subsidy-eligible FTE law school students funded by state	92816
subsidy in fiscal year 1995 or the actual number of	92817
subsidy-eligible FTE law school students at the institution in the	92818
fiscal year, whichever is less.	92819
Section 209.63.60. HIGHER EDUCATION - BOARD OF TRUSTEES	92820
Funds appropriated for instructional subsidies at colleges	92821
and universities may be used to provide such branch or other	92822
off-campus undergraduate courses of study and such master's degree	92823
courses of study as may be approved by the Board of Regents.	92824
In providing instructional and other services to students,	92825
boards of trustees of state-assisted institutions of higher	92826
education shall supplement state subsidies by income from charges	92827
to students. Each board shall establish the fees to be charged to	92828
all students, including an instructional fee for educational and	92829
associated operational support of the institution and a general	92830
fee for noninstructional services, including locally financed	92831
student services facilities used for the benefit of enrolled	92832
students. The instructional fee and the general fee shall	92833
encompass all charges for services assessed uniformly to all	92834
enrolled students. Each board may also establish special purpose	92835
fees, service charges, and fines as required; such special purpose	92836
fees and service charges shall be for services or benefits	92837
furnished individual students or specific categories of students	92838
and shall not be applied uniformly to all enrolled students.	92839

Except for the board of trustees of Miami University, in 92840
implementing the pilot tuition restructuring plan recognized in 92841
Section 89.05 of Am. Sub. H.B. 95 of the 125th General Assembly 92842
and again recognized by this act, a tuition surcharge shall be 92843
paid by all students who are not residents of Ohio. 92844

The boards of trustees of each state institution of higher 92845
education as defined in section 3345.011 of the Revised Code shall 92846
limit in-state undergraduate instructional and general fee 92847
increases for an academic year over the amounts charged in the 92848
prior academic year to not more than the lesser of six per cent 92849
or, for a full-time student, five hundred dollars. A board of 92850
trustees shall not authorize combined instructional and general 92851
fee increases of more than six per cent in a single vote. The 92852
limitations on fee increases prescribed in this section apply to 92853
an academic year even if, prior to the effective date of this 92854
section, a board of trustees has voted to increase fees beyond the 92855
amount permitted under this section. In such case, the board shall 92856
reduce the fees in an amount that results in combined in-state 92857
undergraduate instructional and general fees that comply with this 92858
section. These limitations shall not apply to increases required 92859
to comply with institutional covenants related to their 92860
obligations or to meet unfunded legal mandates or legally binding 92861
obligations incurred or commitments made prior to the effective 92862
date of this section with respect to which the institution had 92863
identified such fee increases as the source of funds. Any increase 92864
required by such covenants and any such mandates, obligations, or 92865
commitments shall be reported by the Board of Regents to the 92866
Controlling Board. These limitations may also be modified by the 92867
Board of Regents, with the approval of the Controlling Board, to 92868
respond to exceptional circumstances as identified by the Board of 92869
Regents. 92870

The board of trustees of a state-assisted institution of 92871

higher education shall not authorize a waiver or nonpayment of
instructional fees or general fees for any particular student or
any class of students other than waivers specifically authorized
by law or approved by the Chancellor. This prohibition is not
intended to limit the authority of boards of trustees to provide
for payments to students for services rendered the institution,
nor to prohibit the budgeting of income for staff benefits or for
student assistance in the form of payment of such instructional
and general fees. This prohibition is not intended to limit the
authority of the board of trustees of Miami University in
providing financial assistance to students in implementing the
pilot tuition restructuring plan recognized in Section 89.05 of
Am. Sub. H.B. 95 of the 125th General Assembly and again
recognized by this act.

Except for Miami University, in implementing the pilot
tuition restructuring plan recognized in Section 89.05 of Am. Sub.
H.B. 95 of the 125th General Assembly and again recognized by this
act, each state-assisted institution of higher education in its
statement of charges to students shall separately identify the
instructional fee, the general fee, the tuition charge, and the
tuition surcharge. Fee charges to students for instruction shall
not be considered to be a price of service but shall be considered
to be an integral part of the state government financing program
in support of higher educational opportunity for students.

In providing the appropriations in support of instructional
services at state-assisted institutions of higher education and
the appropriations for other instruction it is the intent of the
General Assembly that faculty members shall devote a proper and
judicious part of their work week to the actual instruction of
students. Total class credit hours of production per quarter per
full-time faculty member is expected to meet the standards set
forth in the budget data submitted by the Board of Regents.

The authority of government vested by law in the boards of trustees of state-assisted institutions of higher education shall in fact be exercised by those boards. Boards of trustees may consult extensively with appropriate student and faculty groups. Administrative decisions about the utilization of available resources, about organizational structure, about disciplinary procedure, about the operation and staffing of all auxiliary facilities, and about administrative personnel shall be the exclusive prerogative of boards of trustees. Any delegation of authority by a board of trustees in other areas of responsibility shall be accompanied by appropriate standards of guidance concerning expected objectives in the exercise of such delegated authority and shall be accompanied by periodic review of the exercise of this delegated authority to the end that the public interest, in contrast to any institutional or special interest, shall be served.

Section 209.63.63. STUDENT SUPPORT SERVICES

The foregoing appropriation item 235-502, Student Support Services, shall be distributed by the Board of Regents to Ohio's state-assisted colleges and universities that incur disproportionate costs in the provision of support services to disabled students.

Section 209.63.66. OHIO INSTRUCTIONAL GRANTS

In fiscal year 2006, instructional grants for all eligible full-time students shall be made using the tables under section 3333.12 of the Revised Code. In fiscal year 2007, instructional grants for all eligible full-time students who have attended a college, university, or proprietary school and have completed coursework for college credit, excluding early college high school and post-secondary enrollment option students, prior to academic

year 2006-2007, shall be made using the tables under section 92934
3333.12 of the Revised Code. 92935

Of the foregoing appropriation item 235-503, Ohio 92936
Instructional Grants, an amount in each fiscal year shall be used 92937
to make the payments authorized by division (C) of section 3333.26 92938
of the Revised Code to the institutions described in that 92939
division. In addition, an amount in each fiscal year shall be used 92940
to reimburse the institutions described in division (B) of section 92941
3333.26 of the Revised Code for the cost of the waivers required 92942
by that division. 92943

The unencumbered balance of appropriation item 235-503, Ohio 92944
Instructional Grants, at the end of fiscal year 2006 shall be 92945
transferred to fiscal year 2007 for use under the same 92946
appropriation item. The amounts transferred are hereby 92947
appropriated. 92948

Section 209.63.69. WAR ORPHANS SCHOLARSHIPS 92949

The foregoing appropriation item 235-504, War Orphans 92950
Scholarships, shall be used to reimburse state-assisted 92951
institutions of higher education for waivers of instructional fees 92952
and general fees provided by them, to provide grants to 92953
institutions that have received a certificate of authorization 92954
from the Ohio Board of Regents under Chapter 1713. of the Revised 92955
Code, in accordance with the provisions of section 5910.04 of the 92956
Revised Code, and to fund additional scholarship benefits provided 92957
by section 5910.032 of the Revised Code. 92958

Section 209.63.72. OHIOLINK 92959

The foregoing appropriation item 235-507, OhioLINK, shall be 92960
used by the Board of Regents to support OhioLINK, the state's 92961
electronic library information and retrieval system, which 92962
provides access statewide to the library holdings of all of Ohio's 92963

public colleges and universities, 40 private colleges, and the State Library of Ohio. 92964
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Section 209.63.75. AIR FORCE INSTITUTE OF TECHNOLOGY 92966

The foregoing appropriation item 235-508, Air Force Institute of Technology, shall be used to strengthen the research and educational linkages between the Wright Patterson Air Force Base and institutions of higher education in Ohio. Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$1,233,588 in each fiscal year shall be used for research projects that connect the Air Force Research Laboratories with university partners. The institute shall provide annual reports to the Third Frontier Commission, that discuss existing, planned, or possible collaborations between programs and funding recipients related to technology, research development, commercialization, and support for Ohio's economic development. 92967
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Of the foregoing appropriation item 235-508, Air Force Institute of Technology, \$691,757 in each fiscal year shall be used to match federal dollars to support technology commercialization and job creation. The Development Research Corporation shall use the funds to create or expand Ohio-based technology and commercial development collaborations in areas that are a priority in Ohio's third frontier initiative between industry, academia, and government. 92979
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Section 209.63.78. OHIO SUPERCOMPUTER CENTER 92987

The foregoing appropriation item 235-510, Ohio Supercomputer Center, shall be used by the Board of Regents to support the operation of the center, located at The Ohio State University, as a statewide resource available to Ohio research universities both public and private. It is also intended that the center be made accessible to private industry as appropriate. Policies of the 92988
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center shall be established by a governance committee, 92994
representative of Ohio's research universities and private 92995
industry, to be appointed by the Chancellor of the Board of 92996
Regents and established for this purpose. 92997

The Ohio Supercomputer Center shall report on expanding 92998
solutions-oriented, computational science services to industrial 92999
and other customers, including alignment programs and recipients, 93000
and develop a plan for a computational science initiative in 93001
collaboration with the Wright Centers of Innovation Program. 93002

Section 209.63.81. COOPERATIVE EXTENSION SERVICE 93003

The foregoing appropriation item 235-511, Cooperative 93004
Extension Service, shall be disbursed through the Board of Regents 93005
to The Ohio State University in monthly payments, unless otherwise 93006
determined by the Director of Budget and Management under section 93007
126.09 of the Revised Code. 93008

Of the foregoing appropriation item 235-511, Cooperative 93009
Extension Service, \$178,271 in each fiscal year shall be used for 93010
additional staffing for county agents for expanded 4-H activities. 93011
Of the foregoing appropriation item 235-511, Cooperative Extension 93012
Service, \$178,271 in each fiscal year shall be used by the 93013
Cooperative Extension Service, through the Enterprise Center for 93014
Economic Development in cooperation with other agencies, for a 93015
public-private effort to create and operate a small business 93016
economic development program to enhance the development of 93017
alternatives to the growing of tobacco, and implement, through 93018
applied research and demonstration, the production and marketing 93019
of other high-value crops and value-added products. Of the 93020
foregoing appropriation item 235-511, Cooperative Extension 93021
Service, \$55,179 in each fiscal year shall be used for farm labor 93022
mediation and education programs, \$182,515 in each fiscal year 93023
shall be used to support the Ohio State University Marion 93024

Enterprise Center, and \$772,931 in each fiscal year shall be used 93025
to support the Ohio Watersheds Initiative. 93026

Section 209.63.84. OHIO UNIVERSITY VOINOVICH CENTER 93027

The foregoing appropriation item 235-513, Ohio University 93028
Voinovich Center, shall be used by the Board of Regents to support 93029
the operations of Ohio University's Voinovich Center. 93030

Section 209.63.90. PERFORMANCE STANDARDS FOR MEDICAL 93031
EDUCATION 93032

The Board of Regents, in consultation with the state-assisted 93033
medical colleges, shall develop performance standards for medical 93034
education. Special emphasis in the standards shall be placed on 93035
attempting to ensure that at least 50 per cent of the aggregate 93036
number of students enrolled in state-assisted medical colleges 93037
continue to enter residency as primary care physicians. Primary 93038
care physicians are general family practice physicians, general 93039
internal medicine practitioners, and general pediatric care 93040
physicians. The Board of Regents shall monitor medical school 93041
performance in relation to their plans for reaching the 50 per 93042
cent systemwide standard for primary care physicians. 93043

Section 209.63.93. CASE WESTERN RESERVE UNIVERSITY SCHOOL OF 93044
MEDICINE 93045

The foregoing appropriation item 235-515, Case Western 93046
Reserve University School of Medicine, shall be disbursed to Case 93047
Western Reserve University through the Board of Regents in 93048
accordance with agreements entered into under section 3333.10 of 93049
the Revised Code, provided that the state support per full-time 93050
medical student shall not exceed that provided to full-time 93051
medical students at state universities. 93052

Section 209.63.94. CAPITOL SCHOLARSHIP PROGRAM 93053

The foregoing appropriation item 235-518, Capitol Scholarship Program, shall be used by the Board of Regents to provide scholarships to undergraduates of Ohio's four-year public and private institutions of higher education participating in the Washington Center Internship Program. A scholarship of \$1,800 shall be awarded to students enrolled in an institution operating on a quarter system, and a scholarship of \$2,300 shall be awarded to students enrolled in an institution operating on a semester system. The number of scholarships awarded shall be limited by the amounts appropriated in fiscal years 2006 and 2007. The Washington Center shall match the scholarships awarded to students as follows: \$1,200 for students enrolled in an institution operating on a quarter system, and \$1,700 for students enrolled in an institution operating on a semester system.

Section 209.63.95. FAMILY PRACTICE 93068

The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235-519, Family Practice.

Section 209.63.96. SHAWNEE STATE SUPPLEMENT 93072

The foregoing appropriation item 235-520, Shawnee State Supplement, shall be used by Shawnee State University as detailed by both of the following:

(A) To allow Shawnee State University to keep its undergraduate fees below the statewide average, consistent with its mission of service to an economically depressed Appalachian region;

(B) To allow Shawnee State University to employ new faculty to develop and teach in new degree programs that meet the needs of

Appalachians.	93082
Section 209.63.99. OSU GLENN INSTITUTE	93083
The foregoing appropriation item 235-521, The Ohio State University Glenn Institute, shall be used by the Board of Regents to support the operations of the Ohio State University's Glenn Institute.	93084 93085 93086 93087
Section 209.64.03. POLICE AND FIRE PROTECTION	93088
The foregoing appropriation item 235-524, Police and Fire Protection, shall be used for police and fire services in the municipalities of Kent, Athens, Oxford, Fairborn, Bowling Green, Portsmouth, Xenia Township (Greene County), Rootstown Township, and the City of Nelsonville that may be used to assist these local governments in providing police and fire protection for the central campus of the state-affiliated university located therein. Each participating municipality and township shall receive at least \$5,000 in each fiscal year. Funds shall be distributed according to the method employed by the Board of Regents in the previous biennium.	93089 93090 93091 93092 93093 93094 93095 93096 93097 93098 93099
Section 209.64.06. GERIATRIC MEDICINE	93100
The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235-525, Geriatric Medicine.	93101 93102 93103
Section 209.64.07. PRIMARY CARE RESIDENCIES	93104
The Board of Regents shall develop plans consistent with existing criteria and guidelines as may be required for the distribution of appropriation item 235-526, Primary Care Residencies.	93105 93106 93107 93108

The foregoing appropriation item 235-526, Primary Care Residencies, shall be distributed in each fiscal year of the biennium, based on whether or not the institution has submitted and gained approval for a plan. If the institution does not have an approved plan, it shall receive five per cent less funding per student than it would have received from its annual allocation. The remaining funding shall be distributed among those institutions that meet or exceed their targets.

Section 209.64.09. OHIO AEROSPACE INSTITUTE 93117

The foregoing appropriation item 235-527, Ohio Aerospace Institute, shall be distributed by the Board of Regents under section 3333.042 of the Revised Code.

The Board of Regents, in consultation with the Third Frontier Commission, shall develop a plan for providing for appropriate, value-added participation of the Ohio Aerospace Institute in Third Frontier Project proposals and grants.

Section 209.64.12. ACADEMIC SCHOLARSHIPS 93125

The foregoing appropriation item 235-530, Academic Scholarships, shall be used to provide academic scholarships to students under section 3333.22 of the Revised Code.

Section 209.64.15. STUDENT CHOICE GRANTS 93129

The foregoing appropriation item 235-531, Student Choice Grants, shall be used to support the Student Choice Grant Program created by section 3333.27 of the Revised Code. The unencumbered balance of appropriation item 235-531, Student Choice Grants, at the end of fiscal year 2006 shall be transferred to fiscal year 2007 for use under the same appropriation item to maintain grant award amounts in fiscal year 2007 equal to the awards provided in fiscal year 2006. The amounts transferred are hereby appropriated.

Section 209.64.18. STUDENT WORKFORCE DEVELOPMENT GRANTS 93138

The foregoing appropriation item 235-534, Student Workforce 93139
Development Grants, shall be used to support the Student Workforce 93140
Development Grant Program. The Board of Regents shall distribute 93141
grants to each eligible student in an academic year. The size of 93142
each grant award shall be determined by the Board of Regents based 93143
on the amount of funds available for the program. The unencumbered 93144
balance of appropriation item 235-534, Student Workforce 93145
Development Grants, at the end of fiscal year 2006 shall be 93146
transferred to fiscal year 2007 for use under the same 93147
appropriation item. The amounts transferred are hereby 93148
appropriated. 93149

Section 209.64.21. OHIO AGRICULTURAL RESEARCH AND DEVELOPMENT 93150
CENTER 93151

The foregoing appropriation item 235-535, Ohio Agricultural 93152
Research and Development Center, shall be disbursed through the 93153
Board of Regents to The Ohio State University in monthly payments, 93154
unless otherwise determined by the Director of Budget and 93155
Management under section 126.09 of the Revised Code. The Ohio 93156
Agricultural Research and Development Center shall not be required 93157
to remit payment to The Ohio State University during the biennium 93158
ending June 30, 2007, for cost reallocation assessments. The cost 93159
reallocation assessments include, but are not limited to, any 93160
assessment on state appropriations to the Center. 93161

The Ohio Agricultural Research and Development Center, an 93162
entity of the College of Food, Agricultural, and Environmental 93163
Sciences of The Ohio State University, shall further its mission 93164
of enhancing Ohio's economic development and job creation by 93165
continuing to internally allocate on a competitive basis 93166
appropriated funding of programs based on demonstrated 93167

performance. Academic units, faculty, and faculty-driven programs 93168
shall be evaluated and rewarded consistent with agreed-upon 93169
performance expectations as called for in the College's 93170
Expectations and Criteria for Performance Assessment. 93171

Of the foregoing appropriation item 235-535, Ohio 93172
Agricultural Research and Development Center, \$458,410 in each 93173
fiscal year shall be used to purchase equipment. 93174

Of the foregoing appropriation item 235-535, Ohio 93175
Agricultural Research and Development Center, \$806,463 in each 93176
fiscal year shall be distributed to the Piketon Agricultural 93177
Research and Extension Center. 93178

Of the foregoing appropriation item 235-535, Ohio 93179
Agricultural Research and Development Center, \$212,227 in each 93180
fiscal year shall be distributed to the 93181
Raspberry/Strawberry-Ellagic Acid Research program at The Ohio 93182
State University Medical College in cooperation with The Ohio 93183
State University College of Agriculture. 93184

Of the foregoing appropriation item 235-535, Ohio 93185
Agricultural Research and Development Center, \$42,445 in each 93186
fiscal year shall be used to support the Ohio Berry Administrator. 93187

Of the foregoing appropriation item 235-535, Ohio 93188
Agricultural Research and Development Center, \$84,890 in each 93189
fiscal year shall be used for the development of agricultural 93190
crops and products not currently in widespread production in Ohio, 93191
in order to increase the income and viability of family farmers. 93192

Of the foregoing appropriation item 235-535, Ohio 93193
Agricultural Research and Development Center, \$125,000 in each 93194
fiscal year shall be distributed to Wilmington College for the 93195
commercialization of agricultural products. 93196

Section 209.64.22. STATE UNIVERSITY CLINICAL TEACHING

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The foregoing appropriation items 235-536, The Ohio State University Clinical Teaching; 235-537, University of Cincinnati Clinical Teaching; 235-538, Medical University of Ohio at Toledo Clinical Teaching; 235-539, Wright State University Clinical Teaching; 235-540, Ohio University Clinical Teaching; and 235-541, Northeastern Ohio Universities College of Medicine Clinical Teaching, shall be distributed through the Board of Regents.

Of the foregoing appropriation item 235-539, Wright State University Clinical Teaching, \$124,644 in each fiscal year of the biennium shall be for the use of Wright State University's Ellis Institute for Clinical Teaching Studies to operate the clinical facility to serve the Greater Dayton area.

The Board of Regents, in consultation with representatives of each of the six state-assisted colleges of medicine, shall study and propose recommendations for a formula to allocate appropriations for clinical teaching support. The consultation shall consider factors that reward medical schools for serving Ohio's health care needs in an equitable and efficient manner. Recommendations shall be submitted to the Office of Budget and Management and the General Assembly for consideration by November 15, 2006. A new method, approved by the Office of Budget and Management and the General Assembly, shall be implemented in fiscal years 2008 and 2009 for distributing funds for clinical teaching support.

Section 209.64.23. SCHOOL OF INTERNATIONAL BUSINESS

The foregoing appropriation item 235-547, School of International Business, shall be used for the continued development and support of the School of International Business of the state universities of northeast Ohio. The money shall go to the University of Akron. These funds shall be used by the university to establish a School of International Business located

at the University of Akron. It may confer with Kent State 93229
University, Youngstown State University, and Cleveland State 93230
University as to the curriculum and other matters regarding the 93231
school. 93232

Section 209.64.24. PART-TIME STUDENT INSTRUCTIONAL GRANTS 93233

The foregoing appropriation item 235-549, Part-time Student 93234
Instructional Grants, shall be used to support a grant program for 93235
part-time undergraduate students who are Ohio residents and who 93236
were enrolled in degree granting programs prior to academic year 93237
2006-2007. 93238

Eligibility for participation in the program shall include 93239
degree granting educational institutions that hold a certificate 93240
of registration from the State Board of Career Colleges and 93241
Schools, and nonprofit institutions that have a certificate of 93242
authorization issued under Chapter 1713. of the Revised Code, as 93243
well as state-assisted colleges and universities. Grants shall be 93244
given to students on the basis of need, as determined by the 93245
college, which, in making these determinations, shall give special 93246
consideration to single-parent heads-of-household and displaced 93247
homemakers who enroll in an educational degree program that 93248
prepares the individual for a career. In determining need, the 93249
college also shall consider the availability of educational 93250
assistance from a student's employer. It is the intent of the 93251
General Assembly that these grants not supplant such assistance. 93252

Section 209.64.27. CAPITAL COMPONENT 93253

The foregoing appropriation item 235-552, Capital Component, 93254
shall be used by the Board of Regents to implement the capital 93255
funding policy for state-assisted colleges and universities 93256
established in Am. H.B. No. 748 of the 121st General Assembly. 93257
Appropriations from this item shall be distributed to all campuses 93258

for which the estimated campus debt service attributable to new 93259
qualifying capital projects is less than the campus's 93260
formula-determined capital component allocation. Campus 93261
allocations shall be determined by subtracting the estimated 93262
campus debt service attributable to new qualifying capital 93263
projects from the campus's formula-determined capital component 93264
allocation. Moneys distributed from this appropriation item shall 93265
be restricted to capital-related purposes. 93266

Any campus for which the estimated campus debt service 93267
attributable to qualifying capital projects is greater than the 93268
campus's formula-determined capital component allocation shall 93269
have the difference subtracted from its State Share of Instruction 93270
allocation in each fiscal year. The sum of all such amounts shall 93271
be transferred from appropriation item 235-501, State Share of 93272
Instruction, to appropriation item 235-552, Capital Component. 93273

Section 209.64.30. DAYTON AREA GRADUATE STUDIES INSTITUTE 93274

The foregoing appropriation item 235-553, Dayton Area 93275
Graduate Studies Institute, shall be used by the Board of Regents 93276
to support the Dayton Area Graduate Studies Institute, an 93277
engineering graduate consortium of three universities in the 93278
Dayton area: Wright State University, the University of Dayton, 93279
and the Air Force Institute of Technology, with the participation 93280
of the University of Cincinnati and The Ohio State University. 93281

Of the foregoing appropriation item 235-553, Dayton Area 93282
Graduate Studies Institute, \$350,000 in each fiscal year shall be 93283
used by the Development Research Corporation to support 93284
collaborative research and technology commercialization 93285
initiatives in Ohio. 93286

Section 209.64.33. PRIORITIES IN COLLABORATIVE GRADUATE 93287
EDUCATION 93288

The foregoing appropriation item 235-554, Priorities in Collaborative Graduate Education, shall be used by the Board of Regents to support improvements in graduate programs at state-assisted universities that the Board of Regents identifies as vital to the state's economic strategy. Up to \$169,782 in each fiscal year shall be used to support collaborative efforts in graduate education in this program area. The collaborative program shall be coordinated by the Board of Regents.

Section 209.64.36. OHIO ACADEMIC RESOURCES NETWORK (OARNET) 93297

The foregoing appropriation item 235-556, Ohio Academic Resources Network, shall be used to support the operations of the Ohio Academic Resources Network, which shall include support for Ohio's state-assisted colleges and universities in maintaining and enhancing network connections. The network shall give priority to supporting the Third Frontier Network and allocating bandwidth to programs directly supporting Ohio's economic development.

Section 209.64.39. LONG-TERM CARE RESEARCH 93305

The foregoing appropriation item 235-558, Long-term Care Research, shall be disbursed to Miami University for long-term care research.

Section 209.64.45. BOWLING GREEN STATE UNIVERSITY CANADIAN STUDIES CENTER 93309
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The foregoing appropriation item 235-561, Bowling Green State University Canadian Studies Center, shall be used by the Canadian Studies Center at Bowling Green State University to study opportunities for Ohio and Ohio businesses to benefit from the Free Trade Agreement between the United States and Canada.

Section 209.64.51. OHIO COLLEGE OPPORTUNITY GRANT PHASE-IN 93316

The foregoing appropriation item 235-563, Ohio College Opportunity Grant, shall be used by the Board of Regents to begin to award needs-based financial aid to students based on the United States Department of Education's method of determining financial need. Beginning in fiscal year 2007, students who enrolled in a public, private, or proprietary post-secondary institution of higher education for the first time in academic year 2006-2007, excluding early college high school and post-secondary enrollment option participants, shall be eligible to receive aid based on their expected family contributions as calculated by the United State Department of Education, according to section 3333.122 of the Revised Code.

Section 209.64.54. THE OHIO STATE UNIVERSITY CLINIC SUPPORT 93329

The foregoing appropriation item 235-572, The Ohio State University Clinic Support, shall be distributed through the Board of Regents to The Ohio State University for support of dental and veterinary medicine clinics.

Section 209.64.57. URBAN UNIVERSITY PROGRAM 93334

Universities receiving funds from the foregoing appropriation item 235-583, Urban University Program, that are used to support an ongoing university unit shall certify periodically in a manner approved by the Board of Regents that program funds are being matched on a one-to-one basis with equivalent resources. Overhead support may not be used to meet this requirement. Where Urban University Program funds are being used to support an ongoing university unit, matching funds shall come from continuing rather than one-time sources. At each participating state-assisted institution of higher education, matching funds shall be within the substantial control of the individual designated by the institution's president as the Urban University Program

representative.

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Of the foregoing appropriation item 235-583, Urban University Program, \$117,215 in each fiscal year shall be used to support the Center for the Interdisciplinary Study of Education and the Urban Child at Cleveland State University. These funds shall be distributed according to rules adopted by the Board of Regents and shall be used by the center for interdisciplinary activities targeted toward increasing the chance of lifetime success of the urban child, including interventions beginning with the prenatal period. The primary purpose of the center is to study issues in urban education and to systematically map directions for new approaches and new solutions by bringing together a cadre of researchers, scholars, and professionals representing the social, behavioral, education, and health disciplines.

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Of the foregoing appropriation item 235-583, Urban University Program, \$1,433,037 in each fiscal year shall be distributed by the Board of Regents to Cleveland State University in support of the Maxine Goodman Levin College of Urban Affairs.

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Of the foregoing appropriation item 235-583, Urban University Program, \$1,433,037 in each fiscal year shall be distributed to the Northeast Ohio Research Consortium, the Urban Linkages Program, and the Urban Research Technical Assistance Grant Program. The distribution among the three programs shall be determined by the chair of the Urban University Program.

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Of the foregoing appropriation item 235-583, Urban University Program, \$247,453 in each fiscal year shall be used to support a public communication outreach program (WCPN). The primary purpose of the program shall be to develop a relationship between Cleveland State University and nonprofit communications entities.

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Of the foregoing appropriation item 235-583, Urban University Program, \$169,310 in each fiscal year shall be used to support the

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Kent State University Learning and Technology Project. This 93378
project is a kindergarten through university collaboration between 93379
schools surrounding Kent State University's eight campuses in 93380
northeast Ohio and corporate partners who will assist in 93381
development and delivery. 93382

The Kent State University Project shall provide a faculty 93383
member who has a full-time role in the development of 93384
collaborative activities and teacher instructional programming 93385
between Kent State University and the K-12th grade schools that 93386
surround its eight campuses; appropriate student support staff to 93387
facilitate these programs and joint activities; and hardware and 93388
software to schools that will make possible the delivery of 93389
instruction to pre-service and in-service teachers, and their 93390
students, in their own classrooms or school buildings. This shall 93391
involve the delivery of low-bandwidth streaming video and 93392
web-based technologies in a distributed instructional model. 93393

Of the foregoing appropriation item 235-583, Urban University 93394
Program, \$65,119 in each fiscal year shall be used to support the 93395
Ameritech Classroom/Center for Research at Kent State University. 93396

Of the foregoing appropriation item 235-583, Urban University 93397
Program, \$723,547 in each fiscal year shall be used to support the 93398
Polymer Distance Learning Project at the University of Akron. 93399

Of the foregoing appropriation item 235-583, Urban University 93400
Program, \$32,560 in each fiscal year shall be distributed to the 93401
Kent State University/Cleveland Design Center program. 93402

Of the foregoing appropriation item 235-583, Urban University 93403
Program, \$180,886 in each fiscal year shall be used to support the 93404
Bliss Institute of Applied Politics at the University of Akron. 93405

Of the foregoing appropriation item 235-583, Urban University 93406
Program, \$10,851 in each fiscal year shall be used for the 93407
Advancing-Up Program at the University of Akron. 93408

Of the foregoing appropriation item 235-583, Urban University 93409
Program, \$139,777 in each fiscal year shall be used to support the 93410
Strategic Economic Research Collaborative at the University of 93411
Toledo Urban Affairs Center. 93412

Of the foregoing appropriation item 235-583, Urban University 93413
Program, \$139,777 in each fiscal year shall be used to support the 93414
Institute for Collaborative Research and Public Humanities at The 93415
Ohio State University. 93416

Of the foregoing appropriation item 235-583, Urban University 93417
Program, \$300,368 in each fiscal year shall be used to support the 93418
Medina County University Center. 93419

Section 209.64.60. RURAL UNIVERSITY PROJECTS 93420

Of the foregoing appropriation item 235-587, Rural University 93421
Projects, Bowling Green State University shall receive \$263,783 in 93422
each fiscal year, Miami University shall receive \$245,320 in each 93423
fiscal year, and Ohio University shall receive \$575,015 in each 93424
fiscal year. These funds shall be used to support the Institute 93425
for Local Government Administration and Rural Development at Ohio 93426
University, the Center for Public Management and Regional Affairs 93427
at Miami University, and the Center for Policy Analysis and Public 93428
Service at Bowling Green State University. 93429

A small portion of the funds provided to Ohio University 93430
shall also be used for the Institute for Local Government 93431
Administration and Rural Development State and Rural Policy 93432
Partnership with the Governor's Office of Appalachia and the 93433
Appalachian delegation of the General Assembly. 93434

Of the foregoing appropriation item 235-587, Rural University 93435
Projects, \$15,942 in each fiscal year shall be used to support the 93436
Washington State Community College day care center. 93437

Of the foregoing appropriation item 235-587, Rural University 93438

Projects, \$47,829 in each fiscal year shall be used to support the 93439
COAD/ILGARD/GOA Appalachian Leadership Initiative. 93440

Section 209.64.63. HAZARDOUS MATERIALS PROGRAM 93441

The foregoing appropriation item 235-596, Hazardous Materials 93442
Program, shall be disbursed to Cleveland State University for the 93443
operation of a program to certify firefighters for the handling of 93444
hazardous materials. Training shall be available to all Ohio 93445
firefighters. 93446

Of the foregoing appropriation item 235-596, Hazardous 93447
Materials Program, \$177,337 in each fiscal year shall be used to 93448
support the Center for the Interdisciplinary Study of Education 93449
and Leadership in Public Service at Cleveland State University. 93450
These funds shall be distributed by the Board of Regents and shall 93451
be used by the center targeted toward increasing the role of 93452
special populations in public service and not-for-profit 93453
organizations. The primary purpose of the center is to study 93454
issues in public service and to guide strategies for attracting 93455
new communities into public service occupations by bringing 93456
together a cadre of researchers, scholars, and professionals 93457
representing the public administration, social behavioral, and 93458
education disciplines. 93459

Section 209.64.66. NATIONAL GUARD SCHOLARSHIP PROGRAM 93460

The Board of Regents shall disburse funds from appropriation 93461
item 235-599, National Guard Scholarship Program, at the direction 93462
of the Adjutant General. Upon the request of the Adjutant General, 93463
the Board of Regents shall seek Controlling Board approval to 93464
establish appropriations in item 235-623, National Guard 93465
Scholarship Reserve Fund. The Board of Regents shall disburse 93466
funds from appropriation item 235-623, National Guard Scholarship 93467
Reserve Fund, at the direction of the Adjutant General. 93468

***Section 209.64.69. PLEDGE OF FEES** 93469

Any new pledge of fees, or new agreement for adjustment of 93470
fees, made in the biennium ending June 30, 2007, to secure bonds 93471
or notes of a state-assisted institution of higher education for a 93472
project for which bonds or notes were not outstanding on the 93473
effective date of this section shall be effective only after 93474
approval by the Board of Regents, unless approved in a previous 93475
biennium. 93476

Section 209.64.72. HIGHER EDUCATION GENERAL OBLIGATION DEBT 93477
SERVICE 93478

The foregoing appropriation item 235-909, Higher Education 93479
General Obligation Debt Service, shall be used to pay all debt 93480
service and related financing costs at the times they are required 93481
to be made under sections 151.01 and 151.04 of the Revised Code 93482
during the period from July 1, 2005, to June 30, 2007. The Office 93483
of the Sinking Fund or the Director of Budget and Management shall 93484
effectuate the required payments by intrastate transfer voucher. 93485

Section 209.64.75. SALES AND SERVICES 93486

The Board of Regents is authorized to charge and accept 93487
payment for the provision of goods and services. Such charges 93488
shall be reasonably related to the cost of producing the goods and 93489
services. No charges may be levied for goods or services that are 93490
produced as part of the routine responsibilities or duties of the 93491
Board. All revenues received by the Board of Regents shall be 93492
deposited into Fund 456, and may be used by the Board of Regents 93493
to pay for the costs of producing the goods and services. 93494

Section 209.64.76. OHIO HIGHER EDUCATIONAL FACILITY 93495
COMMISSION SUPPORT 93496

The foregoing appropriation item 235-602, Higher Educational Facility Commission Administration, shall be used by the Board of Regents for operating expenses related to the Board of Regents' support of the activities of the Ohio Higher Educational Facility Commission. Upon the request of the chancellor, the Director of Budget and Management shall transfer up to \$55,000 cash from Fund 461 to Fund 4E8 in each fiscal year of the biennium.

Section 209.64.78. PHYSICIAN LOAN REPAYMENT 93504

The foregoing appropriation item 235-604, Physician Loan Repayment, shall be used in accordance with sections 3702.71 to 3702.81 of the Revised Code.

Section 209.64.81. NURSING LOAN PROGRAM 93508

The foregoing appropriation item 235-606, Nursing Loan Program, shall be used to administer the nurse education assistance program. Up to \$159,600 in fiscal year 2006 and \$167,580 in fiscal year 2007 may be used for operating expenses associated with the program. Any additional funds needed for the administration of the program are subject to Controlling Board approval.

Section 209.64.84. SCIENCE AND TECHNOLOGY COLLABORATION 93516

The Board of Regents shall work in close collaboration with the Department of Development, the Air Quality Development Authority, and the Third Frontier Commission in relation to appropriation items and programs referred to as Alignment Programs in the following paragraph, and other technology-related appropriations and programs in the Department of Development, Air Quality Development Authority, and the Board of Regents as these agencies may designate, to ensure implementation of a coherent state strategy with respect to science and technology.

"Alignment Programs" means: appropriation items 195-401, 93526
Thomas Edison Program; 898-402, Coal Development Office; 195-422, 93527
Third Frontier Action Fund; 898-604, Coal Research and Development 93528
Fund; 235-433, Economic Growth Challenge; 235-451, Eminent 93529
Scholars; 235-508, Air Force Institute of Technology; 235-510, 93530
Ohio Supercomputer Center; 235-527, Ohio Aerospace Institute; 93531
235-535, Ohio Agricultural Research and Development Center; 93532
235-553, Dayton Area Graduate Studies Institute; 235-554, 93533
Priorities in Collaborative Graduate Education; 235-556, Ohio 93534
Academic Resources Network; and 195-435, Biomedical Research and 93535
Technology Transfer Trust. 93536

Consistent with the recommendations of the Governor's 93537
Commission on Higher Education and the Economy, Alignment Programs 93538
shall be managed and administered (1) to build on existing 93539
competitive research strengths; (2) to encourage new and emerging 93540
discoveries and commercialization of products and ideas that will 93541
benefit the Ohio economy; and (3) to assure improved collaboration 93542
among Alignment Programs, with programs administered by the Third 93543
Frontier Commission, and with other state programs that are 93544
intended to improve economic growth and job creation. 93545

If requested by the Third Frontier Commission, Alignment 93546
Programs managers shall report to the Commission or the Third 93547
Frontier Advisory Board, as directed by the Commission, on the 93548
contributions of their programs to achieving the objectives stated 93549
in the preceding paragraph of this section. 93550

Each alignment program shall be reviewed annually by the 93551
Third Frontier Commission with respect to its development of 93552
complementary relationships within a combined state science and 93553
technology investment portfolio and its overall contribution to 93554
the state's science and technology strategy, including the 93555
adoption of appropriately consistent criteria for: (1) the 93556
scientific merit of activities supported by the program; (2) the 93557

relevance of the program's activities to commercial opportunities 93558
in the private sector; (3) the private sector's involvement in a 93559
process that continually evaluates commercial opportunities to use 93560
the work supported by the program; and (4) the ability of the 93561
program and recipients of grant funding from the program to engage 93562
in activities that are collaborative, complementary, and efficient 93563
with respect to the expenditure of state funds. All programs 93564
listed above shall provide annual reports to the Third Frontier 93565
Commission discussing existing, planned, or possible 93566
collaborations between programs and recipients of grant funding 93567
related to technology, development, commercialization, and 93568
supporting Ohio's economic development. The annual review by the 93569
Third Frontier Commission shall be a comprehensive review of the 93570
entire state science and technology program portfolio rather than 93571
a review of individual programs. 93572

Applicants for Third Frontier and Alignment Programs funding 93573
shall identify their requirements for high-performance computing 93574
facilities and services, including both hardware and software, in 93575
the proposals. If an applicant's requirements exceed approximately 93576
\$100,000 for a proposal, the Ohio Supercomputer Center shall 93577
convene a panel of experts. The panel shall review the proposal to 93578
determine whether the proposal's requirements can be met through 93579
Ohio Supercomputer Center facilities or through other means and 93580
report such information to the Third Frontier Commission. 93581

To ensure that the state receives the maximum benefit from 93582
its investment in the Third Frontier Project and the Third 93583
Frontier Network, organizations receiving Third Frontier awards 93584
and Alignment Programs awards shall, as appropriate, be expected 93585
to have a connection to the Third Frontier Network that enables 93586
them and their collaborators to achieve award objectives through 93587
the Third Frontier Network. 93588

Section 209.64.87. REPAYMENT OF RESEARCH FACILITY INVESTMENT 93589
FUND MONEYS 93590

Notwithstanding any provision of law to the contrary, all 93591
repayments of Research Facility Investment Fund loans shall be 93592
made to the Bond Service Trust Fund. All Research Facility 93593
Investment Fund loan repayments made prior to the effective date 93594
of this section shall be transferred by the Director of Budget and 93595
Management to the Bond Service Trust Fund within sixty days after 93596
the effective date of this section. 93597

Campuses shall make timely repayments of Research Facility 93598
Investment Fund loans, according to the schedule established by 93599
the Board of Regents. In the case of late payments, the Board of 93600
Regents may deduct from an institution's periodic subsidy 93601
distribution an amount equal to the amount of the overdue payment 93602
for that institution, transfer such amount to the Bond Service 93603
Trust Fund, and credit the appropriate institution for the 93604
repayment. 93605

Section 209.64.90. VETERANS' PREFERENCES 93606

The Board of Regents shall work with the Governor's Office of 93607
Veterans' Affairs to develop specific veterans' preference 93608
guidelines for higher education institutions. These guidelines 93609
shall ensure that the institutions' hiring practices are in 93610
accordance with the intent of Ohio's veterans' preference laws. 93611

Section 209.64.93. STATE NEED-BASED FINANCIAL AID 93612
RECONCILIATION 93613

By the first day of August in each fiscal year, or as soon 93614
thereafter as possible, the Ohio Board of Regents shall certify to 93615
the Director of Budget and Management the amount necessary to pay 93616
any outstanding prior year obligations to higher education 93617

institutions for the state's need-based financial aid programs. 93618
The amounts certified are hereby appropriated to appropriation 93619
item 235-618, State Need-based Financial Aid Reconciliation, from 93620
revenues received in the State Need-based Financial Aid 93621
Reconciliation Fund (Fund 5Y5). 93622

Section 209.64.96. STUDY ON DISTRIBUTING STATE SHARE OF 93623
INSTRUCTION FUNDS BASED ON CAMPUS ADMINISTRATIVE AND OPERATIONAL 93624
EFFICIENCY 93625

The Board of Regents, in consultation with representatives of 93626
the higher education community, shall conduct a study on the 93627
feasibility of distributing a portion of GRF appropriation item 93628
235-501, State Share of Instruction, based on campus 93629
administrative and operational efficiency. The Board of Regents 93630
shall consider what statistic or statistics would be appropriate 93631
to measure administrative and operational efficiency and also 93632
shall consider what an adequate level of administrative support 93633
should be. The Board of Regents shall submit the results of the 93634
study to the General Assembly not later than September 15, 2006. 93635

Section 209.64.99. STUDY ON DISTRIBUTING STATE SHARE OF 93636
INSTRUCTION FUNDS BASED ON THE NUMBER OF DEGREES AND CERTIFICATES 93637
AWARDED 93638

The Board of Regents, in consultation with representatives 93639
from the higher education community, shall conduct a study on the 93640
feasibility of distributing a portion of GRF appropriation item 93641
235-501, State Share of Instruction, based on the number of 93642
Ohioans who are awarded certificates or associate's, 93643
baccalaureate, master's, or doctoral degrees. The study shall 93644
examine whether it is feasible to retain a portion of the State 93645
Share of Instruction distributed to the campuses until such times 93646
as the certificates or degrees are conferred, whether the existing 93647

appropriation is sufficient to fund such an initiative, and how 93648
much in additional funds might be necessary to significantly 93649
increase the number of certificates and degrees earned by Ohioans 93650
each year. The Board of Regents shall submit the results of the 93651
study to the General Assembly not later than September 15, 2006. 93652

Section 209.65.03. STUDY ON PROVIDING INCENTIVES FOR 93653
CERTIFICATE AND ASSOCIATE DEGREES 93654

The Board of Regents, in consultation with representatives 93655
from the higher education community, shall conduct a study on the 93656
feasibility of devising a performance-based grant to provide 93657
incentives to university branch campuses, community colleges, 93658
state community colleges, technical colleges, and the community 93659
and technical colleges at Youngstown State University, the 93660
University of Cincinnati, and The University of Akron to increase 93661
the number and proportion of Ohio students who receive a 93662
certificate or an associate degree. In consultation with 93663
representatives from the higher education community, the Board of 93664
Regents shall develop a measure of certification or degree 93665
completion. The Board of Regents shall recommend a formula, using 93666
the Success Challenge formula as a model, that will reward the 93667
public two-year campuses for the academic success of their 93668
undergraduate students. The Board of Regents shall submit the 93669
results of the study to the General Assembly not later than 93670
September 15, 2006. 93671

Section 209.69. DRC DEPARTMENT OF REHABILITATION AND 93672
CORRECTION 93673

General Revenue Fund 93674

GRF 501-321 Institutional \$ 857,371,490 \$ 873,888,880 93675
Operations

GRF 501-403 Prisoner Compensation \$ 8,599,255 \$ 8,599,255 93676

GRF 501-405	Halfway House	\$ 38,104,924	\$ 38,105,128	93677
GRF 501-406	Lease Rental Payments	\$ 132,370,500	\$ 120,600,600	93678
GRF 501-407	Community Nonresidential Programs	\$ 15,383,471	\$ 15,404,522	93679
GRF 501-408	Community Misdemeanor Programs	\$ 8,041,489	\$ 8,041,489	93680
GRF 501-501	Community Residential Programs - CBCF	\$ 55,054,445	\$ 55,054,445	93681
GRF 502-321	Mental Health Services	\$ 64,897,564	\$ 66,055,754	93682
GRF 503-321	Parole and Community Operations	\$ 78,887,219	\$ 80,708,911	93683
GRF 504-321	Administrative Operations	\$ 27,559,389	\$ 28,147,730	93684
GRF 505-321	Institution Medical Services	\$ 159,926,575	\$ 176,500,628	93685
GRF 506-321	Institution Education Services	\$ 22,727,366	\$ 23,114,615	93686
GRF 507-321	Institution Recovery Services	\$ 6,946,286	\$ 7,090,212	93687
TOTAL GRF	General Revenue Fund	\$ 1,475,869,973	\$ 1,501,312,169	93688
	General Services Fund Group			93689
148 501-602	Services and Agricultural	\$ 95,207,653	\$ 95,207,653	93690
200 501-607	Ohio Penal Industries	\$ 38,000,000	\$ 38,000,000	93691
4B0 501-601	Penitentiary Sewer Treatment Facility Services	\$ 1,758,177	\$ 1,758,177	93692
4D4 501-603	Prisoner Programs	\$ 20,967,703	\$ 20,967,703	93693
4L4 501-604	Transitional Control	\$ 1,593,794	\$ 1,593,794	93694
4S5 501-608	Education Services	\$ 4,564,072	\$ 4,564,072	93695
483 501-605	Property Receipts	\$ 393,491	\$ 393,491	93696
5AF 501-609	State and Non-Federal	\$ 262,718	\$ 262,718	93697

		Awards					
5H8	501-617	Offender Financial	\$	2,000,000	\$	2,000,000	93698
		Responsibility					
5L6	501-611	Information Technology	\$	3,741,980	\$	3,741,980	93699
		Services					
571	501-606	Training Academy	\$	75,190	\$	75,190	93700
		Receipts					
593	501-618	Laboratory Services	\$	5,799,999	\$	5,799,999	93701
TOTAL	GSF	General Services Fund	\$	174,364,777	\$	174,364,777	93702
		Group					
		Federal Special Revenue Fund Group					93703
3S1	501-615	Truth-In-Sentencing	\$	26,127,427	\$	26,127,427	93704
		Grants					
323	501-619	Federal Grants	\$	12,198,353	\$	12,198,353	93705
TOTAL	FED	Federal Special Revenue					93706
		Fund Group	\$	38,325,780	\$	38,325,780	93707
		State Special Revenue Fund Group					93708
5CL	501-616	Sex Offender	\$	100,000	\$	75,000	93709
		Supervision					
Total	SSR	State Special Revenue	\$	100,000	\$	75,000	93710
		Fund Group					
TOTAL	ALL	BUDGET FUND GROUPS	\$	1,688,660,530	\$	1,714,077,726	93711
		HALFWAY HOUSE TRANSFERS					93712
		The Department of Rehabilitation and Correction shall seek					93713
		the approval of the Controlling Board to transfer in each of					93714
		fiscal years 2006 and 2007 from the unexpended, unobligated GRF					93715
		appropriations made to the Department for fiscal years 2006 and					93716
		2007 at least \$500,000 per fiscal year in appropriation authority					93717
		to appropriation item 501-405, Halfway House.					93718
		OHIO BUILDING AUTHORITY LEASE PAYMENTS					93719
		The foregoing appropriation item 501-406, Lease Rental					93720

Payments, shall be used for payments to the Ohio Building 93721
Authority for the period July 1, 2005, to June 30, 2007, under the 93722
primary leases and agreements for those buildings made under 93723
Chapter 152. of the Revised Code but limited to the aggregate 93724
amount of \$252,971,100. This appropriation amount is the source of 93725
funds pledged for bond service charges on related obligations 93726
issued under Chapter 152. of the Revised Code. 93727

PRISONER COMPENSATION 93728

Money from the foregoing appropriation item 501-403, Prisoner 93729
Compensation, shall be transferred on a quarterly basis by 93730
intrastate transfer voucher to the Services and Agricultural Fund 93731
(Fund 148) for the purposes of paying prisoner compensation. 93732

SEX OFFENDER SUPERVISION 93733

On July 1, 2005, or as soon as practicable thereafter, the 93734
Director of Budget and Management shall transfer \$100,000 in cash 93735
from the Reparations Fund (Fund 402) to the Sex Offender 93736
Supervision Fund (Fund 5CL). On July 1, 2006, or as soon as 93737
practicable thereafter, the Director of Budget and Management 93738
shall transfer \$75,000 in cash from the Reparations Fund (Fund 93739
402) to the Sex Offender Supervision Fund (Fund 5CL). 93740

The foregoing appropriation item 501-616, Sex Offender 93741
Supervision, shall be used by the Department of Rehabilitation and 93742
Correction solely to pay for the costs incurred by the Adult 93743
Parole Authority in supervising sexually violent predators 93744
released from prison as required by section 2971.05 of the Revised 93745
Code. At the end of each fiscal year, or as soon as possible 93746
thereafter, the Director of Budget and Management shall transfer 93747
back to the Reparations Fund any unexpended, unencumbered cash in 93748
the Sex Offender Supervision Fund not needed in that fiscal year 93749
for the sole purpose of paying for the costs of supervising 93750
sexually violent predators released from prison. 93751

93752

LOCATION AND TRACKING TECHNOLOGY

93753

The Director of Rehabilitation and Correction may expend from 93754
 the appropriate fund or funds a total of \$3,000,000 in each of 93755
 fiscal years 2006 and 2007 for the purchase, installation, and 93756
 operation of radio frequency identification and tracking 93757
 technology, providing real-time identification and tracking of 93758
 inmates and staff in the state's adult correctional institutions. 93759

Section 209.72. RSC REHABILITATION SERVICES COMMISSION

93760

General Revenue Fund

93761

GRF 415-100 Personal Services \$ 8,851,468 \$ 8,851,468 93762

GRF 415-402 Independent Living \$ 12,280 \$ 12,280 93763

Council

GRF 415-403 Mental Health Services \$ 717,221 \$ 717,221 93764

GRF 415-404 MR/DD Services \$ 1,260,816 \$ 1,260,816 93765

GRF 415-405 Vocational \$ 536,912 \$ 536,912 93766

Rehabilitation/Job and
 Family Services

GRF 415-406 Assistive Technology \$ 47,531 \$ 47,531 93767

GRF 415-431 Office for People with \$ 226,012 \$ 226,012 93768

Brain Injury

GRF 415-506 Services for People \$ 12,185,215 \$ 12,185,215 93769

with Disabilities

GRF 415-508 Services for the Deaf \$ 50,000 \$ 50,000 93770

GRF 415-509 Services for the \$ 359,377 \$ 359,377 93771

Elderly

GRF 415-520 Independent Living \$ 50,000 \$ 50,000 93772

Services

TOTAL GRF General Revenue Fund \$ 24,296,832 \$ 24,296,832 93773

General Services Fund Group 93774

4W5	415-606	Program Management Expenses	\$	18,557,040	\$	18,557,040	93775
467	415-609	Business Enterprise Operating Expenses	\$	1,632,082	\$	1,632,082	93776
TOTAL GSF General Services							93777
Fund Group			\$	20,189,122	\$	20,189,122	93778
Federal Special Revenue Fund Group							93779
3L1	415-601	Social Security Personal Care Assistance	\$	3,743,740	\$	3,743,740	93780
3L1	415-605	Social Security Community Centers for the Deaf	\$	1,100,488	\$	1,100,488	93781
3L1	415-607	Social Security Administration Cost	\$	175,860	\$	175,860	93782
3L1	415-608	Social Security Special Programs/Assistance	\$	2,246,991	\$	131,716	93783
3L1	415-610	Social Security Vocational Rehabilitation	\$	1,336,324	\$	1,338,324	93784
3L1	415-614	Social Security Independent Living	\$	154,942	\$	0	93785
3L4	415-612	Federal Independent Living Centers or Services	\$	894,662	\$	686,520	93786
3L4	415-615	Federal - Supported Employment	\$	1,338,191	\$	1,338,191	93787
3L4	415-617	Independent Living/Vocational Rehabilitation Programs	\$	1,508,885	\$	1,608,885	93788
317	415-620	Disability	\$	82,870,347	\$	87,999,369	93789

Determination					
379	415-616	Federal - Vocational	\$ 123,565,158	\$ 119,998,470	93790
Rehabilitation					
TOTAL FED Federal Special					93791
Revenue Fund Group			\$ 218,935,588	\$ 218,121,563	93792
State Special Revenue Fund Group					93793
4L1	415-619	Services for	\$ 4,500,000	\$ 4,500,000	93794
Rehabilitation					
468	415-618	Third Party Funding	\$ 1,055,407	\$ 1,105,407	93795
TOTAL SSR State Special					93796
Revenue Fund Group			\$ 5,555,407	\$ 5,605,407	93797
TOTAL ALL BUDGET FUND GROUPS			\$ 268,976,949	\$ 268,212,924	93798
INDEPENDENT LIVING COUNCIL					93799
The foregoing appropriation item 415-402, Independent Living					93800
Council, shall be used to fund the operations of the State					93801
Independent Living Council.					93802
MENTAL HEALTH SERVICES					93803
The foregoing appropriation item 415-403, Mental Health					93804
Services, shall be used for the provision of vocational					93805
rehabilitation services to mutually eligible consumers of the					93806
Rehabilitation Services Commission and the Department of Mental					93807
Health.					93808
The Rehabilitation Services Commission shall provide the					93809
Department of Mental Health a quarterly report stating the numbers					93810
served, numbers placed in employment, average hourly wage, and					93811
average hours worked.					93812
MR/DD SERVICES					93813
The foregoing appropriation item 415-404, MR/DD Services,					93814
shall be used as state matching funds to provide vocational					93815
rehabilitation services to mutually eligible clients between the					93816

Rehabilitation Services Commission and the Department of Mental
Retardation and Developmental Disabilities. The Rehabilitation
Services Commission shall report to the Department of Mental
Retardation and Developmental Disabilities, as outlined in an
interagency agreement, on the number and status of mutually
eligible clients and the status of the funds and expenditures for
these clients.

VOCATIONAL REHABILITATION/JOB AND FAMILY SERVICES 93824

The foregoing appropriation item 415-405, Vocational
Rehabilitation/Job and Family Services, shall be used as state
matching funds to provide vocational rehabilitation services to
mutually eligible clients between the Rehabilitation Services
Commission and the Department of Job and Family Services. The
Rehabilitation Services Commission shall report to the Department
of Job and Family Services, as outlined in an interagency
agreement, on the number and status of mutually eligible clients
and the status of the funds and expenditures for these clients.

ASSISTIVE TECHNOLOGY 93834

The foregoing appropriation item 415-406, Assistive
Technology, shall be provided to Assistive Technology of Ohio and
shall be used only to provide grants under that program. No amount
of the appropriation may be used for administrative costs.

OFFICE FOR PEOPLE WITH BRAIN INJURY 93839

Of the foregoing appropriation item 415-431, Office for
People with Brain Injury, up to \$50,000 in each fiscal year shall
be used for the state match for a federal grant awarded through
the Traumatic Brain Injury Act, Pub. L. No. 104-166, and up to
\$50,000 in each fiscal year shall be provided to the Brain Injury
Trust Fund. The remaining appropriation shall be used to plan and
coordinate head-injury-related services provided by state agencies
and other government or private entities, to assess the needs for

such services, and to set priorities in this area.	93848
SERVICES FOR THE DEAF	93849
The foregoing appropriation item 415-508, Services for the	93850
Deaf, shall be used to supplement Social Security reimbursement	93851
funds used to provide grants to community centers for the deaf.	93852
These funds shall not be used in lieu of Social Security	93853
reimbursement funds.	93854
SERVICES FOR THE ELDERLY	93855
The foregoing appropriation item 415-509, Services for the	93856
Elderly, shall be used as matching funds for vocational	93857
rehabilitation services for eligible elderly citizens with a	93858
disability.	93859
INDEPENDENT LIVING SERVICES	93860
The foregoing appropriation items 415-520, Independent Living	93861
Services, and 415-612, Federal - Independent Living Centers or	93862
Services, shall be used to support state independent living	93863
centers or independent living services under Title VII of the	93864
Independent Living Services and Centers for Independent Living of	93865
the Rehabilitation Act Amendments of 1992, 106 Stat. 4344, 29	93866
U.S.C. 796d.	93867
PROGRAM MANAGEMENT EXPENSES	93868
The foregoing appropriation item 415-606, Program Management	93869
Expenses, shall be used to support the administrative functions of	93870
the commission related to the provision of vocational	93871
rehabilitation, disability determination services, and ancillary	93872
programs.	93873
INDEPENDENT LIVING/VOCATIONAL REHABILITATION PROGRAMS	93874
The foregoing appropriation item 415-617, Independent	93875
Living/Vocational Rehabilitation Programs, shall be used to	93876
support vocational rehabilitation programs, including, but not	93877

limited to, high tech high schools, training, and brain injury grants.	93878 93879
SOCIAL SECURITY REIMBURSEMENT FUNDS	93880
Reimbursement funds received from the Social Security Administration, United States Department of Health and Human Services, for the costs of providing services and training to return disability recipients to gainful employment shall be used in the Social Security Reimbursement Fund (Fund 3L1), as follows:	93881 93882 93883 93884 93885
(A) Appropriation item 415-601, Social Security Personal Care Assistance, to provide personal care services in accordance with section 3304.41 of the Revised Code;	93886 93887 93888
(B) Appropriation item 415-605, Social Security Community Centers for the Deaf, to provide grants to community centers for the deaf in Ohio for services to individuals with hearing impairments;	93889 93890 93891 93892
(C) Appropriation item 415-607, Social Security Administration Cost, to provide administrative services needed to administer the Social Security reimbursement program;	93893 93894 93895
(D) Appropriation item 415-608, Social Security Special Programs/Assistance, to provide vocational rehabilitation services to individuals with severe disabilities who are Social Security beneficiaries, to enable them to achieve competitive employment. This appropriation item also includes funds to assist the Personal Care Assistance, Community Centers for the Deaf, and Independent Living Programs to pay their share of indirect costs as mandated by federal OMB Circular A-87.	93896 93897 93898 93899 93900 93901 93902 93903
(E) Appropriation item 415-610, Social Security Vocational Rehabilitation, to provide vocational rehabilitation services to older blind individuals with severe disabilities to enable them to achieve a noncompetitive employment goal.	93904 93905 93906 93907

PILOT PROGRAM FOR VOCATIONAL REHABILITATION 93908

During fiscal years 2006 and 2007, the Rehabilitation 93909
 Services Commission may conduct a pilot program to provide 93910
 vocational rehabilitation and related services to entities, 93911
 employers, or individuals that are not eligible for state- or 93912
 federally-supported services through the commission. The 93913
 commission shall propose fees to be collected from the entities, 93914
 employers, or individuals served by the pilot program to support 93915
 the costs for vocational rehabilitation and related services 93916
 provided under the pilot program. Fee revenues collected under the 93917
 program shall be credited to Fund 468 (Third Party Funding). 93918
 During implementation of the pilot program, the Rehabilitation 93919
 Services Commission shall investigate and determine the 93920
 possibility of utilizing this source of revenue to match federal 93921
 funds. The Rehabilitation Services Commission shall evaluate the 93922
 progress of the pilot program and issue a report of its findings 93923
 to the Governor not later than December 15, 2007. The report shall 93924
 include a recommendation to either continue or discontinue the 93925
 pilot program in the next biennium. 93926

Section 209.75. RCB RESPIRATORY CARE BOARD 93927

General Services Fund Group				93928
4K9 872-609 Operating Expenses	\$	441,987	\$ 0	93929
TOTAL GSF General Services				93930
Fund Group	\$	441,987	\$ 0	93931
TOTAL ALL BUDGET FUND GROUPS	\$	441,987	\$ 0	93932

Section 209.78. REVENUE DISTRIBUTION FUNDS 93934

Volunteer Firefighters' Dependents Fund				93935
085 800-900 Volunteer	\$	280,000	\$ 280,000	93936
Firefighters'				
Dependents Fund				

TOTAL 085 Volunteer Firefighters'				93937
Dependents Fund	\$	280,000	\$ 280,000	93938
Agency Fund Group				93939
062 110-900 Resort Area Excise Tax	\$	1,000,000	\$ 1,075,000	93940
063 110-900 Permissive Tax	\$	1,627,628,631	\$ 1,706,969,960	93941
Distribution				
067 110-900 School District Income	\$	185,000,000	\$ 195,000,000	93942
Tax				
4P8 001-698 Cash Management	\$	2,500,000	\$ 3,000,000	93943
Improvement Fund				
608 001-699 Investment Earnings	\$	85,000,000	\$ 85,000,000	93944
TOTAL AGY Agency Fund Group	\$	1,901,128,631	\$ 1,991,044,960	93945
Holding Account Redistribution				93946
R45 110-617 International Fuel Tax	\$	6,292,029	\$ 0	93947
Distribution				
TOTAL 090 Holding Account	\$	6,292,029	\$ 0	93948
Redistribution Fund				
Revenue Distribution Fund Group				93949
049 038-900 Indigent Drivers	\$	1,865,000	\$ 1,865,000	93950
Alcohol Treatment				
050 762-900 International	\$	55,000,000	\$ 55,000,000	93951
Registration Plan				
Distribution				
051 762-901 Auto Registration	\$	475,000,000	\$ 475,000,000	93952
Distribution				
054 110-900 Local Government	\$	90,000,000	\$ 90,000,000	93953
Property Tax				
Replacement - Utility				
060 110-900 Gasoline Excise Tax	\$	325,000,000	\$ 349,000,000	93954
Fund				
064 110-900 Local Government	\$	87,100,747	\$ 82,623,833	93955
Revenue Assistance				
065 110-900 Library/Local	\$	444,372,980	\$ 435,584,650	93956

	Government Support				
	Fund				
066	800-900 Undivided Liquor	\$ 14,300,000	\$ 14,300,000		93957
	Permits				
068	110-900 State and Local	\$ 612,195,011	\$ 582,437,898		93958
	Government Highway				
	Distribution				
069	110-900 Local Government Fund	\$ 612,195,011	\$ 582,437,898		93959
081	110-900 Local Government	\$ 20,490,000	\$ 154,290,000		93960
	Property Tax				
	Replacement-Business				
082	110-900 Horse Racing Tax	\$ 130,000	\$ 130,000		93961
083	700-900 Ohio Fairs Fund	\$ 2,450,000	\$ 2,450,000		93962
	TOTAL RDF Revenue Distribution				93963
	Fund Group	\$ 2,358,979,738	\$ 2,478,223,381		93964
	TOTAL ALL BUDGET FUND GROUPS	\$ 4,266,680,398	\$ 4,469,548,341		93965
	ADDITIONAL APPROPRIATIONS				93966
	Appropriation items in this section shall be used for the				93967
	purpose of administering and distributing the designated revenue				93968
	distribution funds according to the Revised Code. If it is				93969
	determined that additional appropriations are necessary for this				93970
	purpose, such amounts are appropriated.				93971
	Section 209.78.03. GENERAL REVENUE FUND TRANSFERS TO LOCAL				93972
	GOVERNMENT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 081)				93973
	Notwithstanding any provision of law to the contrary, the				93974
	Director of Budget and Management shall transfer \$4,290,000 in				93975
	fiscal year 2006 and \$30,090,000 in fiscal year 2007 from the				93976
	General Revenue Fund to appropriation item 110-900, Local				93977
	Government Property Tax Replacement - Business (Fund 081) in the				93978
	Revenue Distribution Fund. The funds shall be used to reimburse				93979
	local taxing units under section 5751.22 of the Revised Code.				93980

Section 209.81. SAN BOARD OF SANITARIAN REGISTRATION				93981
General Services Fund Group				93982
4K9 893-609 Operating Expenses	\$	134,279	\$	0 93983
TOTAL GSF General Services				93984
Fund Group	\$	134,279	\$	0 93985
TOTAL ALL BUDGET FUND GROUPS				93986
Section 209.84. OSB OHIO STATE SCHOOL FOR THE BLIND				93988
General Revenue Fund				93989
GRF 226-100 Personal Services	\$	6,469,841	\$	6,594,261 93990
GRF 226-200 Maintenance	\$	704,162	\$	704,162 93991
GRF 226-300 Equipment	\$	113,289	\$	113,289 93992
TOTAL GRF General Revenue Fund				93993
General Services Fund Group				93994
4H8 226-602 Education Reform	\$	21,620	\$	21,620 93995
Grants				
TOTAL GSF General Services				93996
Fund Group	\$	21,620	\$	21,620 93997
Federal Special Revenue Fund Group				93998
3P5 226-643 Medicaid Professional	\$	180,000	\$	210,000 93999
Services Reimbursement				
310 226-626 Coordinating Unit	\$	1,639,000	\$	1,639,000 94000
TOTAL FED Federal Special				94001
Revenue Fund Group	\$	1,819,000	\$	1,849,000 94002
State Special Revenue Fund Group				94003
4M5 226-601 Student Activity and	\$	217,397	\$	217,397 94004
Work Study				
TOTAL SSR State Special Revenue				94005
Fund Group	\$	217,397	\$	217,397 94006
TOTAL ALL BUDGET FUND GROUPS				94007

Section 209.87. OSD OHIO STATE SCHOOL FOR THE DEAF				94009
General Revenue Fund				94010
GRF 221-100 Personal Services	\$	8,401,704	\$ 8,401,704	94011
GRF 221-200 Maintenance	\$	1,032,751	\$ 1,032,751	94012
GRF 221-300 Equipment	\$	222,500	\$ 222,500	94013
TOTAL GRF General Revenue Fund	\$	9,656,955	\$ 9,656,955	94014
General Services Fund Group				94015
4M1 221-602 Education Reform	\$	27,575	\$ 27,575	94016
Grants				
TOTAL GSF General Services				94017
Fund Group	\$	27,575	\$ 27,575	94018
Federal Special Revenue Fund Group				94019
3AD 221-604 VREAL Ohio	\$	1,000,000	\$ 1,000,000	94020
3R0 221-684 Medicaid Professional	\$	35,000	\$ 35,000	94021
Services Reimbursement				94022
3Y1 221-686 Early Childhood Grant	\$	250,000	\$ 250,000	94023
311 221-625 Coordinating Unit	\$	1,062,426	\$ 1,062,426	94024
TOTAL FED Federal Special				94025
Revenue Fund Group	\$	2,347,426	\$ 2,347,426	94026
State Special Revenue Fund Group				94027
4M0 221-601 Educational Program	\$	32,688	\$ 32,688	94028
Expenses				94029
5H6 221-609 Even Start Fees &	\$	59,800	\$ 59,800	94030
Gifts				
TOTAL SSR State Special Revenue				94031
Fund Group	\$	92,488	\$ 92,488	94032
TOTAL ALL BUDGET FUND GROUPS	\$	12,124,444	\$ 12,124,444	94033
EQUIPMENT				94034
Of the foregoing appropriation item 221-300, Equipment, up to				94035
\$15,000 in fiscal year 2006 may be used by the Ohio School for the				94036

Deaf to purchase software for the documentation and tracking of 94037
students for increased accountability and data analysis for 94038
quality instruction. 94039

Section 209.90. SFC SCHOOL FACILITIES COMMISSION 94040

General Revenue Fund 94041

GRF 230-428 Lease Rental Payments \$ 31,691,700 \$ 31,603,200 94042

GRF 230-908 Common Schools General \$ 188,724,700 \$ 224,911,500 94043

Obligation Debt

Service

TOTAL GRF General Revenue Fund \$ 220,416,400 \$ 256,514,700 94044

State Special Revenue Fund Group 94045

5E3 230-644 Operating Expenses \$ 7,319,617 \$ 7,691,485 94046

TOTAL SSR State Special Revenue 94047

Fund Group \$ 7,319,617 \$ 7,691,485 94048

Lottery Profits Education Fund Group 94049

020 230-620 Career-Tech School \$ 2,000,000 \$ 2,000,000 94050

Building Assistance

TOTAL LPE Lottery Profits 94051

Education Fund Group \$ 2,000,000 \$ 2,000,000 94052

TOTAL ALL BUDGET FUND GROUPS \$ 229,736,017 \$ 266,206,185 94053

Section 209.90.03. LEASE RENTAL PAYMENTS 94055

The foregoing appropriation item 230-428, Lease Rental 94056

Payments, shall be used to meet all payments at the times they are 94057

required to be made during the period from July 1, 2005, to June 94058

30, 2007, by the School Facilities Commission under leases and 94059

agreements made under section 3318.26 of the Revised Code, but 94060

limited to the aggregate amount of \$63,294,900. Nothing in this 94061

act shall be deemed to contravene the obligation of the state to 94062

pay, without necessity for further appropriation, from the sources 94063

pledged thereto, the bond service charges on obligations issued 94064

under Chapter 3318. of the Revised Code.	94065
COMMON SCHOOLS GENERAL OBLIGATION DEBT SERVICE	94066
The foregoing appropriation item 230-908, Common Schools	94067
General Obligation Debt Service, shall be used to pay all debt	94068
service and related financing costs at the times they are required	94069
to be made under sections 151.01 and 151.03 of the Revised Code	94070
during the period from July 1, 2005, to June 30, 2007. The Office	94071
of the Sinking Fund or the Director of Budget and Management shall	94072
effectuate the required payments by an intrastate transfer	94073
voucher.	94074
OPERATING EXPENSES	94075
The foregoing appropriation item 230-644, Operating Expenses,	94076
shall be used by the Ohio School Facilities Commission to carry	94077
out its responsibilities under this section and Chapter 3318. of	94078
the Revised Code.	94079
In both fiscal years 2006 and 2007, the Executive Director of	94080
the Ohio School Facilities Commission shall certify on a quarterly	94081
basis to the Director of Budget and Management the amount of cash	94082
from interest earnings to be transferred from the School Building	94083
Assistance Fund (Fund 032), the Public School Building Fund (Fund	94084
021), and the Educational Facilities Trust Fund (Fund N87) to the	94085
Ohio School Facilities Commission Fund (Fund 5E3). The amount	94086
transferred may not exceed investment earnings credited to the	94087
School Building Assistance Fund (Fund 032), less any amount	94088
required to be paid for federal arbitrage rebate purposes.	94089
SCHOOL FACILITIES ENCUMBRANCES AND REAPPROPRIATION	94090
At the request of the Executive Director of the Ohio School	94091
Facilities Commission, the Director of Budget and Management may	94092
cancel encumbrances for school district projects from a previous	94093
biennium if the district has not raised its local share of project	94094

costs within one year of receiving Controlling Board approval 94095
under section 3318.05 of the Revised Code. The Executive Director 94096
of the Ohio School Facilities Commission shall certify the amounts 94097
of the canceled encumbrances to the Director of Budget and 94098
Management on a quarterly basis. The amounts of the canceled 94099
encumbrances are hereby appropriated. 94100

Section 209.90.06. EXTREME ENVIRONMENTAL CONTAMINATION OF 94101
SCHOOL FACILITIES 94102

Notwithstanding any other provision of law to the contrary, 94103
the School Facilities Commission may provide assistance under the 94104
Exceptional Needs School Facilities Program established in section 94105
3318.37 of the Revised Code to any school district, and not 94106
exclusively to a school district in the lowest fifty per cent of 94107
adjusted valuation per pupil on the current ranking of school 94108
districts established under section 3317.02 of the Revised Code, 94109
for the purpose of the relocation or replacement of school 94110
facilities required as a result of extreme environmental 94111
contamination. 94112

The School Facilities Commission shall contract with an 94113
independent environmental consultant to conduct a study and to 94114
report to the commission as to the seriousness of the 94115
environmental contamination, whether the contamination violates 94116
applicable state and federal standards, and whether the facilities 94117
are no longer suitable for use as school facilities. The 94118
commission then shall make a determination regarding funding for 94119
the relocation or replacement of the school facilities. If the 94120
federal government or other public or private entity provides 94121
funds for restitution of costs incurred by the state or school 94122
district in the relocation or replacement of the school 94123
facilities, the school district shall use such funds in excess of 94124
the school district's share to refund the state for the state's 94125

contribution to the environmental contamination portion of the 94126
project. The school district may apply an amount of such 94127
restitution funds up to an amount equal to the school district's 94128
portion of the project, as defined by the commission, toward 94129
paying its portion of that project to reduce the amount of bonds 94130
the school district otherwise must issue to receive state 94131
assistance under sections 3318.01 to 3318.20 of the Revised Code. 94132

Section 209.90.09. CANTON CITY SCHOOL DISTRICT PROJECT 94133

(A) The Ohio School Facilities Commission may commit up to 94134
thirty-five million dollars to the Canton City School District for 94135
construction of a facility described in this section, in lieu of a 94136
high school that would otherwise be authorized under Chapter 3318. 94137
of the Revised Code. The Commission shall not commit funds under 94138
this section unless all of the following conditions are met: 94139

(1) The District has entered into a cooperative agreement 94140
with a state-assisted technical college. 94141

(2) The District has received an irrevocable commitment of 94142
additional funding from nonpublic sources. 94143

(3) The facility is intended to serve both secondary and 94144
postsecondary instructional purposes. 94145

(B) The Commission shall enter into an agreement with the 94146
District for the construction of the facility authorized under 94147
this section that is separate from and in addition to the 94148
agreement required for the District's participation in the 94149
Classroom Facilities Assistance Program under section 3318.08 of 94150
the Revised Code. Notwithstanding that section and sections 94151
3318.03, 3318.04, and 3318.083 of the Revised Code, the additional 94152
agreement shall provide, but not be limited to, the following: 94153

(1) The Commission shall not have any oversight 94154
responsibilities over the construction of the facility. 94155

(2) The facility need not comply with the specifications for plans and materials for high schools adopted by the Commission. 94156
 94157

(3) The Commission may decrease the basic project cost that would otherwise be calculated for a high school under Chapter 3318. of the Revised Code. 94158
 94159
 94160

(4) The state shall not share in any increases in the basic project cost for the facility above the amount authorized under this section. 94161
 94162
 94163

All other provisions of Chapter 3318. of the Revised Code apply to the approval and construction of a facility authorized under this section. 94164
 94165
 94166

The state funds committed to the facility authorized by this section shall be part of the total amount the state commits to the Canton City School District under Chapter 3318. of the Revised Code. All additional state funds committed to the Canton City School District for classroom facilities assistance shall be subject to all provisions of Chapter 3318. of the Revised Code. 94167
 94168
 94169
 94170
 94171
 94172

Section 209.93. SOS SECRETARY OF STATE 94173

General Revenue Fund 94174

GRF 050-321 Operating Expenses	\$	2,585,000	\$	2,585,000	94175
GRF 050-403 Election Statistics	\$	103,936	\$	103,936	94176
GRF 050-407 Pollworkers Training	\$	277,997	\$	277,997	94177
GRF 050-409 Litigation	\$	4,652	\$	4,652	94178

Expenditures

TOTAL GRF General Revenue Fund \$ 2,971,585 \$ 2,971,585 94179

General Services Fund Group 94180

4S8 050-610 Board of Voting	\$	7,200	\$	7,200	94181
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Machine Examiners

412 050-609 Notary Commission	\$	685,250	\$	685,249	94182
413 050-601 Information Systems	\$	169,955	\$	169,955	94183

414 050-602 Citizen Education Fund	\$	75,700	\$	55,712	94184
TOTAL General Services Fund Group	\$	938,105	\$	918,116	94185
Federal Special Revenue Fund Group					94186
3AS 050-616 2005 HAVA Voting Machines	\$	37,436,203	\$	0	94187
3X4 050-612 Ohio Center/Law Related Educational Grant	\$	41,000	\$	41,000	94188
TOTAL FED Federal Special Revenue Fund Group	\$	37,477,203	\$	41,000	94189 94190
State Special Revenue Fund Group					94191
5N9 050-607 Technology Improvements	\$	129,565	\$	129,565	94192
599 050-603 Business Services Operating Expenses	\$	13,741,745	\$	13,761,734	94193
TOTAL SSR State Special Revenue Fund Group	\$	13,871,310	\$	13,891,299	94194 94195
Holding Account Redistribution Fund Group					94196
R01 050-605 Uniform Commercial Code Refunds	\$	65,000	\$	65,000	94197
R02 050-606 Corporate/Business Filing Refunds	\$	100,000	\$	100,000	94198
TOTAL 090 Holding Account Redistribution Fund Group	\$	165,000	\$	165,000	94199 94200
TOTAL ALL BUDGET FUND GROUPS	\$	55,423,203	\$	17,987,000	94201
BOARD OF VOTING MACHINE EXAMINERS					94202
The foregoing appropriation item 050-610, Board of Voting Machine Examiners, shall be used to pay for the services and expenses of the members of the Board of Voting Machine Examiners, and for other expenses that are authorized to be paid from the Board of Voting Machine Examiners Fund, which is created in					94203 94204 94205 94206 94207

section 3506.05 of the Revised Code. Moneys not used shall be 94208
returned to the person or entity submitting the equipment for 94209
examination. If it is determined that additional appropriations 94210
are necessary, such amounts are appropriated. 94211

2005 HAVA VOTING MACHINES 94212

On July 1, 2005, or as soon as possible thereafter, the 94213
Secretary of State shall request that the Director of Budget and 94214
Management certify the unexpended, unencumbered amount of 94215
appropriation item 050-615, 2004 HAVA Voting Machines, within the 94216
2004 HAVA Voting Machines Fund (Fund 3AR). The Director of Budget 94217
and Management shall transfer the certified amount to 94218
appropriation item 050-616, 2005 HAVA Voting Machines, within the 94219
2005 HAVA Voting Machines Fund (Fund 3AS) for use in fiscal year 94220
2006. The transferred amount is hereby appropriated. 94221

The unexpended, unencumbered amount of appropriation item 94222
050-616, 2005 HAVA Voting Machines, at the end of fiscal year 2006 94223
is transferred to fiscal year 2007 for use under the same 94224
appropriation item. 94225

HOLDING ACCOUNT REDISTRIBUTION GROUP 94226

The foregoing appropriation items 050-605 and 050-606, 94227
Holding Account Redistribution Fund Group, shall be used to hold 94228
revenues until they are directed to the appropriate accounts or 94229
until they are refunded. If it is determined that additional 94230
appropriations are necessary, such amounts are appropriated. 94231

Section 209.96. SEN THE OHIO SENATE 94232

General Revenue Fund 94233

GRF 020-321 Operating Expenses \$ 11,546,357 \$ 11,661,821 94234

TOTAL GRF General Revenue Fund \$ 11,546,357 \$ 11,661,821 94235

General Services Fund Group 94236

102 020-602 Senate Reimbursement \$ 444,025 \$ 444,025 94237

409 020-601 Miscellaneous Sales	\$	34,155	\$	34,155	94238
TOTAL GSF General Services					94239
Fund Group	\$	478,180	\$	478,180	94240
TOTAL ALL BUDGET FUND GROUPS	\$	12,024,537	\$	12,140,001	94241

OPERATING EXPENSES 94242

On July 1, 2005, or as soon as possible thereafter, the Clerk 94243
of the Senate shall certify to the Director of Budget and 94244
Management the total fiscal year 2005 unencumbered appropriations 94245
in appropriation item 020-321, Operating Expenses. The Clerk may 94246
direct the Director of Budget and Management to transfer an amount 94247
not to exceed the total fiscal year 2005 unencumbered 94248
appropriations to fiscal year 2006 for use within appropriation 94249
item 020-321, Operating Expenses. Additional appropriation 94250
authority equal to the amount certified by the Clerk is hereby 94251
appropriated to appropriation item 020-321, Operating Expenses, in 94252
fiscal year 2006. 94253

On July 1, 2006, or as soon as possible thereafter, the Clerk 94254
of the Senate shall certify to the Director of Budget and 94255
Management the total fiscal year 2006 unencumbered appropriations 94256
in appropriation item 020-321, Operating Expenses. The Clerk may 94257
direct the Director of Budget and Management to transfer an amount 94258
not to exceed the total fiscal year 2006 unencumbered 94259
appropriations to fiscal year 2007 for use within appropriation 94260
item 020-321, Operating Expenses. Additional appropriation 94261
authority equal to the amount certified by the Clerk is hereby 94262
appropriated to appropriation item 020-321, Operating Expenses, in 94263
fiscal year 2007. 94264

Section 209.99. CSF COMMISSIONERS OF THE SINKING FUND 94265

Debt Service Fund Group 94266
072 155-902 Highway Capital \$ 180,620,600 \$ 196,464,900 94267
Improvements Bond

		Retirement Fund					
073	155-903	Natural Resources Bond	\$	26,166,000	\$	24,659,100	94268
		Retirement Fund					
074	155-904	Conservation Projects	\$	14,687,300	\$	17,668,800	94269
		Bond Service Fund					
076	155-906	Coal Research and	\$	7,071,100	\$	8,980,800	94270
		Development Bond					
		Retirement Fund					
077	155-907	State Capital	\$	163,131,400	\$	174,545,100	94271
		Improvements Bond					
		Retirement Fund					
078	155-908	Common Schools Bond	\$	200,724,700	\$	236,911,500	94272
		Retirement Fund					
079	155-909	Higher Education Bond	\$	140,600,300	\$	158,114,100	94273
		Retirement Fund					
TOTAL DSF Debt Service Fund Group			\$	733,001,400	\$	817,344,300	94274
TOTAL ALL BUDGET FUND GROUPS			\$	733,001,400	\$	817,344,300	94275

ADDITIONAL APPROPRIATIONS 94276

Appropriation items in this section are for the purpose of 94277
 paying debt service and financing costs on bonds or notes of the 94278
 state issued under the Ohio Constitution and acts of the General 94279
 Assembly. If it is determined that additional appropriations are 94280
 necessary for this purpose, such amounts are appropriated. 94281

COMMISSIONER OF THE SINKING FUND HIGHWAY BOND TRANSFER 94282
 AUTHORIZATION 94283

Notwithstanding any other provision of law to the contrary, 94284
 the Commissioners of the Sinking Fund shall certify to the 94285
 Director of Budget and Management, and the director shall then 94286
 transfer, the cash balance remaining after provision for the 94287
 payment of all outstanding bonds, notes, coupons, and charges from 94288
 the Highway Obligation Bond Retirement Fund (Fund 071) to the 94289
 Highway Capital Improvements Bond Service Fund (Fund 072), created 94290

by section 151.06 of the Revised Code, as expeditiously as possible after the effective date of this section. 94291
94292

Section 212.03. SPE BOARD OF SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY 94293
94294

General Services Fund Group 94295
4K9 886-609 Operating Expenses \$ 408,864 \$ 0 94296
TOTAL GSF General Services Fund Group 94297
Fund Group \$ 408,864 \$ 0 94298
TOTAL ALL BUDGET FUND GROUPS \$ 408,864 \$ 0 94299

Section 212.06. BTA BOARD OF TAX APPEALS 94301

General Revenue Fund 94302
GRF 116-321 Operating Expenses \$ 2,155,055 \$ 2,211,035 94303
TOTAL GRF General Revenue Fund \$ 2,155,055 \$ 2,211,035 94304
TOTAL ALL BUDGET FUND GROUPS \$ 2,155,055 \$ 2,211,035 94305

Section 212.09. TAX DEPARTMENT OF TAXATION 94307

General Revenue Fund 94308
GRF 110-321 Operating Expenses \$ 91,439,754 \$ 91,439,754 94309
GRF 110-412 Child Support Administration \$ 71,988 \$ 71,988 94310
GRF 110-901 Property Tax Allocation - Taxation \$ 430,102,680 \$ 409,946,241 94311
GRF 110-906 Tangible Tax Exemption - Taxation \$ 18,355,923 \$ 13,766,942 94312
TOTAL GRF General Revenue Fund \$ 539,970,345 \$ 515,224,925 94313
General Services Fund Group 94314
228 110-628 Tax Reform System Implementation \$ 7,000,000 \$ 7,000,000 94315
433 110-602 Tape File Account \$ 96,165 \$ 96,165 94316
5BW 110-630 Tax Amnesty Promotion \$ 2,000,000 \$ 0 94317

		and Administration				
5W4	110-625	Centralized Tax Filing	\$	2,500,000	\$	2,000,000 94318
		and Payment				
5W7	110-627	Exempt Facility	\$	36,000	\$	36,000 94319
		Administration				
TOTAL GSF		General Services				94320
Fund Group			\$	11,632,165	\$	9,132,165 94321
		Federal Special Revenue Fund Group				94322
3J6	110-601	Motor Fuel Compliance	\$	25,000	\$	25,000 94323
TOTAL FED		Federal Special Revenue				94324
Fund Group			\$	25,000	\$	25,000 94325
		State Special Revenue Fund Group				94326
4C6	110-616	International	\$	706,855	\$	706,855 94327
		Registration Plan				
4R6	110-610	Tire Tax	\$	65,000	\$	65,000 94328
		Administration				
435	110-607	Local Tax	\$	15,880,987	\$	16,394,879 94329
		Administration				
436	110-608	Motor Vehicle Audit	\$	1,350,000	\$	1,350,000 94330
437	110-606	Litter Tax and Natural	\$	625,232	\$	625,232 94331
		Resource Tax				
		Administration				
438	110-609	School District Income	\$	2,599,999	\$	2,599,999 94332
		Tax				
5BQ	110-629	Commercial Activity	\$	6,000,000	\$	500,000 94333
		Tax Administration				
5N5	110-605	Municipal Income Tax	\$	265,000	\$	265,000 94334
		Administration				
5N6	110-618	Kilowatt Hour Tax	\$	85,000	\$	85,000 94335
		Administration				
5V7	110-622	Motor Fuel Tax	\$	4,268,345	\$	4,397,263 94336
		Administration				

5V8	110-623	Property Tax	\$	12,758,643	\$	12,967,102	94337
		Administration					
639	110-614	Cigarette Tax	\$	168,925	\$	168,925	94338
		Enforcement					
642	110-613	Ohio Political Party	\$	600,000	\$	600,000	94339
		Distributions					
688	110-615	Local Excise Tax	\$	300,000	\$	300,000	94340
		Administration					
TOTAL SSR		State Special Revenue					94341
Fund Group			\$	45,673,986	\$	41,025,255	94342
Agency Fund Group							94343
095	110-901	Municipal Income Tax	\$	21,000,000	\$	21,000,000	94344
425	110-635	Tax Refunds	\$	1,483,900,000	\$	1,582,700,000	94345
TOTAL AGY		Agency Fund Group	\$	1,504,900,000	\$	1,603,700,000	94346
Holding Account		Redistribution Fund Group					94347
R10	110-611	Tax Distributions	\$	50,000	\$	50,000	94348
R11	110-612	Miscellaneous Income	\$	50,000	\$	50,000	94349
		Tax Receipts					
TOTAL 090		Holding Account					94350
Redistribution Fund Group			\$	100,000	\$	100,000	94351
TOTAL ALL BUDGET FUND GROUPS			\$	2,102,301,496	\$	2,169,207,345	94352
		HOMESTEAD EXEMPTION, PROPERTY TAX ROLLBACK, AND TANGIBLE TAX					94353
		EXEMPTION					94354
		The foregoing appropriation item 110-901, Property Tax					94355
		Allocation - Taxation, is hereby appropriated to pay for the					94356
		state's costs incurred because of the Homestead Exemption, the					94357
		Manufactured Home Property Tax Rollback, and the Property Tax					94358
		Rollback. The Tax Commissioner shall distribute these funds					94359
		directly to the appropriate local taxing districts, except for					94360
		school districts, notwithstanding the provisions in sections					94361
		321.24 and 323.156 of the Revised Code, which provide for payment					94362
		of the Homestead Exemption, the Manufactured Home Property Tax					94363

Rollback, and Property Tax Rollback by the Tax Commissioner to the 94364
appropriate county treasurer and the subsequent redistribution of 94365
these funds to the appropriate local taxing districts by the 94366
county auditor. 94367

The foregoing appropriation item 110-906, Tangible Tax 94368
Exemption - Taxation, is hereby appropriated to pay for the 94369
state's costs incurred because of the tangible personal property 94370
tax exemption required by division (C)(3) of section 5709.01 of 94371
the Revised Code. The Tax Commissioner shall distribute to each 94372
county treasurer the total amount appearing in the notification 94373
from the county treasurer under division (G) of section 321.24 of 94374
the Revised Code for all local taxing districts located in the 94375
county except for school districts, notwithstanding the provision 94376
in section 321.24 of the Revised Code which provides for payment 94377
of the \$10,000 tangible personal property tax exemption by the Tax 94378
Commissioner to the appropriate county treasurer for all local 94379
taxing districts located in the county including school districts. 94380
The county auditor shall distribute the amount paid by the Tax 94381
Commissioner among the appropriate local taxing districts except 94382
for school districts under division (G) of section 321.24 of the 94383
Revised Code. 94384

Upon receipt of these amounts, each local taxing district 94385
shall distribute the amount among the proper funds as if it had 94386
been paid as real or tangible personal property taxes. Payments 94387
for the costs of administration shall continue to be paid to the 94388
county treasurer and county auditor as provided for in sections 94389
319.54, 321.26, and 323.156 of the Revised Code. 94390

Any sums, in addition to the amounts specifically 94391
appropriated in appropriation items 110-901, Property Tax 94392
Allocation - Taxation, for the Homestead Exemption, the 94393
Manufactured Home Property Tax Rollback, and the Property Tax 94394
Rollback payments, and 110-906, Tangible Tax Exemption - Taxation, 94395

for the \$10,000 tangible personal property tax exemption payments, 94396
which are determined to be necessary for these purposes, are 94397
hereby appropriated. 94398

MUNICIPAL INCOME TAX 94399

The foregoing appropriation item 110-901, Municipal Income 94400
Tax, shall be used to make payments to municipal corporations 94401
under section 5745.05 of the Revised Code. If it is determined 94402
that additional appropriations are necessary to make these 94403
payments, such amounts are hereby appropriated. 94404

TAX REFUNDS 94405

The foregoing appropriation item 110-635, Tax Refunds, shall 94406
be used to pay refunds under section 5703.052 of the Revised Code. 94407
If it is determined that additional appropriations are necessary 94408
for this purpose, such amounts are hereby appropriated. 94409

TAX REFORM SYSTEM IMPLEMENTATION FUND 94410

Notwithstanding section 3734.9010, division (B)(2)(c) of 94411
section 4505.09, division (B) of section 5703.12, section 5703.80, 94412
division (C)(6) of section 5727.81, sections 5733.122 and 94413
5735.053, division (C) of section 5739.21, section 5745.03, 94414
division (C) of section 5747.03, and section 5747.113 of the 94415
Revised Code and any other statutory provision to the contrary, 94416
any residual cash balances determined and certified by the Tax 94417
Commissioner to the Director of Budget and Management shall be 94418
transferred on July 1, 2005, or as soon as possible thereafter, to 94419
the Tax Reform System Implementation Fund (Fund 228), which is 94420
hereby created in the State Treasury. The fund shall be used to 94421
pay expenses incurred by the Department of Taxation in providing 94422
an integrated tax system that will accommodate the needs of tax 94423
reform and allow for improved customer service, processing 94424
efficiency, compliance enforcement, and reporting. 94425

INTERNATIONAL REGISTRATION PLAN AUDIT	94426
The foregoing appropriation item 110-616, International	94427
Registration Plan, shall be used under section 5703.12 of the	94428
Revised Code for audits of persons with vehicles registered under	94429
the International Registration Plan.	94430
TRAVEL EXPENSES FOR THE STREAMLINED SALES TAX PROJECT	94431
Of the foregoing appropriation item 110-607, Local Tax	94432
Administration, the Tax Commissioner may disburse funds, if	94433
available, for the purposes of paying travel expenses incurred by	94434
members of Ohio's delegation to the Streamlined Sales Tax Project,	94435
as appointed under section 5740.02 of the Revised Code. Any travel	94436
expense reimbursement paid for by the Department of Taxation shall	94437
be done in accordance with applicable state laws and guidelines.	94438
LITTER CONTROL TAX ADMINISTRATION FUND	94439
Notwithstanding section 5733.12 of the Revised Code, during	94440
the period from July 1, 2005, to June 30, 2006, the amount of	94441
\$625,232, and during the period from July 1, 2006, to June 30,	94442
2007, the amount of \$625,232, received by the Tax Commissioner	94443
under Chapter 5733. of the Revised Code, shall be credited to the	94444
Litter Control Tax Administration Fund (Fund 437).	94445
TAX AMNESTY PROMOTION AND ADMINISTRATION	94446
The foregoing appropriation item 110-630, Tax Amnesty	94447
Promotion and Administration, shall be used to pay expenses	94448
incurred to promote and administer the tax amnesty program run	94449
from November 1, 2005, through December 15, 2005, by the	94450
Department of Taxation. The Department of Taxation and Attorney	94451
General's Office shall work in close collaboration on promotion	94452
activities in relation to the Tax Amnesty Promotion and	94453
Administration program.	94454
CENTRALIZED TAX FILING AND PAYMENT FUND	94455

The Director of Budget and Management, under a plan submitted 94456
 by the Tax Commissioner, or as otherwise determined by the 94457
 Director of Budget and Management, shall set a schedule to 94458
 transfer cash from the General Revenue Fund to the credit of the 94459
 Centralized Tax Filing and Payment Fund (Fund 5W4). The transfers 94460
 of cash shall not exceed \$4,500,000 in the biennium. 94461

COMMERCIAL ACTIVITY TAX ADMINISTRATION 94462

The foregoing appropriation item 110-629, Commercial Activity 94463
 Tax Administration, shall be used to pay expenses incurred by the 94464
 Department of Taxation to implement and administer the Commercial 94465
 Activity Tax under Chapter 5751. of the Revised Code. 94466

Section 212.12. DOT DEPARTMENT OF TRANSPORTATION 94467

Transportation Modes 94468

General Revenue Fund 94469

GRF 775-451 Public Transportation \$ 16,300,000 \$ 16,300,000 94470
 - State

GRF 776-465 Ohio Rail Development \$ 2,700,000 \$ 2,700,000 94471
 Commission

GRF 776-466 Railroad \$ 789,600 \$ 789,600 94472
 Crossing/Grade
 Separation

GRF 777-471 Airport Improvements - \$ 1,793,985 \$ 1,793,985 94473
 State

GRF 777-473 Rickenbacker Lease \$ 594,500 \$ 320,300 94474
 Payments - State

TOTAL GRF General Revenue Fund \$ 22,178,085 \$ 21,903,885 94475

Federal Special Revenue Fund Group 94476

3B9 776-662 Rail Transportation - \$ 10,000 \$ 10,000 94477
 Federal

TOTAL FSR Federal Special Revenue 94478

Fund Group	\$	10,000	\$	10,000	94479
State Special Revenue Fund Group					94480
4N4 776-663 Panhandle Lease	\$	764,400	\$	764,400	94481
Reserve Payments					
4N4 776-664 Rail Transportation -	\$	2,111,500	\$	2,111,500	94482
Other					
5CF 776-667 Rail Transload	\$	500,000	\$	0	94483
Facilities					
5W9 777-615 County Airport	\$	570,000	\$	570,000	94484
Maintenance Assistance					
TOTAL SSR State Special Revenue					94485
Fund Group	\$	3,945,900	\$	3,445,900	94486
TOTAL ALL BUDGET FUND GROUPS	\$	26,133,985	\$	25,359,785	94487
ELDERLY AND DISABLED FARE ASSISTANCE					94488
Of the foregoing appropriation item 775-451, Public					94489
Transportation - State, up to \$6,000,000 in fiscal year 2006 and					94490
\$7,000,000 in fiscal year 2007 may be used to make grants to					94491
county transit boards, regional transit authorities, regional					94492
transit commissions, counties, municipal corporations, and private					94493
nonprofit organizations that operate or will operate public					94494
transportation systems, for the purpose of reducing the transit					94495
fares of elderly or disabled persons. The Director of					94496
Transportation shall establish criteria for the distribution of					94497
these grants under division (B) of section 5501.07 of the Revised					94498
Code.					94499
AVIATION LEASE PAYMENTS					94500
The foregoing appropriation item 777-473, Rickenbacker Lease					94501
Payments - State, shall be used to meet scheduled payments for the					94502
Rickenbacker Port Authority. The Director of Transportation shall					94503
certify to the Director of Budget and Management any					94504
appropriations in appropriation item 777-473, Rickenbacker Lease					94505

Payments - State, that are not needed to make lease payments for 94506
the Rickenbacker Port Authority. Notwithstanding section 127.14 of 94507
the Revised Code, the amount certified may be transferred by the 94508
Director of Budget and Management to appropriation item 777-471, 94509
Airport Improvements - State. 94510

RAIL TRANSLOAD FACILITIES 94511

The foregoing appropriation item 776-667, Rail Transload 94512
Facilities, shall be used to fund the Rail Transload Initiative, a 94513
statewide pilot program administered by the Ohio Rail Development 94514
Commission, to provide grants to assist communities and railroads 94515
and other businesses to develop facilities that will enhance the 94516
ability of railroads to work with other transport modes to move 94517
bulk commodities more efficiently and safely. 94518

Section 212.15. TOS TREASURER OF STATE 94519

General Revenue Fund 94520

GRF 090-321 Operating Expenses \$ 9,041,937 \$ 9,041,937 94521

GRF 090-401 Office of the Sinking \$ 521,576 \$ 521,576 94522

Fund 94523

GRF 090-402 Continuing Education \$ 435,770 \$ 435,770 94524

GRF 090-524 Police and Fire \$ 25,000 \$ 20,000 94525

Disability Pension 94526

Fund

GRF 090-534 Police & Fire Ad Hoc \$ 180,000 \$ 150,000 94527

Cost

of Living 94528

GRF 090-554 Police and Fire \$ 1,100,000 \$ 1,000,000 94529

Survivor

Benefits 94530

GRF 090-575 Police and Fire Death \$ 20,000,000 \$ 20,000,000 94531

Benefits 94532

TOTAL GRF General Revenue Fund \$ 31,304,283 \$ 31,169,283 94533

General Services Fund Group				94534
4E9 090-603 Securities Lending	\$	2,721,800	\$ 2,814,000	94535
Income				
577 090-605 Investment Pool	\$	550,000	\$ 550,000	94536
Reimbursement				94537
605 090-609 Treasurer of State	\$	700,000	\$ 700,000	94538
Administrative Fund				94539
TOTAL GSF General Services				94540
Fund Group	\$	3,971,800	\$ 4,064,000	94541
State Special Revenue Fund Group				94542
5C5 090-602 County Treasurer	\$	135,000	\$ 135,000	94543
Education				
TOTAL SSR State Special Revenue				94544
Fund Group	\$	135,000	\$ 135,000	94545
Agency Fund Group				94546
425 090-635 Tax Refunds	\$	31,000,000	\$ 31,000,000	94547
TOTAL Agency Fund Group	\$	31,000,000	\$ 31,000,000	94548
TOTAL ALL BUDGET FUND GROUPS	\$	66,411,083	\$ 66,368,283	94549

Section 212.15.03. OFFICE OF THE SINKING FUND 94551

The foregoing appropriation item 090-401, Office of the 94552
Sinking Fund, shall be used for financing and other costs incurred 94553
by or on behalf of the Commissioners of the Sinking Fund, the Ohio 94554
Public Facilities Commission or its secretary, or the Treasurer of 94555
State, with respect to State of Ohio general obligation bonds or 94556
notes, including, but not limited to, printing, advertising, 94557
delivery, rating fees and the procurement of ratings, professional 94558
publications, membership in professional organizations, and 94559
services referred to in division (D) of section 151.01 of the 94560
Revised Code. The General Revenue Fund shall be reimbursed for 94561
such costs by intrastate transfer voucher pursuant to a 94562
certification by the Office of the Sinking Fund of the actual 94563

amounts used. The amounts necessary to make such reimbursements 94564
are appropriated from the general obligation bond retirement funds 94565
created by the Constitution and laws to the extent such costs are 94566
incurred. 94567

POLICE AND FIRE DEATH BENEFIT FUND 94568

The foregoing appropriation item 090-575, Police and Fire 94569
Death Benefits, shall be disbursed annually by the Treasurer of 94570
State at the beginning of each fiscal year to the Board of 94571
Trustees of the Ohio Police and Fire Pension Fund. By the 94572
twentieth day of June of each fiscal year, the Board of Trustees 94573
of the Ohio Police and Fire Pension Fund shall certify to the 94574
Treasurer of State the amount disbursed in the current fiscal year 94575
to make the payments required by section 742.63 of the Revised 94576
Code and shall return to the Treasurer of State moneys received 94577
from this appropriation item but not disbursed. 94578

TAX REFUNDS 94579

The foregoing appropriation item 090-635, Tax Refunds, shall 94580
be used to pay refunds under section 5703.052 of the Revised Code. 94581
If the Director of Budget and Management determines that 94582
additional amounts are necessary for this purpose, such amounts 94583
are hereby appropriated. 94584

Section 212.18. UST PETROLEUM UNDERGROUND STORAGE TANK 94585

Agency Fund Group				94586	
691 810-632 PUSTRCB Staff	\$	1,075,158	\$	1,116,658	94587
TOTAL AGY Agency Fund Group	\$	1,075,158	\$	1,116,658	94588
TOTAL ALL BUDGET FUND GROUPS	\$	1,075,158	\$	1,116,658	94589

Section 212.21. TTA OHIO TUITION TRUST AUTHORITY 94591

State Special Revenue Fund Group				94592	
5AM 095-603 Index Savings Plan	\$	2,866,240	\$	3,104,865	94593

5P3 095-602 Variable College Savings Fund	\$	2,042,486	\$	2,118,568	94594
645 095-601 Operating Expenses	\$	807,260	\$	891,173	94595
TOTAL SSR State Special Revenue Fund Group					94596
Fund Group	\$	5,715,986	\$	6,114,606	94597
TOTAL ALL BUDGET FUND GROUPS	\$	5,715,986	\$	6,114,606	94598

Section 212.24. OVH OHIO VETERANS' HOME 94600

General Revenue Fund					94601
GRF 430-100 Personal Services	\$	20,629,914	\$	21,030,031	94602
GRF 430-200 Maintenance	\$	6,396,200	\$	6,396,200	94603
TOTAL GRF General Revenue Fund	\$	27,026,114	\$	27,426,231	94604
General Services Fund Group					94605
484 430-603 Rental and Service Revenue	\$	882,737	\$	882,737	94606
TOTAL GSF General Services Fund Group	\$	882,737	\$	882,737	94607
Federal Special Revenue Fund Group					94608
3L2 430-601 Federal VA Per Diem Grant	\$	14,990,510	\$	15,290,320	94609
TOTAL FED Federal Special Revenue Fund Group					94610
Fund Group	\$	14,990,510	\$	15,290,320	94611
State Special Revenue Fund Group					94612
4E2 430-602 Veterans Home Operating	\$	8,322,731	\$	8,530,800	94613
604 430-604 Veterans Home Improvement	\$	770,096	\$	770,096	94614
TOTAL SSR State Special Revenue Fund Group					94615
Fund Group	\$	9,092,827	\$	9,300,896	94616
TOTAL ALL BUDGET FUND GROUPS	\$	51,992,188	\$	52,900,184	94617

Section 212.27. VET VETERANS' ORGANIZATIONS 94619

General Revenue Fund				94620
	VAP AMERICAN EX-PRISONERS OF WAR			94621
GRF 743-501	State Support	\$ 25,030	\$ 25,030	94622
	VAN ARMY AND NAVY UNION, USA, INC.			94623
GRF 746-501	State Support	\$ 55,012	\$ 55,012	94624
	VKW KOREAN WAR VETERANS			94625
GRF 747-501	State Support	\$ 49,453	\$ 49,453	94626
	VJW JEWISH WAR VETERANS			94627
GRF 748-501	State Support	\$ 29,715	\$ 29,715	94628
	VCW CATHOLIC WAR VETERANS			94629
GRF 749-501	State Support	\$ 57,990	\$ 57,990	94630
	VPH MILITARY ORDER OF THE PURPLE HEART			94631
GRF 750-501	State Support	\$ 56,377	\$ 56,377	94632
	VVV VIETNAM VETERANS OF AMERICA			94633
GRF 751-501	State Support	\$ 185,954	\$ 185,954	94634
	VAL AMERICAN LEGION OF OHIO			94635
GRF 752-501	State Support	\$ 252,328	\$ 252,328	94636
	VII AMVETS			94637
GRF 753-501	State Support	\$ 237,919	\$ 237,919	94638
	VAV DISABLED AMERICAN VETERANS			94639
GRF 754-501	State Support	\$ 166,308	\$ 166,308	94640
	VMC MARINE CORPS LEAGUE			94641
GRF 756-501	State Support	\$ 85,972	\$ 85,972	94642
	V37 37TH DIVISION AEF VETERANS' ASSOCIATION			94643
GRF 757-501	State Support	\$ 5,946	\$ 5,946	94644
	VFW VETERANS OF FOREIGN WARS			94645
GRF 758-501	State Support	\$ 196,615	\$ 196,615	94646
TOTAL GRF General Revenue Fund		\$ 1,404,619	\$ 1,404,619	94647
TOTAL ALL BUDGET FUND GROUPS		\$ 1,404,619	\$ 1,404,619	94648
	RELEASE OF FUNDS			94649
	The foregoing appropriation items 743-501, 746-501, 747-501,			94650
	748-501, 749-501, 750-501, 751-501, 752-501, 753-501, 754-501,			94651

756-501, 757-501, and 758-501, State Support, shall be released	94652
upon approval by the Director of Budget and Management.	94653
 CENTRAL OHIO UNITED SERVICES ORGANIZATION	94654
Of the foregoing appropriation item 751-501, State Support,	94655
Vietnam Veterans of America, \$50,000 in each fiscal year shall be	94656
used to support the activities of the Central Ohio USO.	94657
 VETERANS SERVICE COMMISSION EDUCATION	94658
Of the foregoing appropriation item 753-501, State Support,	94659
AMVETS, up to \$20,000 in each fiscal year may be used to provide	94660
moneys to the Association of County Veterans Service Commissioners	94661
to reimburse its member county veterans service commissions for	94662
costs incurred in carrying out educational and outreach duties	94663
required under divisions (E) and (F) of section 5901.03 of the	94664
Revised Code. The Director of Budget and Management shall release	94665
these funds upon the presentation of an itemized receipt, approved	94666
by the Governor's Office of Veterans Affairs, from the association	94667
for reasonable and appropriate expenses incurred while performing	94668
these duties. The association shall establish uniform procedures	94669
for reimbursing member commissions.	94670
 Section 212.30. DVM STATE VETERINARY MEDICAL BOARD	94671
General Services Fund Group	94672
4K9 888-609 Operating Expenses \$ 353,691 \$ 0	94673
TOTAL GSF General Services	94674
Fund Group \$ 353,691 \$ 0	94675
TOTAL ALL BUDGET FUND GROUPS \$ 353,691 \$ 0	94676
 Section 212.33. DYS DEPARTMENT OF YOUTH SERVICES	94678
General Revenue Fund	94679
GRF 470-401 RECLAIM Ohio \$ 177,016,683 \$ 182,084,588	94680
GRF 470-412 Lease Rental Payments \$ 20,267,500 \$ 21,882,700	94681

GRF 470-510	Youth Services	\$	18,608,587	\$	18,608,587	94682
GRF 472-321	Parole Operations	\$	14,358,995	\$	14,962,871	94683
GRF 477-321	Administrative	\$	14,239,494	\$	14,754,420	94684
	Operations					
TOTAL GRF	General Revenue Fund	\$	244,491,259	\$	252,293,166	94685
	General Services Fund Group					94686
175 470-613	Education	\$	10,112,529	\$	9,450,598	94687
	Reimbursement					
4A2 470-602	Child Support	\$	320,641	\$	328,657	94688
4G6 470-605	General Operational	\$	10,000	\$	10,000	94689
	Funds					
479 470-609	Employee Food Service	\$	141,466	\$	137,666	94690
523 470-621	Wellness Program	\$	46,937	\$	0	94691
6A5 470-616	Building Demolition	\$	31,100	\$	0	94692
TOTAL GSF	General Services					94693
Fund Group		\$	10,662,673	\$	9,926,921	94694
	Federal Special Revenue Fund Group					94695
3V5 470-604	Juvenile	\$	4,254,745	\$	4,254,746	94696
	Justice/Delinquency					
	Prevention					
3W0 470-611	Federal Juvenile	\$	222,507	\$	0	94697
	Programs FFY 02					
3Z8 470-625	Federal Juvenile	\$	1,500,001	\$	773,812	94698
	Programs FFY 04					
3Z9 470-626	Federal Juvenile	\$	465,000	\$	0	94699
	Programs FFY 05					
321 470-601	Education	\$	1,422,580	\$	1,465,399	94700
321 470-603	Juvenile Justice	\$	1,981,169	\$	2,006,505	94701
	Prevention					
321 470-606	Nutrition	\$	2,471,550	\$	2,470,655	94702
321 470-614	Title IV-E	\$	4,960,589	\$	6,012,361	94703
	Reimbursements					

321 470-617 Americorps Programs	\$	456,000	\$	463,700	94704
TOTAL FED Federal Special Revenue					94705
Fund Group	\$	17,734,141	\$	17,447,178	94706
State Special Revenue Fund Group					94707
147 470-612 Vocational Education	\$	1,937,784	\$	2,009,866	94708
4W3 470-618 Help Me Grow	\$	11,000	\$	11,000	94709
5BH 470-628 Partnerships for Success	\$	1,500,000	\$	1,500,000	94710
TOTAL SSR State Special Revenue					94711
Fund Group	\$	3,448,784	\$	3,520,866	94712
TOTAL ALL BUDGET FUND GROUPS	\$	276,336,857	\$	283,188,131	94713
RECLAIM OHIO					94714
Of the foregoing appropriation item 470-401, RECLAIM Ohio,					94715
\$25,000 in each fiscal year shall be distributed directly to the					94716
Lighthouse Youth Services Wrap-Around Program.					94717
OHIO BUILDING AUTHORITY LEASE PAYMENTS					94718
The foregoing appropriation item 470-412, Lease Rental					94719
Payments, in the Department of Youth Services, shall be used for					94720
payments to the Ohio Building Authority for the period from July					94721
1, 2005, to June 30, 2007, under the primary leases and agreements					94722
for facilities made under Chapter 152. of the Revised Code, but					94723
limited to the aggregate amount of \$42,150,200. This appropriation					94724
is the source of funds pledged for bond service charges on related					94725
obligations issued pursuant to Chapter 152. of the Revised Code.					94726
EDUCATION REIMBURSEMENT					94727
The foregoing appropriation item 470-613, Education					94728
Reimbursement, shall be used to fund the operating expenses of					94729
providing educational services to youth supervised by the					94730
Department of Youth Services. Operating expenses include, but are					94731
not limited to, teachers' salaries, maintenance costs, and					94732
educational equipment. This appropriation item may be used for					94733

capital expenses related to the education program. 94734

EMPLOYEE FOOD SERVICE AND EQUIPMENT 94735

Notwithstanding section 125.14 of the Revised Code, the 94736
foregoing appropriation item 470-609, Employee Food Service, may 94737
be used to purchase any food operational items with funds received 94738
into the fund from reimbursement for state surplus property. 94739

PARTNERSHIPS FOR SUCCESS 94740

In fiscal year 2006, the foregoing appropriation item 94741
470-628, Partnerships for Success, shall be used to support the 94742
Partnerships for Success Project. On or before January 1, 2007, 94743
the Director of Budget and Management shall transfer any amount of 94744
cash that remains unspent in the Partnerships for Success Fund 94745
(Fund 5BH) to the Children's Trust Fund (Fund 198). 94746

FEDERAL JUVENILE JUSTICE PROGRAM TRANSFER FROM THE OFFICE OF 94747
CRIMINAL JUSTICE SERVICES TO THE DEPARTMENT OF YOUTH SERVICES 94748

Any business relating to the funds associated with the Office 94749
of Criminal Justice Services' appropriation item 196-602, Criminal 94750
Justice Federal Programs, commenced but not completed by the 94751
Office of Criminal Justice Services or its director shall be 94752
completed by the Department of Youth Services or its director in 94753
the same manner, and with the same effect, as if completed by the 94754
Office of Criminal Justice Services or its director. No 94755
validation, cure, right, privilege, remedy, obligation, or 94756
liability is lost or impaired by reason of the transfer and shall 94757
be administered by the Department of Youth Services. 94758

Any action or proceeding against the Office of Criminal 94759
Justice Services pending on the effective date of this section 94760
shall not be affected by the transfer of responsibility to the 94761
Department of Youth Services, and shall be prosecuted or defended 94762
in the name of the Department of Youth Services or its director. 94763

In all such actions and proceedings, the Department of Youth Services or its director upon application of the court shall be substituted as party. 94764
94765
94766

Section 303.03. EXPENDITURES AND APPROPRIATION INCREASES 94767
APPROVED BY THE CONTROLLING BOARD 94768

Any money that the Controlling Board approves for expenditure or any increase in appropriation authority that the Controlling Board approves under sections 127.14, 131.35, and 131.39 of the Revised Code or any other provision of law is hereby appropriated for the period ending June 30, 2007. 94769
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Section 303.06. PERSONAL SERVICE EXPENSES 94774

Unless otherwise prohibited by law, any appropriation from which personal service expenses are paid shall bear the employer's share of public employees' retirement, workers' compensation, disabled workers' relief, and all group insurance programs; the costs of centralized accounting, centralized payroll processing, and related personnel reports and services; the cost of the Office of Collective Bargaining; the cost of the Personnel Board of Review; the cost of the Employee Assistance Program; the cost of the affirmative action and equal employment opportunity programs administered by the Department of Administrative Services; the costs of interagency information management infrastructure; and the cost of administering the state employee merit system as required by section 124.07 of the Revised Code. These costs shall be determined in conformity with the appropriate sections of law and paid in accordance with procedures specified by the Office of Budget and Management. Expenditures from appropriation item 070-601, Public Audit Expense - Local Government, in Fund 422 may be exempted from the requirements of this section. 94775
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Section 303.09. RE-ISSUANCE OF VOIDED WARRANTS 94793

In order to provide funds for the reissuance of voided 94794
warrants under section 117.47 of the Revised Code, there is hereby 94795
appropriated, out of moneys in the state treasury from the fund 94796
credited as provided in section 117.47 of the Revised Code, that 94797
amount sufficient to pay such warrants when approved by the Office 94798
of Budget and Management. 94799

Section 303.12. SATISFACTION OF JUDGMENTS AND SETTLEMENTS 94800
AGAINST THE STATE 94801

Except as otherwise provided in this section, an 94802
appropriation in this act or any other act may be used for the 94803
purpose of satisfying judgments, settlements, or administrative 94804
awards ordered or approved by the Court of Claims or by any other 94805
court of competent jurisdiction in connection with civil actions 94806
against the state. This authorization does not apply to 94807
appropriations to be applied to or used for payment of guarantees 94808
by or on behalf of the state, or for payments under lease 94809
agreements relating to, or debt service on, bonds, notes, or other 94810
obligations of the state. Notwithstanding any other statute to the 94811
contrary, this authorization includes appropriations from funds 94812
into which proceeds of direct obligations of the state are 94813
deposited only to the extent that the judgment, settlement, or 94814
administrative award is for, or represents, capital costs for 94815
which the appropriation may otherwise be used and is consistent 94816
with the purpose for which any related obligations were issued or 94817
entered into. Nothing contained in this section is intended to 94818
subject the state to suit in any forum in which it is not 94819
otherwise subject to suit, and is not intended to waive or 94820
compromise any defense or right available to the state in any suit 94821
against it. 94822

Section 303.13. CAPITAL PROJECT SETTLEMENTS 94823

This section specifies an additional and supplemental 94824
procedure to provide for payments of judgments and settlements if 94825
the Director of Budget and Management determines, pursuant to 94826
division (C)(4) of section 2743.19 of the Revised Code, that 94827
sufficient unencumbered moneys do not exist in the particular 94828
appropriation to pay the amount of a final judgment rendered 94829
against the state or a state agency, including the settlement of a 94830
claim approved by a court, in an action upon and arising out of a 94831
contractual obligation for the construction or improvement of a 94832
capital facility if the costs under the contract were payable in 94833
whole or in part from a state capital projects appropriation. In 94834
such a case, the director may either proceed pursuant to division 94835
(C)(4) of section 2743.19 of the Revised Code or apply to the 94836
Controlling Board to increase an appropriation or create an 94837
appropriation out of any unencumbered moneys in the state treasury 94838
to the credit of the capital projects fund from which the initial 94839
state appropriation was made. The Controlling Board may approve or 94840
disapprove the application as submitted or modified. The amount of 94841
an increase in appropriation or new appropriation specified in an 94842
application approved by the Controlling Board is hereby 94843
appropriated from the applicable capital projects fund and made 94844
available for the payment of the judgment or settlement. 94845

If the director does not make the application authorized by 94846
this section or the Controlling Board disapproves the application, 94847
and the director does not make application under division (C)(4) 94848
of section 2743.19 of the Revised Code, the director shall for the 94849
purpose of making that payment make a request to the General 94850
Assembly as provided for in division (C)(5) of that section. 94851

Section 303.18. INCOME TAX DISTRIBUTION TO COUNTIES 94852

There are hereby appropriated out of any moneys in the state 94853
treasury to the credit of the General Revenue Fund, which are not 94854
otherwise appropriated, funds sufficient to make any payment 94855
required by division (B)(2) of section 5747.03 of the Revised 94856
Code. 94857

Section 303.21. REAPPROPRIATION OF UNEXPENDED ENCUMBERED 94858
BALANCES OF OPERATING APPROPRIATIONS 94859

An unexpended balance of an operating appropriation or 94860
reappropriation that a state agency lawfully encumbered prior to 94861
the close of a fiscal year is reappropriated on the first day of 94862
July of the following fiscal year from the fund from which it was 94863
originally appropriated or reappropriated for the following period 94864
and shall remain available only for the purpose of discharging the 94865
encumbrance: 94866

(A) For an encumbrance for personal services, maintenance, 94867
equipment, or items for resale, other than an encumbrance for an 94868
item of special order manufacture not available on term contract 94869
or in the open market or for reclamation of land or oil and gas 94870
wells for a period of not more than five months from the end of 94871
the fiscal year; 94872

(B) For an encumbrance for an item of special order 94873
manufacture not available on term contract or in the open market, 94874
for a period of not more than five months from the end of the 94875
fiscal year or, with the written approval of the Director of 94876
Budget and Management, for a period of not more than twelve months 94877
from the end of the fiscal year; 94878

(C) For an encumbrance for reclamation of land or oil and gas 94879
wells, for a period ending when the encumbered appropriation is 94880
expended or for a period of two years, whichever is less; 94881

(D) For an encumbrance for any other expense, for such period 94882

as the director approves, provided such period does not exceed two 94883
years. 94884

Any operating appropriations for which unexpended balances 94885
are reappropriated beyond a five-month period from the end of the 94886
fiscal year by division (B) of this section shall be reported to 94887
the Controlling Board by the Director of Budget and Management by 94888
the thirty-first day of December of each year. The report on each 94889
such item shall include the item, the cost of the item, and the 94890
name of the vendor. The report shall be updated on a quarterly 94891
basis for encumbrances remaining open. 94892

Upon the expiration of the reappropriation period set out in 94893
divisions (A), (B), (C), or (D) of this section, a reappropriation 94894
made by this section lapses, and the Director of Budget and 94895
Management shall cancel the encumbrance of the unexpended 94896
reappropriation not later than the end of the weekend following 94897
the expiration of the reappropriation period. 94898

Notwithstanding the preceding paragraph, with the approval of 94899
the Director of Budget and Management, an unexpended balance of an 94900
encumbrance that was reappropriated on the first day of July by 94901
this section for a period specified in division (C) or (D) of this 94902
section and that remains encumbered at the close of the fiscal 94903
biennium is hereby reappropriated on the first day of July of the 94904
following fiscal biennium from the fund from which it was 94905
originally appropriated or reappropriated for the applicable 94906
period specified in division (C) or (D) of this section and shall 94907
remain available only for the purpose of discharging the 94908
encumbrance. 94909

The Director of Budget and Management may correct accounting 94910
errors committed by the staff of the Office of Budget and 94911
Management, such as re-establishing encumbrances or appropriations 94912
cancelled in error, during the cancellation of operating 94913

encumbrances in November and of non-operating encumbrances in 94914
December. 94915

If the Controlling Board approved a purchase, that approval 94916
remains in effect so long as the appropriation used to make that 94917
purchase remains encumbered. 94918

Section 306.03. UTILITY RADIOLOGICAL SAFETY BOARD ASSESSMENTS 94919

The maximum amounts that may be assessed against nuclear 94920
electric utilities under division (B)(2) of section 4937.05 of the 94921
Revised Code are as follows: 94922

	FY 2006	FY 2007	
Department of Agriculture			94923
Fund 4E4 Utility Radiological Safety	\$73,059	\$73,059	94924
Department of Health			94925
Fund 610 Radiation Emergency Response	\$850,000	\$850,000	94926
Environmental Protection Agency			94927
Fund 644 ER Radiological Safety	\$286,114	\$286,114	94928
Emergency Management Agency			94929
Fund 657 Utility Radiological Safety	\$1,260,000	\$1,260,000	94930

Section 312.01. TRANSFERS OF FISCAL YEAR 2005 GENERAL REVENUE 94931

FUND ENDING BALANCES 94932

Notwithstanding divisions (B)(1)(b), (B)(2), and (C) of 94933
section 131.44 of the Revised Code, fiscal year 2005 surplus 94934
revenue shall be distributed as follows: 94935

(A) The first \$60,000,000 of such surplus revenue shall be 94936
transferred to Fund 5AX, Public Assistance Reconciliation Fund, to 94937
pay a portion of the remaining state TANF liability to the federal 94938
government. 94939

(B) The next \$40,000,000 of such surplus revenue shall be 94940
transferred to the Disaster Services Fund (5E2), which is hereby 94941
94942

created in the state treasury.	94943
(C) The next \$100,000,000 of such surplus revenue shall be transferred to the Budget Stabilization Fund.	94944 94945
(D) The next \$100,000,000 of such surplus revenue shall be transferred to Fund 021, the Public School Building Fund.	94946 94947
(E) Any surplus revenue in excess of the amounts distributed under divisions (A) to (D) of this section shall be transferred to the Budget Stabilization Fund.	94948 94949 94950
Section 312.03. TRANSFERS TO THE GENERAL REVENUE FUND FROM NON-FEDERAL NON-GRF FUNDS	94951 94952
Notwithstanding any other provision of law to the contrary, during fiscal years 2006 and 2007, the Director of Budget and Management is hereby authorized to transfer cash from non-federal, non-General Revenue Fund funds that are not constitutionally restricted to the General Revenue Fund. The total amount of cash transfers made pursuant to this section to the General Revenue Fund during fiscal years 2006 and 2007 shall not exceed \$60,000,000.	94953 94954 94955 94956 94957 94958 94959 94960
Section 312.06. TRANSFERS TO THE GENERAL REVENUE FUND OF INTEREST EARNED	94961 94962
Notwithstanding any provision of Ohio law to the contrary, the Director of Budget and Management, through June 30, 2007, may transfer interest earned by any fund in the Central Accounting System to the General Revenue Fund. This section does not apply to funds whose source of revenue is restricted or protected by the Constitution of this state, federal tax law, or the "Cash Management Improvement Act of 1990" 104 Stat. 1058 (1990), 31 U.S.C. 6501, et. seq., as amended.	94963 94964 94965 94966 94967 94968 94969 94970

Section 312.09. BUDGET STABILIZATION FUND TRANSFERS	94971
(A) Notwithstanding any provision of law to the contrary,	94972
through June 30, 2007, if the Director of Budget and Management	94973
determines that the estimated ending fund balance of the General	94974
Revenue Fund will be greater than the amounts assumed in this act	94975
for either fiscal year 2006 or 2007, the Director may transfer up	94976
to the excess balance to the Budget Stabilization Fund. This	94977
division does not apply to division (A) of Section 206.66.21, TANF	94978
TRANSFERS, of this act.	94979
(B) Notwithstanding any provision of law to the contrary,	94980
through June 30, 2007, if the Director of Budget and Management	94981
determines that state revenue receipts and available fund balances	94982
in any fund other than the General Revenue Fund exceed estimated	94983
state expenditures, the Director may transfer up to the excess	94984
revenue to the Budget Stabilization Fund. This division does not	94985
apply to revenue restricted or protected by the Ohio Constitution,	94986
federal tax law or grant requirements, or the "Cash Management	94987
Improvement Act of 1990," 104 Stat. 1058 (1990), 31 U.S.C. 6501,	94988
et seq., as amended.	94989
(C) In executing division (A) of this section and division	94990
(A) of Section 206.66.21, TANF TRANSFERS, it is intended that	94991
these divisions be applied and construed so that both of the	94992
transfers authorized under these divisions may be made through	94993
June 30, 2007.	94994
(D) After making the transfers described in divisions (A) and	94995
(B) of this section, the Director of Budget and Management shall	94996
submit a report to the President of the Senate and the Speaker of	94997
the House of Representatives.	94998
Section 312.10. TAX REFORM SYSTEM IMPLEMENTATION FUND	94999
TRANSFERS TO TAX AMNESTY PROGRAM	95000

Notwithstanding any provision of law to the contrary, prior 95001
to June 30, 2006, the Director of Budget and Management shall 95002
transfer \$2,000,000 in cash from the Tax Reform System 95003
Implementation Fund (Fund 228) to the Tax Amnesty Promotion and 95004
Administration Fund (Fund 5BW), which is hereby created in the 95005
State Treasury. The funds shall be used to pay expenses incurred 95006
in promoting and administering the tax amnesty program run by the 95007
Department of Taxation. 95008

After receiving the revenue receipts from the tax amnesty 95009
program, the Director of Budget and Management shall transfer the 95010
first \$2,000,000 to the Tax Reform System Implementation Fund, the 95011
next \$10,000,000 to the General Revenue Fund, and the remaining 95012
excess fund balance to the Budget Stabilization Fund. 95013

Section 312.12. GRF TRANSFER TO FUND 5N4, OAKS PROJECT 95014
IMPLEMENTATION 95015

On July 1, 2005, or as soon thereafter as possible, the 95016
Director of Budget and Management shall transfer an amount not to 95017
exceed \$675,000 in cash from the General Revenue Fund to Fund 5N4, 95018
OAKS Project Implementation. On July 1, 2006, or as soon 95019
thereafter as possible, the Director of Budget and Management 95020
shall transfer an amount not to exceed \$675,000 in cash from the 95021
General Revenue Fund to Fund 5N4, OAKS Project Implementation. 95022

Section 312.15. CORPORATE AND UCC FILING FUND TRANSFER TO GRF 95023

Not later than the first day of June in each year of the 95024
biennium, the Director of Budget and Management shall transfer 95025
\$1,000,000 from the Corporate and Uniform Commercial Code Filing 95026
Fund to the General Revenue Fund. 95027

Section 312.18. GRF TRANSFER TO THE NATIONAL GUARD 95028
SCHOLARSHIP RESERVE FUND 95029

On July 1, 2005, or as soon as possible thereafter, the 95030
Director of Budget and Management shall transfer up to \$592,000 95031
cash from the General Revenue Fund to the National Guard 95032
Scholarship Reserve Fund (Fund 5BM). 95033

Section 312.21. APPROPRIATIONS RELATED TO CASH TRANSFERS AND 95034
RE-ESTABLISHMENT OF ENCUMBRANCES 95035

Any cash transferred by the Director of Budget and Management 95036
under section 126.15 of the Revised Code is hereby appropriated. 95037
Any amounts necessary to re-establish appropriations or 95038
encumbrances under section 126.15 of the Revised Code are hereby 95039
appropriated. 95040

Section 312.22. The Highway Safety Building Fund (Fund 025), 95041
created in section 4501.07 of the Revised Code, is the same fund 95042
as the one referred to in Section 15.01 of Am. Sub. H.B. 16 of the 95043
126th General Assembly. 95044

Section 312.24. TRANSFERS FROM THE TOBACCO MASTER SETTLEMENT 95045
AGREEMENT FUND 95046

(A) Notwithstanding section 183.02 of the Revised Code, on 95047
July 1, 2005, or as soon as possible thereafter, the Director of 95048
Budget and Management shall transfer from the Tobacco Master 95049
Settlement Agreement Fund (Fund 087) \$5,000,000 cash to the 95050
General Revenue Fund, up to \$5,000,000 cash to the Healthy Ohioans 95051
Initiative Fund (Fund 5BL in the Department of Health), \$6,000,000 95052
cash to the Children's Hospitals Fund (Fund 5CR in the Department 95053
of Job and Family Services), and \$4,000,000 cash to the Adult 95054
Emergency Assistance Fund (Fund 5CS in the Department of Mental 95055
Health). Of the tobacco revenue that is credited to the Tobacco 95056
Master Settlement Agreement Fund (Fund 087) in fiscal year 2005, 95057
the share that is determined pursuant to section 183.02 of the 95058

Revised Code to be the amount transferred by the Director of 95059
Budget and Management from the Tobacco Master Settlement Agreement 95060
Fund (Fund 087) to the Tobacco Use Prevention and Cessation Trust 95061
Fund (Fund H87) shall be reduced by the amount that is transferred 95062
from the Tobacco Master Settlement Agreement Fund (Fund 087) to 95063
various funds pursuant to this division. 95064

(B) Notwithstanding section 183.02 of the Revised Code, on 95065
July 1, 2006, or as soon as possible thereafter, the Director of 95066
Budget and Management shall transfer from the Tobacco Master 95067
Settlement Agreement Fund (Fund 087) \$6,000,000 cash to the 95068
Children's Hospitals Fund (Fund 5CR in the Department of Job and 95069
Family Services) and \$4,000,000 cash to the Adult Emergency 95070
Assistance Fund (Fund 5CS in the Department of Mental Health). Of 95071
the tobacco revenue that is credited to the Tobacco Master 95072
Settlement Agreement Fund (Fund 087) in fiscal year 2006, the 95073
share that is determined pursuant to section 183.02 of the Revised 95074
Code to be the amount transferred by the Director of Budget and 95075
Management from the Tobacco Master Settlement Agreement Fund (Fund 95076
087) to the Tobacco Use Prevention and Cessation Trust Fund (Fund 95077
H87) shall be reduced by the amount that is transferred from the 95078
Tobacco Master Settlement Agreement Fund (Fund 087) to the various 95079
funds pursuant to this division. 95080

(C) Notwithstanding section 183.02 of the Revised Code, on 95081
July 1, 2006, or as soon as possible thereafter, the Director of 95082
Budget and Management shall transfer \$800,000 cash from the 95083
Tobacco Master Settlement Agreement Fund (Fund 087) to the General 95084
Revenue Fund. Of the tobacco revenue that is credited to the 95085
Tobacco Master Settlement Agreement Fund (Fund 087) in fiscal year 95086
2006, the share that is determined pursuant to section 183.02 of 95087
the Revised Code to be the amount transferred by the Director of 95088
Budget and Management from the Tobacco Master Settlement Agreement 95089
Fund (Fund 087) to the Ohio's Public Health Priorities Trust Fund 95090

(Fund L87) shall be reduced by the amount that is transferred from 95091
the Tobacco Master Settlement Agreement Fund (Fund 087) to the 95092
General Revenue Fund under this division. 95093

Section 315.03. CONSOLIDATION OF REGULATORY BOARDS 95094

(A) It is the intent of the General Assembly to consolidate 95095
the following health-related regulatory boards within the 95096
Department of Health not later than July 1, 2006: 95097

(1) The Chemical Dependency Professionals Board; 95098

(2) The Board of Chiropractic Examiners; 95099

(3) The Counselor, Social Worker, and Marriage and Family 95100
Therapist Board; 95101

(4) The Ohio Board of Dietetics; 95102

(5) The Ohio Occupational Therapy, Physical Therapy, and 95103
Athletic Trainers Board; 95104

(6) The Ohio Optical Dispensers Board; 95105

(7) The State Board of Optometry; 95106

(8) The State Board of Orthotics, Prosthetics, and 95107
Pedorthics; 95108

(9) The State Board of Psychology; 95109

(10) The Ohio Respiratory Care Board; 95110

(11) The Board of Speech-Language Pathology and Audiology; 95111

(12) The State Veterinary Medical Licensing Board. 95112

(B) It is the intent of the General Assembly to consolidate 95113
the following regulatory boards and commissions within the 95114
Department of Commerce not later than July 1, 2006: 95115

(1) The Ohio Athletic Commission; 95116

(2) The Barber Board; 95117

(3) The State Board of Cosmetology;	95118
(4) The Board of Embalmers and Funeral Directors;	95119
(5) The Manufactured Homes Commission;	95120
(6) The Board of Motor Vehicle Collision Repair Registration;	95121
(7) The State Board of Sanitarian Registration.	95122
(C) It is the intent of the General Assembly to consolidate	95123
the Ohio Medical Transportation Board within the Department of	95124
Public Safety not later than July 1, 2006.	95125
(D) The Director of Budget and Management and the Directors	95126
of Administrative Services, Commerce, Health, and Public Safety	95127
shall appoint representatives to a transition team. In addition,	95128
the transition team shall include a total of three members	95129
representing the affected regulatory boards, to be selected by the	95130
executive directors of those boards.	95131
The transition team shall develop a plan to ensure the smooth	95132
and timely consolidation of the boards into the respective	95133
departments. The transition team shall address the details of the	95134
consolidations, identifying necessary statutory changes and	95135
working with the Office of Budget and Management to develop	95136
budgets for the respective departments and the consolidated boards	95137
and commissions. The transition team may recommend additional	95138
regulatory boards or commissions to be consolidated and may	95139
recommend modifications to the planned consolidations.	95140
The transition team shall submit a report containing	95141
recommendations and the details for the consolidations not later	95142
than December 31, 2005, to the Governor, the Speaker of the House	95143
of Representatives, and the President of the Senate. The report	95144
and recommendations shall address the following issues, and may	95145
address additional issues:	95146
(1) The necessary levels of funding;	95147

(2) The savings projected as a result of the consolidations;	95148
(3) The consolidation of activities between each board or commission and the department providing centralized services, including the role of the members of the board or commission and the role of the department;	95149 95150 95151 95152
(4) The staffing levels needed, whether employees must be retained, and whether any employees retained have civil service status;	95153 95154 95155
(5) The continuation of the standards and procedures of the board or commission;	95156 95157
(6) The continuation of rules and whether any rules need to be amended as a result of the consolidations;	95158 95159
(7) The transfer of assets, liabilities, and contractual obligations;	95160 95161
(8) The transfer of records and other materials pertaining to the board or commission.	95162 95163
(E) It is the intent of the General Assembly to introduce a bill in fiscal year 2006 that will include the necessary statutory changes to effect the consolidations and that will include revised appropriations for the departments and the consolidated boards and commissions for fiscal year 2007.	95164 95165 95166 95167 95168
Section 315.06. CAREER-TECHNICAL SCHOOL BUILDING ASSISTANCE PROGRAM	95169 95170
All materials, assets, liabilities, and records of the Department of Education, irrespective of form or medium, deemed necessary by the Ohio School Facilities Commission to implement sections 3318.47, 3318.48, and 3318.49 of the Revised Code shall be transferred to the Commission not later than one hundred twenty days after the effective date of this section, in accordance with	95171 95172 95173 95174 95175 95176

a transition plan which shall be developed and approved by the Commission in consultation with the Department. 95177
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All current and pending loans and appropriations, encumbrances, and funds related to the Career-Technical School Building Assistance Fund (Fund 020), deemed necessary by the Commission to implement section 3318.48 of the Revised Code, shall be transferred to the Commission not later than one hundred twenty days after the effective date of this section in accordance with the transition plan. 95179
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Any business commenced but not completed by the Department on the effective date of this section relating to the implementation of section 3318.48 of the Revised Code and the functions transferred by this section shall continue to be administered by the Department for a period of one hundred twenty days after the effective date of this section or until the transition plan described in this section is approved by the Commission, whichever occurs first. The Department shall provide the Commission whatever administrative assistance the Commission requires during the period of transition, which assistance shall be specified in the transition plan described in this section. 95186
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Wherever any law, contract, or other document refers to the Department, the State Board of Education, or the Superintendent of Public Instruction in regard to the implementation or administration of section 3318.48 of the Revised Code, the references shall be deemed to refer to the Commission or the Director of the Commission. No action or proceeding pending on the effective date of this section relating to the implementation or administration of Chapter 3318. of the Revised Code is affected by the transfer. In all such actions and proceedings, the Commission or the Director shall be substituted as a party upon application by the receiving entity to the court or other appropriate tribunal. 95197
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Section 315.09. ELIMINATION OF THE OHIO EDUCATIONAL 95209
TELECOMMUNICATIONS NETWORK COMMISSION 95210

(A) Effective July 1, 2005, the Ohio Educational 95211
Telecommunications Network Commission is abolished and its 95212
functions, assets, and liabilities, including but not limited to 95213
vehicles and equipment assigned to employees of the Commission and 95214
records of the Commission regardless of form or medium, are 95215
transferred to the eTech Ohio Commission. The eTech Ohio 95216
Commission is thereupon and thereafter successor to, assumes the 95217
obligations of, and otherwise constitutes the continuation of the 95218
Ohio Educational Telecommunications Network Commission. The 95219
functions of the Executive Director of the Ohio Educational 95220
Telecommunications Network Commission are thereupon and thereafter 95221
transferred to the Executive Director of the eTech Ohio 95222
Commission. 95223

Any business commenced but not completed by the Ohio 95224
Educational Telecommunications Network Commission or the Executive 95225
Director of the Ohio Educational Telecommunications Network 95226
Commission on July 1, 2005, shall be completed by the eTech Ohio 95227
Commission or the Executive Director of the eTech Ohio Commission, 95228
respectively, in the same manner, and with the same effect, as if 95229
completed by the Ohio Educational Telecommunications Network 95230
Commission or the Executive Director of the Ohio Educational 95231
Telecommunications Network Commission. No validation, cure, right, 95232
privilege, remedy, obligation, or liability is lost or impaired by 95233
reason of the transfer required under this section and shall be 95234
administered by the eTech Ohio Commission. All of the Ohio 95235
Educational Telecommunications Network Commission's rules, orders, 95236
and determinations continue in effect as rules, orders, and 95237
determinations of the eTech Ohio Commission, until modified or 95238
rescinded by the eTech Ohio Commission. If necessary to ensure the 95239

integrity of the Administrative Code, the Director of the 95240
Legislative Service Commission shall renumber the Ohio Educational 95241
Telecommunications Network Commission's rules to reflect their 95242
transfer to the eTech Ohio Commission. 95243

(B) Employees of the Ohio Educational Telecommunications 95244
Network Commission shall be transferred to the eTech Ohio 95245
Commission or dismissed. Employees of the Ohio Educational 95246
Telecommunications Network Commission so dismissed cease to hold 95247
their positions of employment on July 1, 2005. Employees of the 95248
Ohio Educational Telecommunications Network Commission so 95249
transferred shall be removed from any bargaining unit in which 95250
they are included under Chapter 4117. of the Revised Code 95251
effective July 1, 2005. Employees of the Ohio Educational 95252
Telecommunications Network Commission so transferred shall be 95253
removed from any bargaining unit in which they are included under 95254
Chapter 4117. of the Revised Code effective July 1, 2005. 95255

(C) No judicial or administrative action or proceeding in 95256
which the Ohio Educational Telecommunications Network Commission 95257
or the Executive Director of the Commission is a party that is 95258
pending on July 1, 2005, is affected by the transfer of functions 95259
under division (A) of this section. Such action or proceeding 95260
shall be prosecuted or defended in the name of the eTech Ohio 95261
Commission. On application to the court or other tribunal, the 95262
eTech Ohio Commission shall be substituted for the Executive 95263
Director of the Ohio Educational Telecommunications Network or the 95264
Commission as a party to such action or proceeding. 95265

(D) On and after July 1, 2005, when the Ohio Educational 95266
Telecommunications Network Commission or the Executive Director of 95267
the Ohio Educational Telecommunications Network Commission is 95268
referred to in any statute, rule, contract, grant, or other 95269
document, the reference is hereby deemed to refer to the eTech 95270
Ohio Commission or the Executive Director of the eTech Ohio 95271

Commission, respectively. 95272

Section 315.10. ELIMINATION OF THE OHIO SCHOOLNET COMMISSION 95273

(A) Effective July 1, 2005, the Ohio SchoolNet Commission is 95274
abolished and its functions, assets, and liabilities, including, 95275
but not limited to, vehicles and equipment assigned to employees 95276
of the Commission and records of the Commission regardless of form 95277
or medium, are transferred to the eTech Ohio Commission. The eTech 95278
Ohio Commission is thereupon and thereafter successor to, assumes 95279
the obligations of, and otherwise constitutes the continuation of 95280
the Ohio SchoolNet Commission. The functions of the Executive 95281
Director of the Ohio SchoolNet Commission are thereupon and 95282
thereafter transferred to the Executive Director of the eTech Ohio 95283
Commission. 95284

Any business commenced but not completed by the Ohio 95285
SchoolNet Commission or the Executive Director of the Ohio 95286
SchoolNet Commission on July 1, 2005, shall be completed by the 95287
eTech Ohio Commission or the Executive Director of the eTech Ohio 95288
Commission, respectively, in the same manner, and with the same 95289
effect, as if completed by the Ohio SchoolNet Commission or the 95290
Executive Director of the Ohio SchoolNet Commission. No 95291
validation, cure, right, privilege, remedy, obligation, or 95292
liability is lost or impaired by reason of the transfer required 95293
under this section and shall be administered by the eTech Ohio 95294
Commission. All of the Ohio SchoolNet Commission's rules, orders, 95295
and determinations continue in effect as rules, orders, and 95296
determinations of the eTech Ohio Commission, until modified or 95297
rescinded by the eTech Ohio Commission. If necessary to ensure the 95298
integrity of the Administrative Code, the Director of the 95299
Legislative Service Commission shall renumber the Ohio SchoolNet 95300
Commission's rules to reflect their transfer to the eTech Ohio 95301
Commission. 95302

(B) Employees of the Ohio SchoolNet Commission shall be transferred to the eTech Ohio Commission or dismissed. Employees of the Ohio SchoolNet Commission so dismissed cease to hold their positions of employment on July 1, 2005.

(C) No judicial or administrative action or proceeding in which the Ohio SchoolNet Commission or the Executive Director of the Commission is a party that is pending on July 1, 2005, is affected by the transfer of functions under division (A) of this section. Such action or proceeding shall be prosecuted or defended in the eTech Ohio Commission. On application to the court or other tribunal, the eTech Ohio Commission shall be substituted for the Executive Director of the Ohio SchoolNet Commission as a party to such action or proceeding.

(D) On and after July 1, 2005, when the Ohio SchoolNet Commission or the Executive Director of the Ohio SchoolNet Commission is referred to in any statute, rule, contract, grant, or other document, the reference is hereby deemed to refer to the eTech Ohio Commission or the Executive Director of the eTech Ohio Commission, respectively.

(E) If the Department of Education receives any expenditure and program reports for fiscal year 2005 for programs that were administered by the Ohio SchoolNet Commission during that fiscal year, the Department shall forward those reports to the eTech Ohio Commission by September 30, 2005.

Section 315.11. TRANSFER OF FUNDS TO THE AGENCIES

On and after July 1, 2005, notwithstanding any provision of law to the contrary, the Director of Budget and Management is authorized to take the actions described in this section with respect to budget changes made necessary by administrative reorganization, program transfers, the creation of new funds, and

the consolidation of funds as authorized by this act. The Director 95333
may make any transfer of cash balances between funds. At the 95334
request of the Director, the Ohio Educational Telecommunications 95335
Network Commission and the Ohio SchoolNet Commission shall certify 95336
to the Director an estimate of the amount of the cash balance to 95337
be transferred to the receiving funds. The Director may transfer 95338
the estimated amount when needed to make payments. Not more than 95339
thirty days after certifying the estimated amount, the Commissions 95340
shall certify the final amount to the Director. The Director shall 95341
transfer the difference between any amount previously transferred 95342
and the certified final amount. The Director may cancel 95343
encumbrances and re-establish encumbrances or parts of 95344
encumbrances as needed in fiscal year 2006 in the appropriate 95345
funds and appropriation items for the same purposes. The 95346
appropriation authority necessary to re-establish such 95347
encumbrances in fiscal year 2006 as determined by the Director, in 95348
a different fund or appropriation item, within an agency or 95349
between agencies, is hereby appropriated. When re-established 95350
encumbrances or parts of re-established encumbrances are 95351
cancelled, the Director shall reduce the appropriations for these 95352
respective funds and appropriation items by the amount of the 95353
encumbrances cancelled. The amounts cancelled are hereby 95354
authorized. Any fiscal year 2005 unencumbered or unallotted 95355
appropriation balances may be transferred to the appropriate funds 95356
and appropriation items to be used for the same purposes, as 95357
determined by the Director. The amounts transferred are hereby 95358
appropriated. 95359

Section 316.03. (A) Not later than July 1, 2005, the 95360
Governor, with the advice and consent of the Senate, shall appoint 95361
members to the eTech Ohio Commission and shall appoint a 95362
chairperson of the Commission as required by section 3353.02 of 95363
the Revised Code, as enacted by this act. Notwithstanding division 95364

(F) of that section, the initial chairperson appointed by the Governor shall serve until July 1, 2006, at which time the Governor shall appoint a chairperson in accordance with that section.

(B) Notwithstanding section 3353.03 of the Revised Code, as enacted by this act, the Governor, with the advice and consent of the Senate, shall appoint an interim executive director of the Commission not later than July 1, 2005. The interim executive director shall serve for one year or until the Commission appoints an executive director pursuant to that section, whichever is earlier. The Governor shall fix the compensation of the interim executive director. The interim executive director shall exercise any authority provided by law to the executive director of the Commission or delegated to the interim executive director by the Commission.

Section 318.03. GENERAL OBLIGATION DEBT SERVICE PAYMENTS

Certain appropriations are in this act for the purpose of paying debt service and financing costs on general obligation bonds or notes of the state issued pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

Section 318.06. LEASE PAYMENTS TO OPFC, OBA, AND TREASURER OF STATE

Certain appropriations are in this act for the purpose of making lease payments pursuant to leases and agreements relating to bonds or notes issued by the Ohio Building Authority or the Treasurer of State or, previously, by the Ohio Public Facilities Commission, pursuant to the Ohio Constitution and acts of the General Assembly. If it is determined that additional

appropriations are necessary for this purpose, such amounts are 95395
hereby appropriated. 95396

Section 318.09. AUTHORIZATION FOR TREASURER OF STATE AND OBM 95397
TO EFFECTUATE CERTAIN DEBT SERVICE PAYMENTS 95398

The Office of Budget and Management shall initiate and 95399
process disbursements from general obligation and lease rental 95400
payment appropriation items during the period from July 1, 2005, 95401
to June 30, 2007, relating to bonds or notes issued under Sections 95402
2i, 2k, 2l, 2m, 2n, 2o, and 15 of Article VIII, Ohio Constitution, 95403
and Chapters 151. and 154. of the Revised Code. Disbursements 95404
shall be made upon certification by the Treasurer of State of the 95405
dates and the amounts due on those dates. 95406

Section 318.12. ISSUANCE OF OBLIGATIONS BY THE OHIO COAL 95407
DEVELOPMENT OFFICE 95408

The Ohio Public Facilities Commission, upon the request of 95409
the Director of the Ohio Coal Development Office of the Ohio Air 95410
Quality Development Authority with the advice of the Technical 95411
Advisory Committee created in section 1551.35 of the Revised Code 95412
and the approval of the Executive Director of the Ohio Air Quality 95413
Development Authority, is hereby authorized to issue and sell, in 95414
accordance with Section 15 of Article VIII, Ohio Constitution, and 95415
Chapter 151. and particularly sections 151.01 and 151.07 of the 95416
Revised Code, bonds and other obligations of the State of Ohio in 95417
an aggregate principal amount not to exceed \$15,000,000 in 95418
addition to the issuance of obligations heretofore authorized by 95419
prior acts of the General Assembly. The obligations shall be 95420
dated, issued, and sold from time to time in such amounts as may 95421
be necessary to provide sufficient moneys to the credit of the 95422
Coal Research and Development Fund created in section 1555.15 of 95423
the Revised Code to pay costs charged to the fund when due. 95424

Section 321.03. STATE AND LOCAL REBATE AUTHORIZATION 95425

There is hereby appropriated, from those funds designated by 95426
or pursuant to the applicable proceedings authorizing the issuance 95427
of state obligations, amounts computed at the time to represent 95428
the portion of investment income to be rebated or amounts in lieu 95429
of or in addition to any rebate amount to be paid to the federal 95430
government in order to maintain the exclusion from gross income 95431
for federal income tax purposes of interest on those state 95432
obligations under section 148(f) of the Internal Revenue Code. 95433

Rebate payments shall be approved and vouchered by the Office 95434
of Budget and Management. 95435

Section 321.06. FEDERAL CASH MANAGEMENT IMPROVEMENT ACT 95436

Pursuant to the plan for compliance with the Federal Cash 95437
Management Improvement Act required by section 131.36 of the 95438
Revised Code, the Director of Budget and Management may cancel and 95439
re-establish all or part of encumbrances in like amounts within 95440
the funds identified by the plan. The amounts necessary to 95441
re-establish all or part of encumbrances are hereby appropriated. 95442

Section 321.09. STATEWIDE INDIRECT COST RECOVERY 95443

Whenever the Director of Budget and Management determines 95444
that an appropriation made to a state agency from a fund of the 95445
state is insufficient to provide for the recovery of statewide 95446
indirect costs under section 126.12 of the Revised Code, the 95447
amount required for such purpose is hereby appropriated from the 95448
available receipts of such fund. 95449

Section 321.10. GRF TRANSFERS ON BEHALF OF THE STATEWIDE 95450
INDIRECT COST ALLOCATION PLAN 95451

The total transfers made from the General Revenue Fund by the 95452

Director of Budget and Management under this section shall not
exceed the amounts transferred into the General Revenue Fund under
division (B) of section 126.12 of the Revised Code.

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The director of an agency may certify to the Director of
Budget and Management the amount of expenses not allowed to be
included in the Statewide Indirect Cost Allocation Plan under
federal regulations, from any fund included in the Statewide
Indirect Cost Allocation Plan, prepared as required by section
126.12 of the Revised Code.

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Upon determining that no alternative source of funding is
available to pay for such expenses, the Director of Budget and
Management may transfer from the General Revenue Fund into the
fund for which the certification is made, up to the amount of the
certification. The director of the agency receiving such funds
shall include, as part of the next budget submission prepared
under section 126.02 of the Revised Code, a request for funding
for such activities from an alternative source such that further
federal disallowances would not be required.

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Section 321.11. FEDERAL GOVERNMENT INTEREST REQUIREMENTS

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Notwithstanding any provision of law to the contrary, on or
before the first day of September of each fiscal year, the
Director of Budget and Management, in order to reduce the payment
of adjustments to the federal government, as determined by the
plan prepared under division (A) of section 126.12 of the Revised
Code, may designate such funds as the director considers necessary
to retain their own interest earnings.

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Section 401.05. That Sections 16.09, 19.01, 20.01, 22.03,
22.04, 23.02, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. Sub.
H.B. 16 of the 126th General Assembly be amended to read as
follows:

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		Appropriations	
Sec. 16.09. OSB SCHOOL FOR THE BLIND			95483
CAP-774	Glass Windows/E Wall of Natatorium	\$ 63,726	95484
CAP-775	Renovation of Science Lab Greenhouse	\$ 58,850	95485
CAP-776	Renovating Recreation Area	\$ 213,900	95486
CAP-777	New Classrooms for Secondary MH Program	\$ 880,407	95487
CAP-778	Renovation of Student Health Service Area	\$ 144,375	95488
CAP-779	Replacement of Cottage Windows	\$ 208,725	95489
CAP-780	New School Lighting	\$ 184,500	95490
<u>782</u>			
CAP-781	Food Prep. Area Air Conditioning	\$ 67,250	95491
Total School for the Blind		\$ 1,821,733	95492

Sec. 19.01. All items set forth in this section are hereby 95493
 appropriated out of any moneys in the state treasury to the credit 95494
 of the Cultural and Sports Facilities Building Fund (Fund 030) 95495
 that are not otherwise appropriated. 95496

		Appropriations	
AFC CULTURAL FACILITIES COMMISSION			95497
CAP-010	Sandusky State Theatre Improvements	\$ 325,000	95498
CAP-013	Stambaugh Hall Improvements	\$ 250,000	95499
CAP-033	Woodward Opera House Renovation	\$ 100,000	95500
CAP-038	Center Exhibit Replacement	\$ 816,000	95501
CAP-043	Statewide Site Repairs	\$ 100,000	95502
CAP-044	National Underground Railroad Freedom Center	\$ 4,150,000	95503
CAP-046	Cincinnati Museum Center Improvements	\$ 250,000	95504
CAP-052	Akron Art Museum	\$ 1,012,500	95505
CAP-053	Powers Auditorium Improvements - Eleanor Beecher Flad Pavilion	\$ 250,000	95506
CAP-065	Beck Center for the Cultural Arts	\$ 100,000	95507

CAP-069	Cleveland Institute of Art	\$	250,000	95508
CAP-071	Cleveland Institute of Music	\$	750,000	95509
CAP-073	Marina District/Ice Arena Development	\$	3,500,000	95510
CAP-074	Stan Hywet Hall & Gardens - West Vista Restoration	\$	750,000	95511
CAP-745	Emergency Repairs	\$	838,560	95512
CAP-769	Rankin House State Memorial	\$	192,000	95513
CAP-781	Archives and Library Automation	\$	624,000	95514
CAP-784	Center Rehabilitation	\$	960,000	95515
CAP-806	Grant Boyhood Home Improvements	\$	480,000	95516
CAP-812	Schuster Arts Center	\$	5,500,000	95517
CAP-823	Marion Palace Theatre	\$	750,000	95518
CAP-826	Renaissance Theatre	\$	750,000	95519
CAP-834	Galion Historic Big Four Depot Restoration	\$	170,000	95520
CAP-835	Jamestown Opera House	\$	125,000	95521
CAP-844	Charles A. Eulett Education Center/Edge of Appalachia Museum Center	\$	1,850,000	95522
CAP-845	Lima Historic Athletic Field	\$	100,000	95523
CAP-846	Butler Palace Theatre	\$	100,000 <u>200,000</u>	95524
CAP-847	Voice of America Museum	\$	275,000	95525
CAP-848	Oxford Arts Center ADA Project	\$	72,000	95526
CAP-849	Clark County Community Arts Expansion Project	\$	500,000	95527
CAP-850	Westcott House Historic Site	\$	75,000	95528
CAP-851	General Lytle Homestead - Harmony Hill	\$	50,000	95529
CAP-852	Miami Township Community Amphitheatre	\$	50,000	95530
CAP-853	Western Reserve Historical Society	\$	1,000,000	95531
CAP-854	Steamship Mather Museum	\$	100,000	95532
CAP-855	Rock and Roll Hall of Fame	\$	250,000	95533
CAP-856	Friendly Inn Settlement House Historic Site	\$	250,000	95534

CAP-857	Merrick House Historic Site	\$	250,000	95535
CAP-858	Strongsville Historic Building	\$	100,000	95536
CAP-859	Arts Castle	\$	100,000	95537
CAP-860	Great Lakes Historical Society	\$	325,000	95538
CAP-861	Ohio Glass Museum	\$	250,000	95539
CAP-862	Goll Wood Homestead	\$	50,000	95540
CAP-863	Ariel Theatre	\$	100,000	95541
CAP-864	Bellbrook/Sugarcreek Historical Society	\$	10,000	95542
CAP-865	Kennedy Stone House	\$	15,000	95543
CAP-866	Sports Facilities Improvements - Cincinnati	\$	4,350,000	95544
CAP-867	Ensemble Theatre	\$	450,000	95545
CAP-868	Taft Museum	\$	500,000	95546
CAP-869	Art Academy of Cincinnati	\$	100,000	95547
CAP-870	Riverbend Pavilion Improvements	\$	250,000	95548
CAP-871	Cincinnati Art & Technology Academy - Longworth Hall	\$	100,000	95549
CAP-872	Music Hall: Over-The-Rhine	\$	750,000	95550
CAP-873	John Bloomfield Home Restoration	\$	115,000	95551
CAP-874	Malinta Historical Society Caboose Exhibit	\$	6,000	95552
CAP-875	Hocking County Historical Society - Schempp House	\$	10,000	95553
CAP-876	Art Deco Markay Theater	\$	200,000	95554
CAP-877	Harvey Wells House	\$	100,000	95555
CAP-878	Bryn Du	\$	250,000	95556
CAP-879	Broad Street Historical Renovation	\$	300,000	95557
CAP-880	Amherst Historical Society	\$	35,000	95558
CAP-881	COSI - Toledo	\$	1,900,000	95559
CAP-882	Ohio Theatre - Toledo	\$	100,000	95560
CAP-883	Chester Academy Historic Site Renovations	\$	25,000	95561
CAP-884	Bradford Ohio Railroad Museum	\$	100,000	95562
CAP-885	Montgomery County Historical Society	\$	100,000	95563

	Archives			
CAP-886	Nelson T. Gant Historic Homestead	\$	25,000	95564
CAP-887	Aurora Outdoor Sports Complex	\$	50,000	95565
CAP-888	Preble County Historical Society	\$	100,000	95566
CAP-889	Tecumseh Sugarloaf Mountain Amphitheatre	\$	120,000	95567
CAP-890	Pro Football Hall of Fame	\$	400,000	95568
CAP-891	MAPS Air Museum	\$	15,000	95569
CAP-892	Foundation Community Theatre <u>Theatre</u>	\$	50,000	95570
CAP-893	William McKinley Library Restoration	\$	250,000	95571
CAP-894	Hale Farm & Village	\$	250,000	95572
CAP-895	Blossom Music Center	\$	2,512,500	95573
CAP-896	Richard Howe House	\$	100,000	95574
CAP-897	Ward-Thomas Museum	\$	30,000	95575
CAP-898	Packard Music Hall Renovation Project	\$	100,000	95576
CAP-899	Holland Theatre	\$	100,000	95577
CAP-900	Van Wert Historical Society	\$	32,000	95578
CAP-901	Warren County Historical Society	\$	225,000	95579
CAP-902	Marietta Colony Theatre	\$	335,000	95580
CAP-903	West Salem Village Opera House	\$	92,000	95581
CAP-904	Beavercreek Community Theater	\$	100,000	95582
CAP-905	Smith Orr Homestead	\$	100,000	95583
	Total Cultural Facilities Commission	\$	43,592,560	95584
			<u>41,165,060</u>	
	TOTAL Cultural and Sports Facilities Building Fund	\$	43,592,560	95585
			<u>41,165,060</u>	

Sec. 20.01. All items set forth in this section are hereby 95587
 appropriated out of any moneys in the state treasury to the credit 95588
 of the Ohio Parks and Natural Resources Fund (Fund 031) that are 95589
 not otherwise appropriated. 95590

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES	95591
STATEWIDE AND LOCAL PROJECTS	95592

CAP-012	Land Acquisition	\$	750,000	95593
CAP-051	Buck Creek State Park - Camp/Dock Renovations	\$	25,000	95594
CAP-060	East Fork State Park Renovation	\$	50,000	95595
<u>CAP-068</u>	<u>Kennedy Stone House</u>	<u>\$</u>	<u>15,000</u>	95596
CAP-080	Atwood Lake Conservancy District	\$	75,000	95597
CAP-083	John Bryan State Park Shelter Construction	\$	30,000	95598
CAP-084	Findley State Park General Improvements	\$	12,500	95599
CAP-085	The Wilds Carnivore Center	\$	1,000,000	95600
CAP-086	Scippo Creek Conservation	\$	75,000	95601
CAP-087	Belpre City Swimming Pool	\$	125,000	95602
CAP-705	Ohio-Erie Canal Tuscarawas River Logjam Removal	\$	25,000	95603
CAP-748	Local Parks Projects - Statewide	\$	2,511,079	95604
CAP-753	Project Planning	\$	1,144,316	95605
CAP-881	Dam Rehabilitation	\$	5,000,000	95606
CAP-931	Wastewater/Water Systems Upgrades	\$	2,900,000	95607
Total Statewide and Local Projects		\$	13,722,895	95608
			<u>12,737,895</u>	95609
Total Department of Natural Resources		\$	13,722,895	95610
			<u>12,737,895</u>	95611
TOTAL Ohio Parks and Natural Resources Fund		\$	13,722,895	95612
			<u>12,737,895</u>	95613

Appropriations

Sec. 22.03. DMH DEPARTMENT OF MENTAL HEALTH				95615
CAP-479	Community Assistance Projects	\$	1,800,000	95616
			<u>1,900,000</u>	
CAP-978	Infrastructure Improvements	\$	8,050,000	95617
CAP-989	Cleveland Christian Home	\$	100,000	95618
Total Department of Mental Health		\$	9,950,000	95619
COMMUNITY ASSISTANCE PROJECTS				95620

Of the foregoing appropriation item CAP-479, Community Assistance Projects, \$200,000 shall be used for the Center for Families and Children, \$100,000 shall be used for the Cleveland Christian Home, and \$100,000 shall be used for the Berea Children's Home.

Appropriations

Sec. 22.04. DMR DEPARTMENT OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES

STATEWIDE AND CENTRAL OFFICE PROJECTS

CAP-480	Community Assistance Projects	\$	9,475,000	95629
CAP-955	Statewide Development Centers	\$	3,257,257	95630
	Total Statewide and Central Office Projects	\$	12,732,257	95631
	TOTAL Department of Mental Retardation and Developmental Disabilities	\$	12,732,257	95632

TOTAL MENTAL HEALTH FACILITIES IMPROVEMENT FUND \$ 22,782,257 95633

COMMUNITY ASSISTANCE PROJECTS

The foregoing appropriation item CAP-480, Community Assistance Projects, may be used to provide community assistance funds for the development, purchase, construction, or renovation of facilities for day programs or residential programs that provide services to persons eligible for services from the Department of Mental Retardation and Developmental Disabilities or county boards of mental retardation and developmental disabilities. Any funds provided to nonprofit agencies for the construction or renovation of facilities for persons eligible for services from the Department of Mental Retardation and Developmental Disabilities and county boards of mental retardation and developmental disabilities shall be governed by the prevailing wage provisions in section 176.05 of the Revised Code.

Of the foregoing appropriation item CAP-480, \$200,000 shall be used for the Achievement Centers for Children+ and \$250,000

shall be used for Bellefaire Jewish Children's Bureau+ 95650

Notwithstanding any other provision of law to the contrary, 95651
of the foregoing appropriation item CAP-480, \$250,000 shall be 95652
 used for the Julie Billart facility+ and \$75,000 shall be used for 95653
 the Hanson Home. 95654

Appropriations

Sec. 23.02. ~~OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK~~ 95655
~~COMMISSION ETC ETECH OHIO~~ 95656
 CAP-001 Educational TV and Radio Equipment \$ 1,027,038 95657
 Total ~~Ohio Educational Telecommunications Network~~ \$ 1,027,038 95658
~~Commission eTech Ohio~~

Appropriations

Sec. 23.12. CLS CLEVELAND STATE UNIVERSITY 95660
 CAP-023 Basic Renovations \$ 3,267,875 95661
 CAP-125 College of Education Building \$ 8,057,262 95662
 CAP-130 ~~WVIZ Technology Center/Playhouse Square~~ \$ 750,000 95663
 CAP-152 Rhodes Tower-Data Center Relocation \$ 1,000,000 95664
 CAP-153 University Annex-Vacation and Demolition \$ 49,390 95665
 CAP-154 Main Classroom Stair Tower & Entry \$ 1,500,000 95666
 CAP-155 Cleveland Playhouse \$ 250,000 95667
 CAP-156 Physical Education Building \$ 1,000,000 95668
 Rehabilitation
 Total Cleveland State University \$ ~~15,874,527~~ 95669
15,124,527

Appropriations

Sec. 23.13. KSU KENT STATE UNIVERSITY 95671
 CAP-022 Basic Renovations \$ 3,573,078 95672
 CAP-105 Basic Renovations-East Liverpool \$ 151,408 95673
 CAP-106 Basic Renovations-Geauga \$ 45,607 95674
 CAP-107 Basic Renovations-Salem \$ 105,640 95675

CAP-108	Basic Renovations-Stark	\$	325,358	95676
CAP-110	Basic Renovations-Ashtabula	\$	177,801	95677
CAP-111	Basic Renovations-Trumbull	\$	347,695	95678
CAP-112	Basic Renovations-Tuscarawas	\$	171,699	95679
CAP-212	Health Science Building, Planning	\$	705,720	95680
CAP-235	Rehabilitation of Franklin Hall	\$	13,923,684	95681
CAP-260	Land Acquisitions & Improvements-East Liverpool	\$	638,419	95682
CAP-261	Addition/Renovation of Classrooms-Geauga	\$	246,878	95683
CAP-262	Gym Renovation Planning-Salem	\$	490,213	95684
CAP-263	Parking Lot & Roadway Paving-Stark	\$	162,076	95685
CAP-264	Fine Arts Building & New Campus Center-Stark	\$	1,000,000	95686
CAP-265	Science Lab Addition-Trumbull	\$	991,786	95687
CAP-266	Fine & Performing Arts Center - Tuscarawas	\$	844,655	95688
CAP-267	Columbiana County Port Authority	\$	875,000	95689
CAP-268	Canton Convention Center	\$	735,000	95690
<u>CAP-269</u>	<u>Blossom Music Center</u>	<u>\$</u>	<u>2,512,500</u>	95691
Total Kent State University		\$	25,511,717	95692
			<u>28,024,217</u>	

Sec. 23.26. CCC CUYAHOGA COMMUNITY COLLEGE 95694

			Appropriations	
CAP-031	Basic Renovations	\$	2,428,960	95695
CAP-079	Cleveland Art Museum Improvements	\$	3,000,000	95696
CAP-094	Collegewide Wayfinding Signage System	\$	1,067,510	95697
CAP-095	Collegewide Asset Protection and Building Codes Upgrade	\$	1,491,522	95698
CAP-096	Health Care Technology Building - Eastern	\$	6,050,264	95699
<u>CAP-097</u>	<u>WVIZ Technology Center/Playhouse Square</u>	<u>\$</u>	<u>750,000</u>	95700
Total Cuyahoga Community College		\$	14,038,256	95701

14,788,256

Sec. 23.45. STC STARK TECHNICAL COLLEGE			95702
CAP-004	Basic Renovations	\$ 438,295	95703
CAP-035	Business Technologies Addition	\$ 1,378,892	95704
	Rehabilitation		
CAP-037	Fuel Cell Initiative	\$ 250,000	95705
Total Stark Technical College			\$ 2,067,187 95706
Total Board of Regents and State			95707
Institutions of Higher Education			\$ 488,343,998 95708
			<u>490,956,498</u>
TOTAL Higher Education Improvement Fund			\$ 489,371,036 95709
			<u>491,883,536</u>

Sec. 24.01. All items set forth in this section are hereby 95711
appropriated out of any moneys in the state treasury to the credit 95712
of the Parks and Recreation Improvement Fund (Fund 035) that are 95713
not otherwise appropriated. 95714

Appropriations

DNR DEPARTMENT OF NATURAL RESOURCES			95715
CAP-004	Burr Oak Lodge	\$ 150,000	95716
CAP-012	Land Acquisition	\$ 243,663	95717
<u>CAP-085</u>	<u>The Wilds Carnivore Center</u>	<u>\$ 1,000,000</u>	95718
CAP-088	Muskingum River Lock and Dam	\$ 250,000	95719
<u>CAP-716</u>			95720
CAP-234	State Park Campgrounds, Cabins, and Lodges	\$ 2,712,500	95721
CAP-331	Park Boating Facilities	\$ 7,588,383	95722
CAP-701	Buckeye Lake State Park - Dam Rehabilitation	\$ 4,000,000	95723
CAP-718	Grand Lake St. Mary's State Park Erosion Control Project	\$ 450,000	95724
CAP-748	Local Park Projects	\$ 2,715,000	95725

CAP-753	Project Planning	\$	175,000	95726
CAP-848	Hazardous Dam Repair - Statewide	\$	1,325,000	95727
CAP-876	Statewide Trails	\$	1,101,500	95728
			<u>1,851,500</u>	
CAP-931	Statewide Wastewater/Water Systems Upgrade	\$	2,500,000	95729
Total Department of Natural Resources		\$	23,211,046	95730
			<u>24,961,046</u>	95731
TOTAL Parks and Recreation Improvement Fund		\$	23,211,046	95732
			<u>24,961,046</u>	95733

FEDERAL REIMBURSEMENT 95734

All reimbursements received from the federal government for 95735
any expenditures made pursuant to this section shall be deposited 95736
in the state treasury to the credit of the Parks and Recreation 95737
Improvement Fund (Fund 035). 95738

LOCAL PARKS PROJECTS 95739

Of the foregoing appropriation item CAP-748, Local Parks 95740
Projects, \$75,000 shall be used for the Springfield Arts Veterans' 95741
Park; \$50,000 shall be used for the Village of Bentleyville Park; 95742
\$25,000 shall be used for the Cleveland Police and Firefighters 95743
Memorial Park; \$100,000 shall be used for the Parma Heights 95744
Greenbriar Park; \$125,000 shall be used for the Fairborn Park 95745
Entrance Project; \$250,000 shall be used for the Greene County 95746
Soccer Park; \$750,000 shall be used for the Banks Park; \$400,000 95747
shall be used for the Colerain Township Park Improvements; 95748
\$200,000 shall be used for the Colerain Township Heritage Park; 95749
\$75,000 shall be used for the London Park Project; \$50,000 shall 95750
be used for Somerset Park Improvements; \$50,000 shall be used for 95751
Meadowbrook Park; \$25,000 shall be used for Early Hill Park; 95752
\$25,000 shall be used for the Wright-Flyer Aviation Park; \$200,000 95753
shall be used for Madison Township Park; \$10,000 shall be used for 95754
the Wellington Soccer Field Park; \$10,000 shall be used for the 95755

Greenwich Township Baseball Field Park Improvements; \$20,000 shall 95756
be used for the City of London Sports Park; \$25,000 shall be used 95757
for the Pleasant Hill Park Ball Field Project; and \$250,000 shall 95758
be used for the Education Gateway at Sippo Lake Park. 95759

STATEWIDE TRAILS PROGRAM 95760

Of the foregoing appropriation item CAP-876, Statewide 95761
Trails, \$85,000 shall be used for the Williamsburg-Batavia 95762
hike/bike trail; \$16,500 shall be used for the South Milford Road 95763
Bike Trail Project; \$125,000 shall be used for the Tri-County 95764
Triangle Trail in Fayette county; ~~\$100,00~~ \$100,000 shall be used 95765
for the Tri-County Triangle Trail in Highland County; \$125,000 95766
shall be used for the Tri-County Triangle Trail in Ross county; 95767
\$550,000 shall be used for the Camp Chase Ohio to Erie Trail; ~~and~~ 95768
\$100,000 shall be used for the Holmes County Park District - Rails 95769
to Trails; and \$750,000 shall be used for the Little Miami Trail 95770
through the Village of Terrace Park. The state funds for the 95771
Little Miami Trail Project shall be used to undertake project work 95772
that is eligible for reimbursement under the federal Land and 95773
Water Conservation Fund and the Recreational Trails Program. The 95774
federal reimbursement funds for the project work shall be credited 95775
to the Parks and Recreation Improvement Fund (Fund 035). 95776

Section 401.06. That existing Sections 16.09, 19.01, 20.01, 95777
22.03, 22.04, 23.02, 23.12, 23.13, 23.26, 23.45, and 24.01 of Am. 95778
Sub. H.B. 16 of the 126th General Assembly are hereby repealed. 95779

Section 401.07. That Section 3 of Am. H.B. 67 of the 126th 95780
General Assembly be amended to read as follows: 95781

Sec. 3. All items in this section are hereby appropriated out 95782
of any moneys in the state treasury to the credit of the 95783
designated fund. For all appropriations made in this act, those in 95784

Building Authority, and these appropriations shall be used to meet 95809
all payments at the times they are required to be made during the 95810
period from July 1, 2005, to June 30, 2007, by the Bureau of 95811
Workers' Compensation to the Ohio Building Authority pursuant to 95812
leases and agreements made under Chapter 152. of the Revised Code 95813
and Section 6 of Am. Sub. H.B. 743 of the 118th General Assembly. 95814
Of the amounts received in Fund 023, appropriation item 855-401, 95815
William Green Lease Payments to OBA, up to \$39,862,500 shall be 95816
restricted for lease rental payments to the Ohio Building 95817
Authority. If it is determined that additional appropriations are 95818
necessary for such purpose, such amounts are hereby appropriated. 95819

Notwithstanding any other provision of law to the contrary, 95820
all tenants of the William Green Building not funded by the 95821
Workers' Compensation Fund (Fund 023) shall pay their fair share 95822
of the costs of lease payments to the Workers' Compensation Fund 95823
(Fund 023) by intrastate transfer voucher. 95824

WORKERS' COMPENSATION OVERSIGHT COMMISSION 95825

Of the foregoing appropriation item 855-409, Administrative 95826
Services, up to \$18,000 per calendar year shall be used to pay the 95827
annual compensation of each investment expert member of the 95828
Workers' Compensation Oversight Commission, as provided in 95829
divisions (D) and (F) of section 4121.12 of the Revised Code. Each 95830
investment expert member shall also receive reasonable and 95831
necessary expenses while engaged in the performance of his or her 95832
duties, as provided in division (F) of section 4121.12 of the 95833
Revised Code. 95834

WORKERS' COMPENSATION FRAUD UNIT 95835

The Workers' Compensation Section Fund (Fund 195) shall 95836
receive payments from the Bureau of Workers' Compensation at the 95837
beginning of each quarter of each fiscal year to fund expenses of 95838
the Workers' Compensation Fraud Unit of the Attorney General's 95839

Office. Of the foregoing appropriation item 855-410, Attorney 95840
General Payments, \$773,151 in fiscal year 2006 and \$773,151 in 95841
fiscal year 2007 shall be used to provide these payments. 95842

SAFETY AND HYGIENE 95843

Notwithstanding section 4121.37 of the Revised Code, the 95844
Administrator of Workers' Compensation shall transfer moneys from 95845
the State Insurance Fund so that appropriation item 855-609, 95846
Safety and Hygiene Operating, is provided \$20,130,820 in fiscal 95847
year 2006 and \$20,130,820 in fiscal year 2007. 95848

LONG-TERM CARE LOAN FUND 95849

Upon the request of the Administrator of the Bureau of 95850
Workers' Compensation and with the advice and consent of the 95851
Bureau of Workers' Compensation Oversight Commission, the Director 95852
of Budget and Management shall transfer cash in the amounts 95853
requested from the Safety and Hygiene Operating Fund (Fund 826) to 95854
the Long-Term Care Loan Fund (Fund 829) created in section 4121.48 95855
of the Revised Code. The amounts transferred are hereby 95856
appropriated. 95857

OSHA ON-SITE CONSULTATION PROGRAM 95858

The Bureau of Workers' Compensation may designate a portion 95859
of appropriation item 855-609, Safety and Hygiene Operating, to be 95860
used to match federal funding for the federal Occupational Safety 95861
and Health Administration's (OSHA) on-site consultation program. 95862

VOCATIONAL REHABILITATION 95863

The Bureau of Workers' Compensation and the Rehabilitation 95864
Services Commission shall enter into an interagency agreement for 95865
the provision of vocational rehabilitation services and staff to 95866
mutually eligible clients. The bureau shall provide \$587,774 in 95867
fiscal year 2006 and \$605,407 in fiscal year 2007 from the State 95868
Insurance Fund to fund vocational rehabilitation services and 95869

staff in accordance with the interagency agreement.	95870
FUND BALANCE	95871
Any unencumbered cash balance in excess of \$45,000,000 in the	95872
Workers' Compensation Fund (Fund 023) on the thirtieth day of June	95873
of each fiscal year shall be used to reduce the administrative	95874
cost rate charged to employers to cover appropriations for Bureau	95875
of Workers' Compensation operations.	95876
OSHA ENFORCEMENT FUND TRANSFER	95877
On July 1, 2005, or as soon thereafter as possible, the	95878
Director of Budget and Management shall transfer the OSHA	95879
Enforcement Fund (Fund 349) from the Department of Commerce to the	95880
Bureau of Workers' Compensation. At the request of the Director of	95881
the Department of Commerce, the Director of Budget and Management	95882
may cancel encumbrances in this fund from appropriation item	95883
800-626, OSHA Enforcement, within the budget of the Department of	95884
Commerce, and reestablish those encumbrances or parts of those	95885
encumbrances in fiscal year 2006 for the same purpose and to the	95886
same vendor to appropriation item 855-601, OSHA Enforcement,	95887
within the budget of the Bureau of Workers' Compensation. As	95888
determined by the Director of Budget and Management, the	95889
appropriation authority necessary to reestablish encumbrances or	95890
parts of encumbrances in fiscal year 2006 for the Bureau of	95891
Workers' Compensation is hereby granted.	95892
Section 401.08. That existing Section 3 of Am. H.B. 67 of the	95893
126th General Assembly is hereby repealed.	95894
Section 401.11. That Sections 203.03.09, 203.03.10, and	95895
203.06.15 of Am. Sub. H.B. 68 of the 126th General Assembly be	95896
amended to read as follows:	95897
Sec. 203.03.09. PUBLIC ACCESS ROADS FOR STATE FACILITIES	95898

Of the foregoing appropriation item 772-421, Highway 95899
Construction - State, ~~\$4,517,500~~ \$5,000,000 shall be used in each 95900
fiscal year during the fiscal year 2006-2007 biennium by the 95901
Department of Transportation for the construction, reconstruction, 95902
or maintenance of public access roads, including support features, 95903
to and within state facilities owned or operated by the Department 95904
of Natural Resources, ~~as requested by the Director of Natural~~ 95905
~~Resources.~~ 95906

Notwithstanding section 5511.06 of the Revised Code, of the 95907
foregoing appropriation item 772-421, Highway Construction - 95908
State, \$2,228,000 in each fiscal year of the fiscal year 2006-2007 95909
biennium shall be used by the Department of Transportation for the 95910
construction, reconstruction, or maintenance of park drives or 95911
park roads within the boundaries of metropolitan parks. 95912

Included in the foregoing appropriation item 772-421, Highway 95913
Construction - State, the department may perform related road work 95914
on behalf of the Ohio Expositions Commission at the state 95915
fairgrounds, including reconstruction or maintenance of public 95916
access roads and support features, to and within fairground 95917
facilities as requested by the commission and approved by the 95918
Director of Transportation. 95919

LIQUIDATION OF UNFORESEEN LIABILITIES 95920

Any appropriation made to the Department of Transportation, 95921
Highway Operating Fund, not otherwise restricted by law, is 95922
available to liquidate unforeseen liabilities arising from 95923
contractual agreements of prior years when the prior year 95924
encumbrance is insufficient. 95925

Sec. 203.03.10. PREVENTIVE MAINTENANCE 95926

The Department of Transportation shall contract with an 95927
independent party to ~~issue a yearly report~~ conduct a study and 95928

issue a report on the effectiveness and progress of preventive 95929
 maintenance projects ~~that meet warranty guidelines~~. The 95930
~~Thereafter, the~~ Department shall issue a yearly report on or 95931
 before the first day of December for three consecutive years 95932
~~beginning in fiscal year 2005~~. 95933

~~The Department shall provide in its annual report data~~ on 95934
 actual and planned pavement preventive maintenance activities. The 95935
 data shall include the following: (1) the total number of lane 95936
 miles receiving preventive maintenance treatment, by treatment 95937
 type and highway system category; (2) the total number of lane 95938
 miles programmed to receive treatment; (3) the actual costs of the 95939
 pavement preventive maintenance activities per lane mile, by 95940
 treatment type and highway system category; (4) the total number 95941
 of lane miles rehabilitated or reconstructed; and (5) the actual 95942
 cost per lane mile of rehabilitated or reconstructed highway, by 95943
 highway system category. 95944

Sec. 203.06.15. EMERGENCY MANAGEMENT 95945

Federal Special Revenue Fund Group				95946
3N5 763-644 U.S. DOE Agreement	\$	275,000	\$ 275,000	95947
329 763-645 Federal Mitigation	\$	303,504	\$ 303,504	95948
Program				
337 763-609 Federal Disaster	\$	27,269,140	\$ 27,280,000	95949
Relief				
339 763-647 Emergency Management	\$	129,622,000	\$ 129,622,000	95950
Assistance and				
Training				
TOTAL FED Federal Special				95951
Revenue Fund Group	\$	157,469,644	\$ 157,480,504	95952
State Special Revenue Fund Group				95953
4V3 763-662 EMA Service and	\$	696,446	\$ 696,446	95954
Reimbursement				

657	763-652	Utility Radiological Safety	\$	1,260,000	\$	1,260,000	95955
681	763-653	SARA Title III HAZMAT Planning	\$	271,510	\$	271,510	95956
TOTAL SSR State Special Revenue							95957
Fund Group			\$	2,227,956	\$	2,227,956	95958
TOTAL ALL BUDGET FUND GROUPS -							95959
Emergency Management			\$	159,697,600	\$	159,708,460	95960
FEDERAL MITIGATION PROGRAM							95961
The fund created by the Controlling Board known as the							95962
Disaster Relief <u>Services Plan and Grant Administration</u> Fund is now							95963
the Federal Mitigation Program Fund, and shall be used to plan and							95964
mitigate against future disaster costs.							95965
<u>The appropriation item 763-645, heretofore known as</u>							95966
<u>Individual/Family Grant - Fed, is hereafter known as Federal</u>							95967
<u>Mitigation Program, and shall be used to plan and mitigate against</u>							95968
<u>future disaster costs.</u>							95969
STATE DISASTER RELIEF							95970
The appropriation item 763-601, State Disaster Relief, may							95971
accept transfers of cash and appropriations from Controlling Board							95972
appropriation items to reimburse eligible local governments and							95973
private nonprofit organizations for costs related to disasters							95974
that have been declared by local governments or the Governor. The							95975
Ohio Emergency Management Agency shall publish and make available							95976
an application packet outlining eligible items and application							95977
procedures for entities requesting state disaster relief.							95978
Individuals may be eligible for reimbursement of costs							95979
related to disasters that have been declared by the Governor and							95980
the Small Business Administration. The funding in appropriation							95981
item 763-601, State Disaster Relief, shall be used in accordance							95982
with the principles of the federal Individual and Family Grant							95983

Program, which provides grants to households that have been 95984
affected by a disaster to replace basic living items. The Ohio 95985
Emergency Management Agency shall publish and make available an 95986
application procedure for individuals requesting assistance under 95987
the state Individual Assistance Program. 95988

SARA TITLE III HAZMAT PLANNING 95989

The SARA Title III HAZMAT Planning Fund (Fund 681) is 95990
entitled to receive grant funds from the Emergency Response 95991
Commission to implement the Emergency Management Agency's 95992
responsibilities under Chapter 3750. of the Revised Code. 95993

Section 401.12. That existing Sections 203.03.09, 203.03.10, 95994
and 203.06.15 of Am. Sub. H.B. 68 of the 126th General Assembly 95995
are hereby repealed. 95996

Section 401.13. Notwithstanding section 5511.05 of the 95997
Revised Code, the Director of Transportation shall confer with the 95998
Director of Natural Resources in fiscal years 2006 and 2007 95999
concerning the establishment, construction, reconstruction, 96000
improvement, repair, and maintenance of all roads and bridges 96001
within the boundaries of all state parks, including all such parks 96002
and properties under the control and custody of the Department of 96003
Natural Resources. After conferring with the Director of Natural 96004
Resources, the Director of Transportation shall establish, 96005
construct, reconstruct, improve, repair, and maintain all such 96006
roads and bridges. \$5,000,000 shall be expended to establish, 96007
construct, reconstruct, improve, repair, and maintain all such 96008
roads and bridges in each fiscal year. 96009

Section 403.01. That Section 14 of Sub. H.B. 434 of the 125th 96010
General Assembly be amended to read as follows: 96011

Sec. 14. NET SCHOOLNET COMMISSION <u>ETC ETECH OHIO</u>	96012
Tobacco Master Settlement Agreement Fund Group	96013
S87 228 Education Technology \$ 9,277,865 \$ 6,274,109	96014
<u>935-602</u> Trust Fund	
TOTAL TSF Tobacco Master Settlement Agreement Fund Group	96015
\$ 9,277,865 \$ 6,274,109	96017
TOTAL ALL BUDGET FUND GROUPS \$ 9,277,865 \$ 6,274,109	96018
SCHOOLNET PLUS	96019
The Ohio SchoolNet Commission shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2005 to establish and equip at least one interactive computer workstation for each five students enrolled in the seventh grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.	96020 96021 96022 96023 96024 96025
Upon completion of the SchoolNet Plus Grant Program for the seventh grade, the Ohio SchoolNet Commission <u>eTech Ohio</u> shall distribute SchoolNet Plus Grants to qualifying school districts in fiscal year 2006 to establish and equip at least one interactive computer workstation for each five children enrolled in the eighth grade as reported by school districts pursuant to division (A) of section 3317.03 of the Revised Code.	96026 96027 96028 96029 96030 96031 96032
Districts in the first two quartiles of wealth shall receive up to \$275 per pupil for students in the targeted grade to purchase classroom computers. Districts in the third and fourth quartiles shall receive up to \$105 per pupil in the targeted grade. If a district has met the state's goal of one computer to every five students in the targeted grade, the district may use the funds provided through SchoolNet Plus to purchase computers for successive grades or to fulfill educational technology needs	96033 96034 96035 96036 96037 96038 96039 96040

in other grades as specified in the district's technology plan.		96041
Section 403.02. That existing Section 14 of Sub. H.B. 434 of		96042
the 125th General Assembly is hereby repealed.		96043
Section 403.05. That Section 4 of Am. Sub. H.B. 516 of the		96044
125th General Assembly be amended to read as follows:		96045
Sec. 4. The following agencies shall be retained pursuant to		96046
division (D) of section 101.83 of the Revised Code and shall		96047
expire on December 31, 2010:		96048
	REVISED CODE	96049
	OR	
	UNCODIFIED	96050
	AGENCY NAME	SECTION
		96051
Administrator, Interstate Compact on Mental Health	5119.50	96052
Administrator, Interstate Compact on	5103.20	96053
Placement of Children		96054
Advisory Board of Governor's Office of Faith-Based	107.12	96055
and Community Initiatives		
Advisory Boards to the EPA for Air Pollution	121.13	96056
Advisory Boards to the EPA for Water Pollution	121.13	96057
Advisory Committee of the State Veterinary Medical	4741.03(D)(3)	96058
Licensing Board		
Advisory Committee on Livestock Exhibitions	901.71	96059
Advisory Council on Amusement Ride Safety	1711.51	96060
Advisory Board of Directors for Prison Labor	5145.162	96061
Advisory Council for Each Wild, Scenic, or	1517.18	96062
Recreational River Area		
Advisory Councils or Boards for State Departments	107.18 or	96063
	121.13	
Advisory Group to the Ohio Water Resources Council	1521.19(C)	96064
Alzheimer's Disease Task Force	173.04(F)	96065

AMBER Alert Advisory Committee	5502.521	96066
Apprenticeship Council	4139.02	96067
Armory Board of Control	5911.09	96068
Automated Title Processing Board	4505.09(C)(1)	96069
Banking Commission	1123.01	96070
Board of Directors of the Ohio Health Reinsurance Program	3924.08	96071
Board of Voting Machine Examiners	3506.05(B)	96072
Board of Tax Appeals	5703.02	96073
Brain Injury Advisory Committee	3304.231	96074
Capitol Square Review and Advisory Board	105.41	96075
Child Support Guideline Advisory Council	3119.024	96076
Children's Trust Fund Board	3109.15	96077
Citizens Advisory Committee (BMV)	4501.025	96078
Citizen's Advisory Councils (Dept. of Mental Retardation and Developmental Disabilities)	5123.092	96079
Clean Ohio Trail Advisory Board	1519.06	96080
Coastal Resources Advisory Council	1506.12	96081
Commission on African-American Males	4112.12	96082
Commission on Hispanic-Latino Affairs	121.31	96083
Commission on Minority Health	3701.78	96084
Committee on Prescriptive Governance	4723.49	96085
Commodity Advisory Commission	926.32	96086
Community Mental Retardation and Developmental Disabilities Trust Fund Advisory Council	5123.353	96087
Community Oversight Council	3311.77	96088
Compassionate Care Task Force	Section 3, H.B. 474, 124th GA	96089
Consumer Advisory Committee to the Rehabilitation Services Commission	3304.24	96090
Continuing Education Committee (for Sheriffs)	109.80	96091
Controlling Board	127.12	96092

Coordinating Committee, Agricultural Commodity Marketing Programs	924.14	96093
Council on Alcohol and Drug Addiction Services	3793.09	96094
Council on Unreclaimed Strip Mined Lands	1513.29	96095
Council to Advise on the Establishment and Implementation of the Birth Defects Information System	3705.34	96096
County Sheriffs' Standard Car-Marking and Uniform Commission	311.25	96097
Credit Union Council	1733.329	96098
Criminal Sentencing Advisory Committee	181.22	96099
Day-Care Advisory Council	5104.08	96100
Dentist Loan Repayment Advisory Board	3702.92	96101
Development Financing Advisory Council	122.40	96102
Education Commission of the States (Interstate Compact for Education)	3301.48	96103
Electrical Safety Inspector Advisory Committee	3783.08	96104
Emergency Response Commission	3750.02	96105
Engineering Experiment Station Advisory Committee	3335.27	96106
Environmental Education Council	3745.21	96107
Environmental Review Appeals Commission	3745.02	96108
EPA Advisory Boards or Councils	121.13	96109
Farmland Preservation Advisory Board	901.23	96110
Financial Planning & Supervision Commission for Municipal Corporation, County, or Township	118.05	96111
Financial Planning & Supervision Commission for School District	3316.05	96112
Forestry Advisory Council	1503.40	96113
Governance Authority for a State University or College	3345.75	96114
Governor's Advisory Council on Physical Fitness, Wellness, & Sports	3701.77	96115
Governor's Council on People with Disabilities	3303.41	96116

Governor's Residence Advisory Commission	107.40	96117
Great Lakes Commission (Great Lakes Basin Compact)	6161.01	96118
Gubernatorial Transition Committee	107.29	96119
Head Start Partnership Study Council	Section 41.35, H.B. 95, 125th GA	96120
Hemophilia Advisory Subcommittee	3701.0210	96121
Housing Trust Fund Advisory Committee	175.25	96122
Industrial Commission Nominating Council	4121.04	96123
Industrial Technology and Enterprise Advisory Council	122.29	96124
Infant Hearing Screening Subcommittee	3701.507	96125
Insurance Agent Education Advisory Council	3905.483	96126
Interagency Council on Hispanic/Latino Affairs	121.32(J)	96127
Interstate Mining Commission (Interstate Mining Compact)	1514.30	96128
Interstate Rail Passenger Advisory Council (Interstate High Speed Intercity Rail Passenger Network Compact)	4981.35	96129
Joint Council on MR/DD	101.37	96130
Joint Select Committee on Volume Cap	133.021	96131
Labor-Management Government Advisory Council	4121.70	96132
Legal Rights Service Commission	5123.60	96133
Legislative Task Force on Redistricting, Reapportionment, and Demographic Research	103.51	96134
Maternal and Child Health Council	3701.025	96135
Medically Handicapped Children's Medical Advisory Council	3701.025	96136
Midwest Interstate Passenger Rail Compact Commission (Ohio members)	4981.361	96137
Military Activation Task Force	5902.15	96138
Milk Sanitation Board	917.03	96139
Mine Subsidence Insurance Governing Board	3929.51	96140

Minority Development Financing Board	122.72	96141
Multi-Agency Radio Communications Systems Steering Committee	Sec. 21, H.B. 790, 120th GA	96142
Multidisciplinary Council	3746.03	96143
Muskingum River Advisory Council	1501.25	96144
National Museum of Afro-American History and Culture Planning Committee	149.303	96145
Nursing Facility Reimbursement Study Council	5111.34	96146
Ohio Advisory Council for the Aging	173.03	96147
Ohio Aerospace & Defense Advisory Council	122.98	96148
Ohio Arts Council	3379.02	96149
Ohio Business Gateway Steering Committee	5703.57	96150
Ohio Cemetery Dispute Resolution Commission	4767.05	96151
Ohio Civil Rights Commission Advisory Agencies and Conciliation Councils	4112.04(B)	96152
Ohio Commercial Insurance Joint Underwriting Association Board Of Governors	3930.03	96153
Ohio Commercial Market Assistance Plan Executive Committee	3930.02	96154
Ohio Commission on Dispute Resolution and Conflict Management	179.02	96155
Ohio Commission to Reform Medicaid	Section 59.29, H.B. 95, 125th GA	96156
Ohio Community Service Council	121.40	96157
Ohio Council for Interstate Adult Offender Supervision	5149.22	96158
Ohio Cultural Facilities Commission	3383.02	96159
Ohio Developmental Disabilities Council	5123.35	96160
Ohio Educational Telecommunications Network Commission	3353.02	96161
Ohio Ethics Commission	102.05	96162
Ohio Expositions Commission	991.02	96163

Ohio Family and Children First Cabinet Council	121.37	96164
Ohio Geology Advisory Council	1505.11	96165
Ohio Grape Industries Committee	924.51	96166
Ohio Hepatitis C Advisory Commission	3701.92	96167
Ohio Historic Site Preservation Advisory Board	149.301	96168
Ohio Historical Society Board of Trustees	149.30	96169
Ohio Judicial Conference	105.91	96170
Ohio Lake Erie Commission	1506.21	96171
Ohio Medical Malpractice Commission	Section 4, S.B. 281, 124th GA and Section 3, S.B. 86, 125th GA	96172
Ohio Medical Quality Foundation	3701.89	96173
Ohio Parks and Recreation Council	1541.40	96174
Ohio Peace Officer Training Commission	109.71	96175
Ohio Public Defender Commission	120.01	96176
Ohio Public Library Information Network Board	Sec. 69, H.B. 117, 121st GA, as amended by H.B. 284, 121st GA	96177
Ohio Public Works Commission	164.02	96178
Ohio Quarter Horse Development Commission	3769.086	96179
Ohio SchoolNet Commission	3301.80	96180
Ohio Small Government Capital Improvements Commission	164.02	96181
Ohio Soil and Water Conservation Commission	1515.02	96182
Ohio Standardbred Development Commission	3769.085	96183
Ohio Steel Industry Advisory Council	122.97	96184
Ohio Teacher Education and Licensure Advisory Council	3319.28(D)	96185

Ohio Thoroughbred Racing Advisory Committee	3769.084	96186
Ohio Tuition Trust Authority	3334.03	96187
Ohio University College of Osteopathic Medicine Advisory Committee	3337.10	96188
Ohio Vendors Representative Committee	3304.34	96189
Ohio War Orphans Scholarship Board	5910.02	96190
Ohio Water Advisory Council	1521.031	96191
Ohio Water Resources Council	1521.19	96192
Ohioana Library Association, Martha Kinney Cooper Memorial	3375.62	96193
Oil and Gas Commission	1509.35	96194
Operating Committee, Agricultural Commodity Marketing Programs	924.07	96195
Organized Crime Investigations Commission	177.01	96196
Parole Board	5149.10	96197
Pharmacy and Therapeutics Committee of the Dept. of Job and Family Services	5111.81	96198
Physician Loan Repayment Advisory Board	3702.81	96199
Power Siting Board	4906.02	96200
Prequalification Review Board	5525.07	96201
Private Water Systems Advisory Council	3701.346	96202
Public Employment Risk Reduction Advisory Commission	4167.02	96203
Public Health Council	3701.33	96204
Public Utilities Commission Nominating Council	4901.021	96205
Public Utility Property Tax Study Committee	5727.85	96206
Radiation Advisory Council	3748.20	96207
Reclamation Commission	1513.05	96208
Recreation and Resources Commission	1501.04	96209
Recycling and Litter Prevention Advisory Council	1502.04	96210
Rehabilitation Services Commission Consumer Advisory Committee	3304.24	96211
Release Authority of Department of Youth Services	5139.50	96212

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Savings & Loans Associations & Savings Banks Board	1181.16	96213
Schools and Ministerial Lands Divestiture Committee	501.041	96214
Second Chance Trust Fund Advisory Committee	2108.17	96215
Self-Insuring Employers Evaluation Board	4123.352	96216
Services Committee of the Workers' Compensation System	4121.06	96217
Small Business Stationary Source Technical and Environmental Compliance Assistance Council	3704.19	96218
Solid Waste Management Advisory Council	3734.51	96219
State Agency Coordinating Group	1521.19	96220
State Board of Deposit	135.02	96221
State Board of Emergency Medical Services Subcommittees	4765.04	96222
State Council of Uniform State Laws	105.21	96223
State Committee for the Purchase of Products and Services Provided by Persons with Severe Disabilities	4115.32	96224
State Criminal Sentencing Commission	181.21	96225
State Employment Relations Board	4117.02	96226
State Fire Commission	3737.81	96227
State Racing Commission	3769.02	96228
State Victims Assistance Advisory Committee	109.91	96229
Student Tuition Recovery Authority	3332.081	96230
Tax Credit Authority	122.17	96231
Technical Advisory Committee to Assist the Director of the Ohio Coal Development Office	1551.35	96232
Technical Advisory Council on Oil and Gas	1509.38	96233
Transportation Review Advisory Council	5512.07	96234
Unemployment Compensation Review Commission	4141.06	96235
Unemployment Compensation Advisory Council	4141.08	96236
Utility Radiological Safety Board	4937.02	96237
Vehicle Management Commission	125.833	96238

Veterans Advisory Committee	5902.02(K)	96239
Volunteer Fire Fighters' Dependents Fund Boards (Private and Public)	146.02	96240
Water and Sewer Commission	1525.11(C)	96241
Waterways Safety Council	1547.73	96242
Wildlife Council	1531.03	96243
Workers' Compensation System Oversight Commission	4121.12	96244
Workers' Compensation Oversight Commission	4121.123	96245
Nominating Committee		

Section 403.06. That existing Section 4 of Am. Sub. H.B. 516 96246
of the 125th General Assembly is hereby repealed. 96247

Section 403.10.01. That Section 26.01 of Am. Sub. S.B. 189 of 96248
the 125th General Assembly be amended to read as follows: 96249

Reappropriations

Sec. 26.01. OEB OHIO EDUCATIONAL TELECOMMUNICATIONS NETWORK		96250
COMMISSION <u>ETC ETECH OHIO</u>		96251
CAP-001 Educational Television and Radio	\$ 1,650,617	96252
Equipment	<u>3,378,684</u>	
CAP-002 Educational Broadcasting Fiber Optic	\$ 51,748	96253
Network		
Total Ohio Educational Telecommunications Network	\$ 1,702,365	96254
Commission <u>eTech Ohio</u>	<u>3,430,432</u>	

EDUCATIONAL TELEVISION AND RADIO EQUIPMENT 96255

The foregoing appropriation item CAP-001, Educational 96256
Television and Radio Equipment, shall be used to provide 96257
broadcasting, transmission, and production equipment to Ohio 96258
public radio and television stations, radio reading services, and 96259
~~the Ohio Educational Telecommunications Network Commission~~ eTech 96260
Ohio. 96261

EDUCATIONAL BROADCASTING FIBER OPTIC NETWORK 96262

The foregoing appropriation item CAP-002, Educational 96263
Broadcasting Fiber Optic Network, shall be used to link the Ohio 96264
public radio and television stations, radio reading services, and 96265
~~the Ohio Educational Broadcasting Network~~ eTech Ohio for the 96266
reception and transmission of digital communications through fiber 96267
optic cable or other technology. 96268

Section 403.10.02. That existing Section 26.01 of Am. Sub. 96269
S.B. 189 of the 125th General Assembly is hereby repealed. 96270

Section 403.07. That Section 74 of Am. Sub. S.B. 189 of the 96271
125th General Assembly be amended to read as follows: 96272

Sec. 74. Not later than June 30, ~~2005~~ 2006, the Director of 96273
Mental Health shall revise rule 5122-29-06 of the Administrative 96274
Code regarding the certification standards for the 96275
partial-hospitalization community mental health service. As part 96276
of the revision, the Director shall address client eligibility 96277
criteria. 96278

Section 403.08. That existing Section 74 of Am. Sub. S.B. 189 96279
of the 125th General Assembly is hereby repealed. 96280

Section 403.09. That Section 22 of Am. Sub. S.B. 189 of the 96281
125th General Assembly, as amended by Am. Sub. H.B. 16 of the 96282
126th General Assembly, be amended to read as follows: 96283

Sec. 22. All items set forth in this section are hereby 96284
appropriated out of any moneys in the state treasury to the credit 96285
of the Cultural and Sports Facilities Building Fund (Fund 030) 96286
that are not otherwise appropriated: 96287

Reappropriations

AFC CULTURAL FACILITIES COMMISSION			96288
CAP-003	Center of Science and Industry - Toledo	\$ 12,268	96289
CAP-004	Valentine Theatre	\$ 1,111	96290
CAP-005	Center of Science and Industry - Columbus	\$ 181,636	96291
CAP-010	Sandusky State Theatre Improvements	\$ 1,000,000	96292
CAP-017	Zion Center of the National Afro-American Museum	\$ 488,232	96293
CAP-021	Ohio Historical Center - Archives and Library Shelving	\$ 2,395	96294
CAP-033	Woodward Opera House Renovation	\$ 1,050,000	96295
CAP-037	Canton Palace Theatre Renovations	\$ 1,066,126	96296
CAP-038	Center Exhibit Replacement	\$ 750,000	96297
CAP-042	Statewide Site Exhibit/Renovation & Construction	\$ 625,000	96298
CAP-043	Statewide Site Repairs	\$ 454,000	96299
CAP-046	Cincinnati Museum Center Improvements	\$ 500,000	96300
CAP-052	Akron Art Museum	\$ 6,634,666	96301
CAP-053	Powers Auditorium Improvements	\$ 200,000	96302
CAP-055	Waco Museum & Aviation Learning Center	\$ 500,000	96303
CAP-057	Comprehensive Master Plan	\$ 180,000	96304
CAP-058	Cedar Bog Nature Preserve Education Center	\$ 766,200	96305
CAP-061	Statewide Arts Facilities Planning	\$ 35,931	96306
CAP-063	Robins Theatre Renovations	\$ 1,000,000	96307
CAP-064	Bramley Historic House	\$ 75,000	96308
CAP-066	Delaware County Cultural Arts Center	\$ 40,000	96309
CAP-068	Perry County Historical Society	\$ 100,000	96310
CAP-069	Cleveland Institute of Art	\$ 750,000	96311
CAP-071	Cleveland Institute of Music	\$ 750,000	96312
CAP-072	West Side Arts Consortium	\$ 138,000	96313
CAP-074	Stan Hywet Hall & Gardens	\$ 250,000	96314
CAP-075	McKinley Museum Improvements	\$ 125,000	96315
CAP-076	Spring Hill Historic Home	\$ 125,000	96316

CAP-077	Western Reserve Ballet Improvements	\$	100,000	96317
CAP-078	Midland Theatre	\$	175,000	96318
CAP-079	Lorain Palace Civic Theatre	\$	200,000	96319
CAP-080	Great Lakes Historical Society	\$	150,000	96320
CAP-734	Hayes Presidential Center	\$	75,000	96321
CAP-745	Historic Sites and Museums	\$	750,000	96322
CAP-753	Buffington Island State Memorial	\$	91,500	96323
CAP-770	Serpent Mound State Memorial	\$	295,000	96324
CAP-784	Ohio Historical Center Rehabilitation	\$	673,700	96325
CAP-786	Piqua/Ft Picakawillany Acquisition and Improvements	\$	136,000	96326
CAP-789	Neil Armstrong Air and Space Museum Improvements	\$	103,516	96327
CAP-791	Harrison Tomb and Site Renovations	\$	149,500	96328
CAP-796	Moundbuilders State Memorial	\$	530,000	96329
CAP-806	Grant Boyhood Home Improvements	\$	68,333	96330
CAP-809	Cincinnati Ballet Facility Improvements	\$	450,000	96331
CAP-810	Toledo Museum of Art Improvements	\$	2,000,000	96332
CAP-814	Crawford Museum of Transportation & Industry	\$	2,500,000	96333
CAP-820	Historical Center Ohio Village Buildings	\$	502,000	96334
CAP-821	Lorain County Historical Society	\$	300,000	96335
CAP-822	Madison County Historic Schoolhouse	\$	40,000	96336
CAP-823	Marion Palace Theatre	\$	825,000	96337
CAP-824	McConnellsville Opera House	\$	75,000	96338
CAP-825	Secrest Auditorium	\$	75,000	96339
CAP-826	Renaissance Theatre	\$	50,000	96340
CAP-827	Trumpet in the Land	\$	100,000	96341
CAP-828	Becky Thatcher Showboat	\$	30,000	96342
CAP-829	Mid Ohio Valley Players	\$	50,000 <u>80,000</u>	96343
CAP-830	The Anchorage	\$	50,000	96344
CAP-831	Wayne County Historical Society	\$	300,000	96345
CAP-833	Promont House Museum	\$	200,000	96346

CAP-836	Fairfield Outdoor Theatre	\$	100,000	96347
CAP-837	Lake County Historical Society	\$	250,000	96348
CAP-839	Hancock Historical Society	\$	75,000	96349
CAP-840	Riversouth Development	\$	1,000,000	96350
CAP-841	Ft. Piqua Hotel	\$	200,000	96351
CAP-843	Marina District/Ice Arena Development	\$	4,000,000	96352
Total Cultural Facilities Commission				
		\$	34,470,114	96353
			<u>34,370,114</u>	96354
TOTAL CULTURAL and Sports Facilities Building Fund				
		\$	34,470,114	96355
			<u>34,370,114</u>	96356

COSI COLUMBUS - LOCAL ADMINISTRATION OF CAPITAL PROJECT 96357

CONTRACTS 96358

Notwithstanding division (A) of section 3383.07 of the 96359
Revised Code, the Ohio Cultural Facilities Commission, with 96360
respect to the foregoing appropriation item CAP-005, Center of 96361
Science and Industry - Columbus, may administer all or part of 96362
capital facilities project contracts involving exhibit fabrication 96363
and installation as determined by the Department of Administrative 96364
Services, the Center of Science and Industry - Columbus, and the 96365
Ohio Cultural Facilities Commission in review of the project 96366
plans. The Ohio Cultural Facilities Commission shall enter into a 96367
contract with the Center of Science and Industry - Columbus to 96368
administer the exhibit fabrication and installation contracts and 96369
such contracts are not subject to Chapter 123. or 153. of the 96370
Revised Code. 96371

SPORTS FACILITIES IMPROVEMENTS - AKRON 96372

The amount reappropriated to the Cultural and Sports 96373
Facilities Building Fund (Fund 030), CAP-024, Sports Facilities 96374
Improvements - Akron, is the unallotted and unencumbered balance 96375
in the Sports Facilities Building Fund (Fund 024), CAP-024, Sports 96376
Facilities Improvements - Akron. 96377

REDS HALL OF FAME	96378
The amount reappropriated to the Cultural and Sports	96379
Facilities Building Fund (Fund 030), CAP-025, Reds Hall of Fame,	96380
is the unallotted and unencumbered balance in the Sports	96381
Facilities Building Fund (Fund 024), CAP-025, Reds Hall of Fame.	96382
AKRON ART MUSEUM	96383
The amount reappropriated for the foregoing appropriation	96384
item CAP-052, Akron Art Museum, is the unencumbered and unallotted	96385
balance as of June 30, 2004, in appropriation item CAP-052, Akron	96386
Art Museum, plus \$1,634,666.	96387
RIVERSOUTH DEVELOPMENT	96388
The amount reappropriated for the foregoing appropriation	96389
item CAP-840, Riversouth Development, is the unencumbered and	96390
unallotted balance as of June 30, 2004, in appropriation item	96391
CAP-840, Riversouth Development, minus \$9,000,000.	96392
MARINA DISTRICT/ICE ARENA DEVELOPMENT	96393
The amount reappropriated to the Cultural and Sports	96394
Facilities Building Fund (Fund 030), CAP-843, Marina District/Ice	96395
Arena Development, is the unallotted and unencumbered balance in	96396
the Sports Facilities Building Fund (Fund 024), CAP-073, Marina	96397
District/Ice Arena Development.	96398
Section 403.10. That existing Section 22 of Am. Sub. S.B. 189	96399
of the 125th General Assembly, as amended by Am. Sub. H.B. 16 of	96400
the 126th General Assembly, is hereby repealed.	96401
Section 403.11. That Section 3 of Am. Sub. H.B. 621 of the	96402
122nd General Assembly, as most recently amended by Am. Sub. H.B.	96403
95 of the 125th General Assembly, be amended to read as follows:	96404
Sec. 3. That sections 166.031, 901.80, 901.81, 901.82, and	96405

901.83 of the Revised Code are hereby repealed, effective October 15, ~~2005~~ 2007. 96406
96407

Section 403.12. That existing Section 3 of Am. Sub. H.B. 621 of the 122nd General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 96408
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Section 403.17. That Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, be amended to read as follows: 96411
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96413

Sec. 153. (A) Sections 5112.01, 5112.03, 5112.04, 5112.05, 5112.06, 5112.07, 5112.08, 5112.09, 5112.10, 5112.11, 5112.18, 5112.19, 5112.21, and 5112.99 of the Revised Code are hereby repealed, effective October 16, ~~2005~~ 2007. 96414
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(B) Any money remaining in the Legislative Budget Services Fund on October 16, ~~2005~~ 2007, the date that section 5112.19 of the Revised Code is repealed by division (A) of this section, shall be used solely for the purposes stated in then former section 5112.19 of the Revised Code. When all money in the Legislative Budget Services Fund has been spent after then former section 5112.19 of the Revised Code is repealed under division (A) of this section, the fund shall cease to exist. 96418
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Section 403.18. That existing Section 153 of Am. Sub. H.B. 117 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, is hereby repealed. 96426
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Section 403.23. That Section 5 of Am. Sub. S.B. 50 of the 121st General Assembly, as most recently amended by Am. Sub. H.B. 95 of the 125th General Assembly, be amended to read as follows: 96429
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Sec. 5. Sections 3 and 4 of Am. Sub. S.B. 50 of the 121st 96432

General Assembly shall take effect July 1, ~~2005~~ 2007. 96433

Section 403.24. That existing Section 5 of Am. Sub. S.B. 50 96434
of the 121st General Assembly, as most recently amended by Am. 96435
Sub. H.B. 95 of the 125th General Assembly is hereby repealed. 96436

***Section 490.03.** That Section 59.19 of Am. Sub. H.B. 95 of 96437
the 125th General Assembly is hereby repealed. 96438

***Section 490.04.** Section 89.17 of Am. Sub. H.B. 95 of the 96439
125th General Assembly is hereby repealed. 96440

Section 490.06. That Section 147 of Am. Sub. H.B. 95 of the 96441
125th General Assembly is hereby repealed. 96442

***Section 502.01.** Nothing in this act shall affect the term of 96443
any member of the workers' compensation oversight commission 96444
serving on the effective date of this act. 96445

In accordance with section 4121.12 of the Revised Code as 96446
amended by this act, the Treasurer of State shall appoint a person 96447
to serve as an investment expert member of the Workers' 96448
Compensation Oversight Commission and the President of the Senate 96449
and the Speaker of the House of Representatives jointly shall 96450
appoint a person to serve as an investment expert member of the 96451
Oversight Commission not later than ninety days after the 96452
effective date of this section, and those persons shall take 96453
office not later than ninety days after the effective date of this 96454
section. The Treasurer and the President and Speaker shall appoint 96455
those members to a term ending September 1, 2008. 96456

***Section 502.02.** Within thirty days after the effective date 96457
of section 4121.12 of the Revised Code as amended by this act, the 96458
workers' compensation oversight commission shall adopt new 96459

objectives, criteria, and policies for the investment program of 96460
the bureau of workers' compensation that complies with the 96461
requirements of section 4121.12 of the Revised Code as amended by 96462
this act. 96463

***Section 502.03.** Within thirty days after the effective date 96464
of this section, the Workers' Compensation Oversight Commission 96465
shall submit both of the following lists to the Governor, the 96466
President of the Senate, and the Speaker of the House of 96467
Representatives: 96468

(A) A list of all of the classes of investments in which 96469
assets of funds are invested at the time the act takes effect and 96470
in which assets of funds have been invested in the twelve months 96471
immediately preceding the effective date of this act; 96472

(B) A list of all investments that are prohibited by this act 96473
in which the Administrator of Workers' Compensation has invested, 96474
and the value of each investment. 96475

The Oversight Commission shall submit to the Governor, the 96476
President of the Senate, and the Speaker of the House of 96477
Representatives, within thirty days after the effective date of 96478
this section, a plan to divest itself, within six months after the 96479
effective date of this section, of any investments that are 96480
prohibited by section 4121.12 of the Revised Code, as amended by 96481
this act. 96482

***Section 502.04.** Nothing in this act shall be construed to 96483
limit the Ohio Ethics Commission's authority, responsibility, and 96484
powers under Chapter 102. of the Revised Code as it existed 96485
immediately prior to the effective date of this section as applied 96486
to members of the Workers' Compensation Oversight Commission and 96487
employees of the Bureau of Workers' Compensation. Any authority, 96488
power, or responsibilities of the Ohio Ethics Commission expressly 96489

created by this act are in addition to any authority, power, or 96490
responsibilities of the Commission in effect immediately prior to 96491
the effective date of this section. 96492

Section 503.03. As used in this section, "state agency" means 96493
the administrative departments identified in section 121.02 of the 96494
Revised Code and the bureau of workers' compensation. 96495

During 2005, the Auditor of State shall examine the 96496
compliance of each state agency with the requirements of section 96497
131.02 of the Revised Code. The examination shall inquire into the 96498
following matters: 96499

(A) The practices and procedures used by the agency to 96500
collect claims before the claims are certified to the Attorney 96501
General as required by section 131.02 of the Revised Code; 96502

(B) The number of individuals employed by the agency or 96503
engaged under contract with the agency in 2003 and 2004 whose only 96504
or whose primary duty is to collect amounts owed to the agency; 96505

(C) For claims certified to the Attorney General under 96506
section 131.02 of the Revised Code in 2003 and 2004, the average 96507
number of days elapsing between the last day for timely payment of 96508
the claims and the day the agency certified the claim to the 96509
Attorney General. 96510

For the purposes of the examination required by this section, 96511
the Auditor of State may request a state agency to provide reports 96512
to the Auditor of State on the matters described under divisions 96513
(A), (B), and (C) of this section. State agencies shall provide 96514
such reports to the Auditor of State within 60 days after the 96515
request, but the Auditor of State may extend the time for 96516
providing the report for good cause for up to sixty days. 96517

Not later than March 31, 2006, the Auditor of State shall 96518
submit a written report of the Auditor of State's findings under 96519

this section to the Governor, the Speaker of the House of
Representatives, the President of the Senate, and the Legislative
Service Commission.

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Section 503.06. (A) There is hereby created the Task Force on
Law Library Associations, consisting of thirteen members. The
Speaker and Minority Leader of the House of Representatives shall
each appoint one member of the House of Representatives to the
Task Force. The President and Minority Leader of the Senate shall
each appoint one member of the Senate to the Task Force. The Ohio
Judicial Conference shall appoint three members to the Task Force,
two of whom shall be judges who are members of the Conference and
one of whom shall be a law librarian associated with a law library
association. The County Commissioners Association of Ohio shall
appoint three members to the Task Force. The Ohio State Bar
Association shall appoint three members to the Task Force, two of
whom shall be attorneys licensed to practice law in this state and
one of whom shall be a law librarian associated with a law library
association. Appointments to the Task Force shall be made by
September 1, 2005. Vacancies on the Task Force shall be filled in
the manner provided for original appointments.

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(B)(1) The Task Force shall do each of the following:

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(a) Gather information on and study the current state of the
law library associations in this state covered by sections 3375.48
to 3375.56 of the Revised Code, with particular emphasis on the
structure, funding, and administration of their law libraries, and
on the effect of technology on, and access to, their law
libraries;

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(b) Make recommendations on the structure, funding, and
administration of these law libraries presently and over the next
five calendar years;

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(c) Make recommendations as to how to ensure that these law libraries remain open and may be made available to members of the public.

(2) The Task Force shall submit a report of its findings and recommendations to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Chief Justice of the Supreme Court by October 31, 2006. Upon submission of its report, the Task Force shall cease to exist.

(C) Sections 101.82 to 101.87 of the Revised Code do not apply to the Task Force.

Section 503.09. (A) There is hereby created the Correctional Faith-Based Initiatives Task Force consisting of the following seventeen members:

(1) One member of the House of Representatives appointed by the Speaker of the House of Representatives;

(2) One member of the House of Representatives appointed by the leader of the minority party of the House of Representatives;

(3) One member of the Senate appointed by the President of the Senate;

(4) One member of the Senate appointed by the Minority Leader of the Senate;

(5) Two members appointed by the Governor;

(6) The Director of Rehabilitation and Correction or the director's designee;

(7) Three members appointed by the Director of Rehabilitation and Correction who have expertise or experience in faith-based programs in the correctional setting;

(8) The Director of Job and Family Services or the director's

designee; 96579

(9) The Director of Youth Services or the director's 96580
designee; 96581

(10) One member appointed by the Director of Youth Services 96582
who has expertise or experience in the juvenile court system; 96583

(11) The Director of Alcohol and Drug Addiction Services or 96584
the director's designee; 96585

(12) The Director of Mental Health or the director's 96586
designee; 96587

(13) The Executive Director of the Division of Criminal 96588
Justice Services or the executive director's designee; 96589

(14) One member appointed by the executive assistant in 96590
charge of the Governor's Office of Faith-Based and Community 96591
Initiatives. 96592

(B) The Director of Rehabilitation and Correction, or the 96593
director's designee, and the member of the House of 96594
Representatives appointed by the Speaker of the House of 96595
Representatives shall be co-chairs of the task force. The task 96596
force shall meet at least once each month. The Department of 96597
Rehabilitation and Correction shall provide the task force with a 96598
meeting room and secretarial assistance. 96599

(C) The task force shall study seamless faith-based solutions 96600
to problems in the correctional system, focusing on diversion 96601
programs, programs and services in the prison system and for 96602
families of incarcerated individuals, and the faith-based and 96603
nonprofit organizations that provide the programs and services. 96604
The task force shall examine existing faith-based programs in 96605
prisons in Ohio and other states and shall consider the 96606
feasibility of replicating programs from other states and 96607
developing model faith-based penal institutions, faith-based units 96608

within penal institutions, and faith-based programs to reduce 96609
recidivism of offenders after their release from prison, improve 96610
prison management, and deal with juveniles who have been held over 96611
to or are in the adult penal system or who have parents who are 96612
incarcerated. 96613

(D) On or before the first anniversary of the effective date 96614
of this section, the task force shall provide a written report and 96615
recommendations to the Governor, the Speaker of the House of 96616
Representatives, and the President of the Senate. Upon submitting 96617
the report and recommendations, the task force shall cease to 96618
exist. 96619

Section 503.12. (A) There is hereby created the Local 96620
Government and Library Revenue Distribution Task Force consisting 96621
of the following members: 96622

(1) Five members of the House of Representatives to be 96623
appointed by the Speaker of the House of Representatives, at least 96624
two of whom shall be from the minority party; 96625

(2) Five members of the Senate to be appointed by the 96626
President of the Senate, at least two of whom shall be from the 96627
minority party; 96628

(3) One nonvoting member to be appointed by the Ohio Library 96629
Council; 96630

(4) One nonvoting member to be appointed by the County 96631
Commissioners' Association of Ohio; 96632

(5) One nonvoting member to be appointed by the Ohio 96633
Municipal League; 96634

(6) One nonvoting member to be appointed by the Ohio Township 96635
Association; 96636

(7) One nonvoting member to be appointed by the Ohio Parks 96637

and Recreation Association. 96638

All appointments shall be made within thirty days after the 96639
effective date of this section. Vacancies on the Task Force shall 96640
be filled in the same manner as the original appointments. The 96641
Task Force shall designate one of the members to serve as 96642
chairperson. The initial meeting to organize the Task Force shall 96643
be called by the Tax Commissioner. 96644

(B) The Task Force shall study potential sources of state 96645
funding for the Local Government Fund, the Library and Local 96646
Government Support Fund, and the Local Government Revenue 96647
Assistance Fund that have the capacity to allow for growth in 96648
funding levels and to provide stability in funding levels. In 96649
addition, the Task Force shall consider changes to the codified 96650
funding formulae for the Local Government Fund, the Library and 96651
Local Government Support Fund, and the Local Government Revenue 96652
Assistance Fund that reflect the reform to Ohio tax code. 96653

(C) The Task Force shall receive staff assistance from the 96654
Tax Commissioner and may request assistance from the Legislative 96655
Service Commission. The Task Force shall also seek the input and 96656
testimony of interested parties. 96657

(D) Not later than December 1, 2006, the Task Force shall 96658
submit a report to the Governor and to the General Assembly 96659
setting forth its recommendations for sources of funding for the 96660
funds specified in division (B) of this section, together with 96661
suggested legislation to implement the recommendations. 96662

(E) The Task Force shall cease to exist upon issuing its 96663
report. 96664

Section 503.15. (A) Notwithstanding any other provision of 96665
law to the contrary, the appointment and removal provisions of the 96666
resolutions and ordinances governing the board of trustees of any 96667

regional transit authority consisting of a county having a 96668
population of at least five hundred thousand, according to the 96669
2000 federal census, and two municipal corporations, are void on 96670
the effective date of this act. The appointment and removal of the 96671
board of trustees of such regional transit authority shall comply 96672
with section 306.331 of the Revised Code. 96673

(B) Within the first five days after the effective date of 96674
this act, the county and municipal corporations specified in 96675
section 306.331 of the Revised Code shall appoint a new board of 96676
trustees for the regional transit authority in accordance with 96677
section 306.331 of the Revised Code. 96678

(C) Notwithstanding any other provision of law to the 96679
contrary, on the fifth day after the effective date of this act, 96680
the board of trustees of such regional transit authority, as 96681
constituted on the effective date of this act, is dissolved and 96682
the board appointed in accordance with section 306.331 of the 96683
Revised Code shall meet and organize. 96684

(D) This act shall not be construed as affecting the validity 96685
of any action of such regional transit authority taken prior to 96686
the effective date of this act. 96687

Section 503.18. OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND 96688
ATHLETIC TRAINERS BOARD MEMBER APPOINTMENT 96689

The term of the licensed occupational therapy assistant, as 96690
established in section 4755.03 of the Revised Code as amended by 96691
this act, shall commence at the time of the next appointment to 96692
the Occupational Therapy, Physical Therapy, and Athletic Trainers 96693
Board. 96694

Section 506.03. (A) The Governor is hereby authorized to 96695
execute a deed in the name of the state conveying to 96696
Hocking.Athens.Perry Community Action and its successors and 96697

assigns all of the state's right, title, and interest in the 96698
following described real estate: 96699

Situate in the Village of Glouster, Trimble Township, Athens 96700
County, Ohio, and being a part of a tract as described in Volume 96701
384, Page 47 of the Deed Records of Athens County, and being more 96702
particularly described as follows: 96703

Beginning at an iron pin set at the northeast corner of Lot 96704
848 of the Wassall Fire Clay Company's Addition to the Village of 96705
Glouster; thence along the south line of a 10.00 foot alley South 96706
85° 54' 29" East 219.30 feet to an iron pin set, thence along the 96707
west line of a 4.27 acre tract (ORV 4-442) South 2° 25' 37" East, 96708
528.53 feet to an iron pin found; thence along the west line of a 96709
44.21 acre tract (ORV 172-611) South 24° 08' 53" West, 412.51 feet 96710
to an iron pin found; thence North 81° 51' 07" West 594.65 feet to 96711
a point on the east right of way line of the former Toledo and 96712
Ohio Central Railroad (passing an iron pin found at 586.43 feet); 96713
thence along said line North 1° 39' 06" West, 734.24 feet to an 96714
iron pin found; thence along the south line of Lot 860 in said 96715
Village South 85° 54' 11" East, 188.77 feet to an iron pin set; 96716
thence along the east line of Lots 860 and 859 North 4° 05' 20" 96717
East, 100.00 feet to an iron pin set (an iron pin found for 96718
reference bears South 70° 30' 21" East, 1.01 feet); thence along 96719
the south line of Lots 857 and 848 South 85° 54' 29" East, 340.04 96720
feet to an iron pin found; thence along the east line of Lot 848 96721
North 4° 05' 30" East, 40.00 feet to the point of beginning and 96722
containing 14.046 acres. 96723

Subject to all Easements and Rights of Way of Record. 96724

Bearings used are to an assumed meridian and are for angular 96725
determination only. 96726

Surveyed October 1996 by Kenneth E. Highland, Ohio PLS 96727
#S-7581. 96728

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED TWO TRACTS: 96729

Tract 1-0.020 acre: Situate in the Village of Glouster, 96730
Trimble Township, Athens County, Ohio, and being a part of a tract 96731
as previously described in Volume 384, Page 47 of the Deed Records 96732
of Athens County and being more particularly described as follows: 96733
Commencing at an iron pin set at the southeast corner of Lot 860 96734
of the Wassall Fire Clay Company's Addition to the Village of 96735
Glouster; thence along the south line of said lot North 85° 54' 96736
11" West, 88.77 feet to an iron pin set at the point of beginning 96737
of this tract; thence leaving said line and along a new line South 96738
4° 05' 49" West, 15.00 feet to a point (passing an iron pin set at 96739
10.00 feet); thence along a new line parallel to the south line of 96740
the previously mentioned lot line North 85° 54' 11" West, 60.00 96741
feet to an iron pin set; thence North 4° 05' 49" East, 15.00 feet 96742
to an iron pin set on grantors most westerly north line (passing 96743
an iron pin set at 5.00 feet); thence along said line South 85° 96744
54' 11" East, 60.00 feet to the point of beginning and containing 96745
0.020 acre. Subject to all easements and rights of way of record. 96746
Bearings used are to an assumed meridian and are for angular 96747
determination only. Surveyed August 1997 by Kenneth E. Highland, 96748
Ohio PLS #S-7581. 96749

Deed Reference: Volume 263, Page 540 and Volume 299, Page 185, 96750
Athens County Official Records. 96751

Tract 2-0.013 acre: Situate in the Village of Glouster, 96752
Trimble Township, Athens County, Ohio, and being a part of a tract 96753
as previously described in Volume 384, Page 47 of the Deed Records 96754
of Athens County and being more particularly described as follows: 96755
Commencing at an iron pin set at the southwest corner of Lot 857 96756
of the Wassall Fire Clay Company's Addition to the Village of 96757
Glouster; thence along the south line of said lot South 85° 54' 96758
29" East, 90.00 feet to an iron pin set at the point of beginning 96759
of this tract; thence continuing along said line South 85° 54' 29" 96760

East, 60.00 feet to an iron pin set at the southeast corner of 96761
said lot; thence along a new line South 4° 05' 31" West 10.00 feet 96762
to an iron pin set; thence along a line parallel to the south line 96763
of Lot 857 North 85° 54' 29" West, 60.00 feet to an iron pin set; 96764
thence along a new line North 4° 05' 31" East, 10.00 feet to the 96765
point of beginning and containing 0.013 acre. Subject to all 96766
easements and rights of way of record. Bearings used are to an 96767
assumed meridian and are for angular determination only. Surveyed 96768
August 1997 by Kenneth E. Highland, Ohio PLS #S-7581; revised June 96769
2000. 96770

Deed Reference:Volume 299, Page 704; Volume 263, Page 544; 96771
and Volume 299, Page 183, Athens County Official Records. 96772

DEED REFERENCE:VOLUME _____, PAGE _____; VOLUME 298, PAGE 96773
2439; AND VOLUME 258, PAGE 79, ATHENS COUNTY OFFICIAL RECORDS. 96774

(B) Consideration for the conveyance of the real estate 96775
described in division (A) of this section is the purchase price of 96776
one dollar. 96777

(C) Upon payment of the purchase price, the Auditor of State, 96778
with the assistance of the Attorney General, shall prepare a deed 96779
to the real estate described in division (A) of this section. The 96780
deed shall state the consideration. The deed shall be executed by 96781
the Governor in the name of the state, countersigned by the 96782
Secretary of State, sealed with the Great Seal of the State, 96783
presented in the Office of the Auditor of State for recording, and 96784
delivered to Hocking.Athens.Perry Community Action. 96785
Hocking.Athens.Perry Community Action shall present the deed for 96786
recording in the Office of the Athens County Recorder. 96787

(D) Hocking.Athens.Perry Community Action shall pay the costs 96788
of the conveyance of the real estate described in division (A) of 96789
this section. 96790

(E) This section expires one year after its effective date. 96791

Section 506.06. (A) The Governor is hereby authorized to 96792
execute a deed in the name of the state conveying to the 96793
purchaser, and the purchaser's heirs and assigns or successors and 96794
assigns, all of the state's right, title, and interest in the 96795
following described real estate: 96796

Situated in the State of Ohio, County of Clark and the Township of 96797
Springfield, City of Springfield. 96798

Being a part of the Southwest quarter of Section 96799
twenty-three, Township five, Range nine and a part of the west 96800
half of Section seventeen, Township five, Range nine, B.M.R.S. 96801

Beginning at the intersection of the centerline of the Old 96802
National Road (now the west bound lane of the New National Road) 96803
with the East line of Section twenty-three; 96804

thence with the centerline of said road S 86°30'W 20.0 feet; 96805

thence parallel to the section line N 2°0'W 1000.0 feet to a 96806
point; 96807

thence N 86°30' E 20.0 feet to a point on the section line; 96808

thence with the section line N 2°0' W 94.63 feet to a bar; 96809

thence N 86°30' E 683.10 feet to a stake in the Ogden Road 96810
right of way; 96811

thence with said road S 2°0' E 525.05 feet to a point in the 96812
road; 96813

thence S 86°30' W 20.0 feet to a point; 96814

thence parallel to the road S 2°0' E 569.58 feet to the 96815
centerline of the Old National Road; 96816

thence with said road S 86°30' W 663.10 feet to the place of 96817
beginning, and containing seventeen and thirty-six hundredths 96818
(17.36) Acres of land 96819

Being a part of the same premises conveyed to said Board of county commissioners of Clark County, Ohio, by the following:

Deed from Mary E. Kinnane dated August 20, 1920, and recorded in Volume 170, page 464; Deed from the Board of County Commissioners of Champaign County, Ohio dated January 30, 1925, and recorded in Volume 239, Page 155; Deed from Board of Commissioners of Greene County, Ohio dated January 30, 1925, and recorded in Volume 239, Page 160; Deed from Board of County Commissioners of Madison County, Ohio, dated January 30, 1925, and recorded in Volume 239, page 153; all in the Deed Records of Clark County, Prior Deed reference: Volume 568, Page 61.

(B) The Ohio Department of Mental Retardation and Developmental Disabilities shall appraise the real estate described in division (A) of this section or have it appraised by one or more disinterested persons for a fee to be determined by the Department.

(C) The Director of Administrative Services shall offer the real estate described in division (A) of this section for sale as follows:

(1) The Director shall review the appraisal, establish an appraised value for the real estate, and provide notice to the Ohio Department of Mental Retardation and Developmental Disabilities of any interest expressed by any state entity in acquiring the real estate at the appraised value. The Director shall first offer the real estate at the appraised value to any state entity that has expressed an interest in so acquiring the real estate.

(2) If no state entity expresses an interest in acquiring the real estate at the appraised value, or if a state entity accepts the offer mentioned in division (C)(1) of this section but fails to timely complete the purchase, the Director shall offer the real

estate to the Board of County Commissioners of Clark County at a 96851
purchase price agreed upon by the Director and the Board of County 96852
Commissioners. 96853

(D) The real estate described in division (A) of this section 96854
shall be sold as an entire parcel and not subdivided. 96855

(E) Advertising costs, appraisal fees, and all other costs of 96856
the sale of the real estate described in division (A) of this 96857
section shall be paid by the Ohio Department of Mental Retardation 96858
and Developmental Disabilities. 96859

(F) Upon notice from the Director of Administrative Services 96860
that the real estate described in division (A) of this section has 96861
been sold in accordance with division (C) of this section, the 96862
Auditor of State, with the assistance of the Attorney General, 96863
shall prepare a deed to the real estate described in division (A) 96864
of this section. The deed shall state the consideration. The deed 96865
shall be executed by the Governor in the name of the state, 96866
countersigned by the Secretary of State, sealed with the Great 96867
Seal of the State, presented in the Office of the Auditor of State 96868
for recording, and delivered to the purchaser. The purchaser shall 96869
present the deed for recording in the Office of the Clark County 96870
Recorder. 96871

(G) The net proceeds of the sale of the real estate described 96872
in division (A) of this section shall be deposited in the state 96873
treasury to the credit of the Mental Health Facilities Improvement 96874
Fund created in section 154.20 of the Revised Code and shall be 96875
used to offset bond indebtedness for Springview Developmental 96876
Center capital projects. 96877

(H) This section shall expire two years after its effective 96878
date. 96879

Section 509.03. (A)(1) The Clerk of the Medina Municipal 96880

Court shall be elected by the qualified electors of the territory 96881
of the court in the manner that is provided for the election of 96882
the judge of that court in section 1901.07 of the Revised Code at 96883
the first general election that occurs not less than six months 96884
after the effective date of this section. 96885

(2) Notwithstanding division (A)(1)(a) of section 1901.31 of 96886
the Revised Code, the term of the Clerk of the Medina Municipal 96887
Court elected under division (A)(1) of this section shall commence 96888
on the first day of January following the clerk's election and 96889
continue until the clerk's successor is elected and qualified. The 96890
clerk's successor shall be elected pursuant to the schedule for 96891
the election of the judge of that court in sections 1901.07 and 96892
1901.08 of the Revised Code. 96893

(B) The Clerk of the Medina Municipal Court shall continue in 96894
office until the clerk elected pursuant to division (A) of this 96895
section takes office. If the office of Clerk of the Medina 96896
Municipal Court becomes vacant prior to the date that the clerk 96897
elected pursuant to division (A) of this section takes office, the 96898
judges of the court shall appoint a clerk to serve until the clerk 96899
elected pursuant to division (A) of this section takes office. 96900

Section 512.03. The Motor Vehicle Inspection and Maintenance 96901
Fund that is created in section 3704.14 of the Revised Code, as 96902
reenacted by this act, is a continuation of the Motor Vehicle 96903
Inspection and Maintenance Fund that was created in section 96904
3704.14 of the Revised Code, as repealed by this act. Money 96905
credited to the Fund under former section 3704.14 of the Revised 96906
Code shall be used for the purposes specified in new section 96907
3704.14 of the Revised Code, as enacted by this act. 96908

Section 553.01. (A) As used in this section: 96909

(1) "Qualifying delinquent taxes" means any tax levied under 96910

Chapter 5733., 5739., 5741., 5747., or 5748. of the Revised Code, 96911
including the taxes levied under sections 5733.41 and 5747.41 of 96912
the Revised Code and taxes required to be withheld under Chapters 96913
5747. and 5748. of the Revised Code, which were due and payable 96914
from any person as of May 1, 2005, were unreported or 96915
underreported, and remain unpaid. 96916

(2) "Qualifying delinquent personal property taxes" means a 96917
tax for which a return is filed under section 5711.02 of the 96918
Revised Code. (3) "Qualifying delinquent taxes" and "qualifying 96919
delinquent personal property taxes" do not include any tax for 96920
which a notice of assessment or audit has been issued, for which a 96921
bill has been issued, or for which an audit has been conducted or 96922
is currently being conducted. 96923

(B) The Tax Commissioner shall establish and administer a tax 96924
amnesty program with respect to qualifying delinquent taxes and 96925
qualifying delinquent personal property taxes. The program shall 96926
commence on November 1, 2005, and shall conclude on December 15, 96927
2005. The Tax Commissioner shall issue forms and instructions and 96928
take other actions necessary to implement the program. The Tax 96929
Commissioner shall publicize the program so as to maximize public 96930
awareness and participation in the program. 96931

(C)(1) During the program, if a person pays the full amount 96932
of qualifying delinquent taxes owed by that person and one-half of 96933
any interest that has accrued as a result of the person failing to 96934
pay those taxes in a timely fashion, the Tax Commissioner shall 96935
waive or abate all applicable penalties and one-half of any 96936
interest that accrued on the qualifying delinquent taxes. 96937

(2) During the program, if a person who owes qualifying 96938
delinquent personal property taxes files a return with the Tax 96939
Commissioner, in the form and manner prescribed by the Tax 96940
Commissioner, listing all taxable property that was required to be 96941

listed on the return required to be filed under section 5711.02 of 96942
the Revised Code, the Tax Commissioner shall issue a preliminary 96943
assessment certificate to the appropriate county auditor. Upon 96944
receiving a preliminary assessment certificate issued by the Tax 96945
Commissioner pursuant to this division, the county auditor shall 96946
compute the amount of qualifying delinquent personal property 96947
taxes owed by the person and shall add to that amount one-half of 96948
the interest prescribed under sections 5711.32 and 5719.041 of the 96949
Revised Code. The county treasurer shall collect the amount of tax 96950
and interest computed by the county auditor under this division by 96951
preparing and mailing a tax bill to the person as prescribed in 96952
section 5711.32 of the Revised Code. If the person pays the full 96953
amount of tax and interest thereon on or before the date shown on 96954
the tax bill all applicable penalties and one-half of any interest 96955
that accrued on the qualifying delinquent personal property taxes 96956
shall be waived. 96957

(3) No payment required under division (G) of section 321.24 96958
of the Revised Code shall be made with respect to any person who 96959
pays qualifying delinquent personal property taxes under division 96960
(C)(2) of this section. 96961

(4) Notwithstanding any contrary provision of the Revised 96962
Code, the Tax Commissioner shall not furnish to the county auditor 96963
any information pertaining to the exemption from taxation under 96964
division (C)(3) of section 5709.01 of the Revised Code insofar as 96965
that information pertains to any person who pays qualifying 96966
delinquent personal property taxes under division (C)(2) of this 96967
section. 96968

(D) The Tax Commissioner may require a person participating 96969
in the program to file returns or reports, including amended 96970
returns and reports, in connection with the person's payment of 96971
qualifying delinquent taxes or qualifying delinquent personal 96972
property taxes. 96973

(E) A person who participates in the program and pays in full 96974
any outstanding qualifying delinquent tax or qualifying delinquent 96975
personal property tax and the interest payable on such tax in 96976
accordance with this section shall not be subject to any criminal 96977
prosecution or any civil action with respect to that tax, and no 96978
assessment shall thereafter be issued against that person with 96979
respect to that tax. 96980

(F) Taxes and interest collected under the program shall be 96981
credited to the General Revenue Fund, except that: 96982

(1) Qualifying delinquent personal property taxes and 96983
interest payable thereon shall be credited to the appropriate 96984
county undivided income tax fund, and the county auditor shall 96985
distribute the amount thereof among the various taxing districts 96986
in the county as if it had been levied, collected, and settled, as 96987
personal property taxes; 96988

(2) Qualifying delinquent taxes levied under section 96989
5739.021, 5739.023, or 5739.026 of the Revised Code shall be 96990
distributed to the appropriate counties and transit authorities in 96991
accordance with section 5739.21 of the Revised Code during the 96992
next distribution required under that section; 96993

(3) Qualifying delinquent taxes levied under section 96994
5741.021, 5741.022, or 5741.023 of the Revised Code shall be 96995
distributed to the appropriate counties and transit authorities in 96996
accordance with section 5741.03 of the Revised Code during the 96997
next distribution required under that section; and 96998

(4) Qualifying delinquent taxes levied under Chapter 5748. of 96999
the Revised Code shall be credited to the school district income 97000
tax fund and then paid to the appropriate school district during 97001
the next payment required under division (D) of section 5747.03 of 97002
the Revised Code. 97003

Section 553.02. Section 553.01 of this act is hereby 97004
repealed, effective December 16, 2005. The repeal of Section 97005
553.01 of this act does not affect, after the effective date of 97006
the repeal, the rights, remedies, or actions authorized under that 97007
section. 97008

Section 553.02.01. Notwithstanding section 5735.142 of the 97009
Revised Code, a city, exempted village, joint vocational, or local 97010
school district or educational service center that failed to file 97011
or failed to file in a timely manner an application for a refund 97012
of that portion of the motor vehicle fuel tax imposed by section 97013
5735.29 of the Revised Code that became effective on July 1, 2003, 97014
as permitted by section 5735.142 of the Revised Code, that the 97015
school district or educational service center paid through the 97016
purchase of motor fuel on or after that date may file such a 97017
refund application with the Tax Commissioner during the sixty-day 97018
period next following the effective date of this section. The Tax 97019
Commissioner shall process a refund application received under 97020
this section in accordance with section 5735.142 of the Revised 97021
Code, treating such an application as if it had been timely filed 97022
with the Tax Commissioner in accordance with that section. 97023

Section 557.03. A credit is hereby allowed against the 97024
additional estate tax imposed by section 5731.18 of the Revised 97025
Code on the estate of a decedent who dies on or after January 1, 97026
2002, but before the effective date of that section as amended by 97027
this act. The credit shall equal that portion of the additional 97028
estate tax imposed by section 5731.18 of the Revised Code that is 97029
over and above the additional estate tax that would have been 97030
imposed if the tax levied by division (A) of that section had been 97031
an amount equal to the maximum credit allowable by section 2011 of 97032
the Internal Revenue Code that was in effect and applicable on the 97033

date of such decedent's death for any taxes paid to any state. 97034

Section 557.04. Notwithstanding division (A)(3) of section 97035
5733.09 or section 5733.98 of the Revised Code, the credit allowed 97036
under section 5733.56 of the Revised Code to telephone companies 97037
for providing programs to aid the communicatively impaired shall 97038
be allowed in tax year 2005 so that there is full recovery of the 97039
tax credit under that section for that tax year. 97040

Section 557.06. (A) As used in this section, "net additional 97041
tax" means, in the case of a wholesale dealer, the net additional 97042
amount of tax resulting from the amendment by this act of section 97043
5743.02 of the Revised Code, less the discount allowed under 97044
section 5743.05 of the Revised Code as a commission for affixing 97045
and canceling stamps or meter impressions, that is due on all 97046
packages of Ohio stamped cigarettes and on all unaffixed Ohio 97047
cigarette tax stamps that the wholesale dealer has on hand as of 97048
the beginning of business on July 1, 2005, and, in the case of a 97049
retail dealer, means the net additional amount of tax resulting 97050
from the amendment by this act of section 5743.02 of the Revised 97051
Code that is due on all packages of Ohio stamped cigarettes and on 97052
all unaffixed Ohio cigarette tax stamps that the retail dealer has 97053
on hand as of the beginning of business on July 1, 2005. 97054

(B) In addition to the return required under section 5743.03 97055
of the Revised Code, each wholesale dealer and each retail dealer 97056
shall make and file a return on forms prescribed by the tax 97057
commissioner showing the net additional tax due and any other 97058
information that the commissioner considers necessary to apply 97059
sections 5743.01 to 5743.20 of the Revised Code in the 97060
administration of the net additional tax. On or before September 97061
30, 2005, each wholesale dealer and each retail dealer shall 97062
deliver the return to the treasurer of state, together with 97063

remittance of the net additional tax shown on the return to be 97064
due. A wholesale dealer or retail dealer may claim a credit equal 97065
to five per cent of the net additional tax shown on the return to 97066
be due if the wholesale dealer or retail dealer delivers the 97067
return required under this section to the treasurer of state on or 97068
before August 15, 2005, together with remittance of the net 97069
additional tax due after allowing for the five per cent credit. 97070
The treasurer of state shall stamp or otherwise mark on the return 97071
the date on which the return and remittance were received by the 97072
treasurer of state and also shall show on the return by stamp or 97073
otherwise the amount of the tax payment remitted with the return. 97074
Upon receipt, the treasurer of state shall immediately transmit 97075
all returns filed under this section to the commissioner. 97076

(C) Any wholesale or retail dealer who fails to file a return 97077
or remit net additional tax as required under this section shall 97078
forfeit and pay into the state treasury a late charge equal to 97079
fifty dollars or ten per cent of the net additional tax due, 97080
whichever is greater. If the net additional tax, or any portion 97081
thereof, whether determined by the commissioner or the wholesale 97082
or retail dealer, is not paid on or before the date prescribed for 97083
payment under this section, interest shall accrue on the unpaid 97084
amount at the rate per annum required by section 5703.47 of the 97085
Revised Code from the date prescribed for payment of the net 97086
additional tax to the date of payment or to the date the 97087
commissioner issues an assessment under section 5743.081 or 97088
5743.082 of the Revised Code, whichever occurs first. Interest 97089
shall be paid and collected in the same manner as the net 97090
additional tax. 97091

(D) Unpaid or unreported net additional taxes, late charges, 97092
and interest may be collected by assessment in the manner 97093
prescribed under sections 5743.081 and 5743.082 of the Revised 97094
Code. 97095

(E) All amounts collected under this section shall be 97096
considered revenue arising from the tax imposed by section 5743.02 97097
of the Revised Code. 97098

Section 557.09. (A) This section applies only to the 97099
semiannual period from July 1, 2005, to December 31, 2005. 97100

Notwithstanding any provision of Chapter 5751. of the Revised 97101
Code as enacted by this act, for purposes of making the first 97102
payment of the tax imposed under that chapter, a tax return for 97103
both calendar year and calendar quarter taxpayers for that 97104
semiannual period shall be filed not later than February 10, 2006. 97105
The semiannual tax payment for all taxpayers for that semiannual 97106
period shall be eighty-eight dollars for the first five hundred 97107
thousand dollars in taxable gross receipts during that semiannual 97108
period. In addition, a tax is imposed on all taxable gross 97109
receipts for that semiannual period in excess of five hundred 97110
thousand dollars. Such tax shall equal the product of six-tenths 97111
of one mill per dollar (the result of rounding twenty-three per 97112
cent of two and six-tenths mills) times the remaining amount of 97113
taxable gross receipts after subtracting five hundred thousand 97114
dollars in taxable gross receipts. 97115

(B) Only persons excluded pursuant to divisions (E)(2) to 97116
(10) of section 5751.01 of the Revised Code, as enacted by this 97117
act, and persons with less than two hundred thousand dollars in 97118
taxable gross receipts during calendar year 2005 are not subject 97119
to this section. 97120

(C) The tax commissioner shall take the necessary steps to 97121
implement this section and use money in the commercial tax 97122
administrative fund to promote awareness of the tax imposed under 97123
this section and under Chapter 5751. of the Revised Code as 97124
enacted by this act by means of advertising and other reasonable 97125
means. 97126

Section 557.10. In lieu of the certification and crediting of 97127
money to the Recycling and Litter Prevention Fund in fiscal year 97128
2006 that would be required under section 5733.122 of the Revised 97129
Code if that section were not repealed by this act, the Director 97130
of Budget and Management, during fiscal year 2006, shall transfer 97131
\$1,500,000 from the General Revenue Fund to the Recycling and 97132
Litter Prevention Fund according to a schedule to be determined by 97133
the Director. 97134

Section 557.12. ADJUSTMENT TO LOCAL GOVERNMENT DISTRIBUTIONS 97135

(A) On or before the seventh day of each month of the period 97136
July 2005 through June 2007, the Tax Commissioner shall determine 97137
and certify to the Director of Budget and Management the amount to 97138
be credited, by tax, during that month to the Local Government 97139
Fund, to the Library and Local Government Support Fund, and to the 97140
Local Government Revenue Assistance Fund, respectively, under 97141
divisions (B) to (G) of this section. 97142

(B) Notwithstanding sections 5727.45, 5727.84, 5733.12, 97143
5739.21, 5741.03, and 5747.03 of the Revised Code to the contrary, 97144
for each month in the period July 1, 2005, through June 30, 2007, 97145
from the utility excise, kilowatt-hour, corporation franchise, 97146
sales and use, and personal income taxes collected: 97147

(1) An amount shall first be credited to the Local Government 97148
Fund equal to the amount credited to that fund from that tax 97149
according to the schedule in divisions (C), (D), (E), and (F) of 97150
this section; 97151

(2) An amount shall next be credited to the Local Government 97152
Revenue Assistance Fund equal to the amount credited to that fund 97153
from that tax according to the schedule in divisions (C), (D), 97154
(E), and (F) of this section; 97155

(3) An amount shall next be credited to the Library and Local 97156

Government Support Fund equal to the amount credited to that fund 97157
from that tax according to the schedule in division (G) of this 97158
section. 97159

To the extent the amounts credited under divisions (B) 97160
through (G) of this section exceed the amounts that otherwise 97161
would have been credited under sections 5727.45, 5727.84, 5733.12, 97162
5739.21, 5741.03, and 5747.03 of the Revised Code, the amounts 97163
credited to the general revenue fund shall be reduced. To the 97164
extent the amounts credited under divisions (B) through (G) of 97165
this section are less than the amounts that otherwise would have 97166
been credited under sections 5727.45, 5727.84, 5733.12, 5739.21, 97167
5741.03, and 5747.03 of the Revised Code, the amounts credited to 97168
the general revenue fund shall be increased. 97169

(C) Pursuant to divisions (B)(1) and (2) of this section, the 97170
amounts shall be credited from the corporation franchise, sales 97171
and use, and personal income taxes to each respective fund as 97172
follows: 97173

(1) In July 2005, one hundred per cent of the amount credited 97174
in July 2004; in July 2006, one hundred per cent of the amount 97175
credited in July 2005; 97176

(2) In August 2005, one hundred per cent of the amount 97177
credited in August 2004; in August 2006, one hundred per cent of 97178
the amount credited in August 2005; 97179

(3) In September 2005, one hundred per cent of the amount 97180
credited in September 2004; in September 2006, one hundred per 97181
cent of the amount credited in September 2005; 97182

(4) In October 2005, one hundred per cent of the amount 97183
credited in October 2004; in October 2006, one hundred per cent of 97184
the amount credited in October 2005; 97185

(5) In November 2005, one hundred per cent of the amount 97186

credited in November 2004; in November 2006, one hundred per cent	97187
of the amount credited in November 2005;	97188
(6) In December 2005, one hundred per cent of the amount	97189
credited in December 2004; in December 2006, one hundred per cent	97190
of the amount credited in December 2005;	97191
(7) In January 2006, one hundred per cent of the amount	97192
credited in January 2005; in January 2007, one hundred per cent of	97193
the amount credited in January 2006;	97194
(8) In February 2006, one hundred per cent of the amount	97195
credited in February 2005; in February 2007, one hundred per cent	97196
of the amount credited in February 2006;	97197
(9) In March 2006, one hundred per cent of the amount	97198
credited in March 2005; in March 2007, one hundred per cent of the	97199
amount credited in March 2006;	97200
(10) In April 2006, one hundred per cent of the amount	97201
credited in April 2005; in April 2007, one hundred per cent of the	97202
amount credited in April 2006;	97203
(11) In May 2006, one hundred per cent of the amount credited	97204
in May 2005; in May 2007, one hundred per cent of the amount	97205
credited in May 2006;	97206
(12) In June 2006, one hundred per cent of the amount	97207
credited in June 2005; in June 2007, one hundred per cent of the	97208
amount credited in June 2006.	97209
(D) Pursuant to divisions (B)(1) and (2) of this section,	97210
from the public utility excise tax, amounts shall be credited to	97211
the Local Government Fund and the Local Government Revenue	97212
Assistance Fund as follows:	97213
(1) In July 2005 and July 2006, no amount shall be credited	97214
to the Local Government Fund and no amount shall be credited to	97215
the Local Government Revenue Assistance Fund;	97216

- (2) In August 2005 and August 2006, no amount shall be 97217
credited to the Local Government Fund or to the Local Government 97218
Revenue Assistance Fund; 97219
- (3) In September 2005 and September 2006, no amount shall be 97220
credited to the Local Government Fund or to the Local Government 97221
Revenue Assistance Fund; 97222
- (4) In October 2005 and October 2006, thirty per cent of 97223
\$7,870,426.16 shall be credited to the Local Government Fund and 97224
thirty per cent of \$1,124,346.59 shall be credited to the Local 97225
Government Revenue Assistance Fund; 97226
- (5) In November 2005 and November 2006, thirty per cent of 97227
\$1,045,731.11 shall be credited to the Local Government Fund and 97228
thirty per cent of \$149,390.15 shall be credited to the Local 97229
Government Revenue Assistance Fund; 97230
- (6) In December 2005 and December 2006, thirty per cent of 97231
\$1,210,041.67 shall be credited to the Local Government Fund and 97232
thirty per cent of \$172,863.13 shall be credited to the Local 97233
Government Revenue Assistance Fund; 97234
- (7) In January 2006 and January 2007, no amount shall be 97235
credited to the Local Government Fund or to the Local Government 97236
Revenue Assistance Fund; 97237
- (8) In February 2006 and February 2007, thirty per cent of 97238
\$1,515,069.22 shall be credited to the Local Government Fund and 97239
thirty per cent of \$216,438.43 shall be credited to the Local 97240
Government Revenue Assistance Fund; 97241
- (9) In March 2006 and March 2007, thirty per cent of 97242
\$7,859,958.57 shall be credited to the Local Government Fund and 97243
thirty per cent of \$1,122,851.24 shall be credited to the Local 97244
Government Revenue Assistance Fund; 97245
- (10) In April 2006 and April 2007, no amount shall be 97246

credited to the Local Government Fund or to the Local Government
Revenue Assistance Fund; 97247
97248

(11) In May 2006 and May 2007, thirty per cent of 97249
\$3,300,718.22 shall be credited to the Local Government Fund and 97250
thirty per cent of \$471,531.17 shall be credited to the Local 97251
Government Revenue Assistance Fund; 97252

(12) In June 2006 and June 2007, thirty per cent of 97253
\$9,344,500.89 shall be credited to the Local Government Fund and 97254
thirty per cent of \$1,334,928.70 shall be credited to the Local 97255
Government Revenue Assistance Fund. 97256

(E) Pursuant to divisions (B)(1) and (2) of this section, 97257
from the kilowatt-hour tax, amounts shall be credited to the Local 97258
Government Fund and the Local Government Revenue Assistance Fund 97259
as follows: 97260

(1) In July 2005 and July 2006, no amount shall be credited 97261
to the Local Government Fund and no amount shall be credited to 97262
the Local Government Revenue Assistance Fund; 97263

(2) In August 2005 and August 2006, no amount shall be 97264
credited to the Local Government Fund or to the Local Government 97265
Revenue Assistance Fund; 97266

(3) In September 2005, and September 2006, no amount shall be 97267
credited to the Local Government Fund or to the Local Government 97268
Revenue Assistance Fund; 97269

(4) In October 2005 and October 2006, seventy per cent of 97270
\$7,870,426.16 shall be credited to the Local Government Fund and 97271
seventy per cent of \$1,124,346.59 shall be credited to the Local 97272
Government Revenue Assistance Fund; 97273

(5) In November 2005 and November 2006, seventy per cent of 97274
\$1,045,731.11 shall be credited to the Local Government Fund and 97275
seventy per cent of \$149,390.15 shall be credited to the Local 97276

Government Revenue Assistance Fund;	97277
(6) In December 2005 and December 2006, seventy per cent of	97278
\$1,210,041.67 shall be credited to the Local Government Fund and	97279
seventy per cent of \$172,863.13 shall be credited to the Local	97280
Government Revenue Assistance Fund;	97281
(7) In January 2006 and January 2007, no amount shall be	97282
credited to the Local Government Fund or to the Local Government	97283
Revenue Assistance Fund;	97284
(8) In February 2006 and February 2007, seventy per cent of	97285
\$1,515,069.22 shall be credited to the Local Government Fund and	97286
seventy per cent of \$216,438.43 shall be credited to the Local	97287
Government Revenue Assistance Fund;	97288
(9) In March 2006 and March 2007, seventy per cent of	97289
\$7,859,958.57 shall be credited to the Local Government Fund and	97290
seventy per cent of \$1,122,851.24 shall be credited to the Local	97291
Government Revenue Assistance Fund;	97292
(10) In April 2006 and April 2007, no amount shall be	97293
credited to the Local Government Fund or to the Local Government	97294
Revenue Assistance Fund;	97295
(11) In May 2006 and May 2007, seventy per cent of	97296
\$3,300,718.22 shall be credited to the Local Government Fund and	97297
seventy per cent of \$471,531.17 shall be credited to the Local	97298
Government Revenue Assistance Fund;	97299
(12) In June 2006 and June 2007, seventy per cent of	97300
\$9,344,500.89 shall be credited to the Local Government Fund and	97301
seventy per cent of \$1,334,928.70 shall be credited to the Local	97302
Government Revenue Assistance Fund.	97303
(F) Notwithstanding the amounts required to be credited	97304
pursuant to division (C) of this section, the amount credited each	97305
month to the Local Government Fund and the Local Government	97306

Revenue Assistance Fund from the personal income tax shall be net 97307
of a reduction. The reduction shall equal the amount by which the 97308
monthly distributions required by division (I) of this section are 97309
below the total amount that otherwise would have been credited for 97310
that month pursuant to divisions (C), (D), and (E) of this 97311
section. 97312

(G) Pursuant to division (B)(3) of this section, amounts 97313
shall be credited from the personal income tax to the Library and 97314
Local Government Support Fund as follows: 97315

(1) In July 2005, one hundred per cent of the amount credited 97316
in July 2004; in July 2006, ninety-five per cent of the amount 97317
credited in July 2005; 97318

(2) In August 2005, one hundred per cent of the amount 97319
credited in August 2004; in August 2006, ninety-five per cent of 97320
the amount credited in August 2005; 97321

(3) In September 2005, one hundred per cent of the amount 97322
credited in September 2004; in September 2006, ninety-five per 97323
cent of the amount credited in September 2005; 97324

(4) In October 2005, one hundred per cent of the amount 97325
credited in October 2004; in October 2006, ninety-five per cent of 97326
the amount credited in October 2005; 97327

(5) In November 2005, one hundred per cent of the amount 97328
credited in November 2004; in November 2006, ninety-five per cent 97329
of the amount credited in November 2005; 97330

(6) In December 2005, ninety-five per cent of the amount 97331
credited in December 2004; in December 2006, one hundred per cent 97332
of the amount credited in December 2005; 97333

(7) In January 2006, ninety-five per cent of the amount 97334
credited in January 2005; in January 2007, one hundred per cent of 97335
the amount credited in January 2006; 97336

(8) In February 2006, ninety-five per cent of the amount 97337
credited in February 2005; in February 2007, one hundred per cent 97338
of the amount credited in February 2006; 97339

(9) In March 2006, ninety-five per cent of the amount 97340
credited in March 2005; in March 2007, one hundred per cent of the 97341
amount credited in March 2006; 97342

(10) In April 2006, ninety-five per cent of the amount 97343
credited in April 2005; in April 2007, one hundred per cent of the 97344
amount credited in April 2006; 97345

(11) In May 2006, ninety-five per cent of the amount credited 97346
in May 2005; in May 2007, one hundred per cent of the amount 97347
credited in May 2006; 97348

(12) In June 2006, ninety-five per cent of the amount 97349
credited in June 2005; in June 2007, one hundred per cent of the 97350
amount credited in June 2006. 97351

(H) The total amount credited to the Local Government Fund 97352
and the Local Government Revenue Assistance Fund in each month 97353
during the period July 2005 through November 2005 shall be 97354
distributed by the tenth day of the immediately succeeding month 97355
in the following manner, and the total amount credited to the 97356
Library and Local Government Support Fund in each month during the 97357
period July 2005 through June 2007 shall be distributed by the 97358
tenth day of the immediately succeeding month in the following 97359
manner: 97360

(1) Each county undivided local government fund shall receive 97361
a distribution from the Local Government Fund based on its 97362
proportionate share of the total amount received from the fund in 97363
such respective month for the period August 1, 2004, through 97364
December 31, 2004. 97365

(2) Each municipal corporation receiving a direct 97366

distribution from the Local Government Fund shall receive a 97367
distribution based on its proportionate share of the total amount 97368
received from the fund in such respective month for the period 97369
August 1, 2004, through December 31, 2004. 97370

(3) Each county undivided local government revenue assistance 97371
fund shall receive a distribution from the Local Government 97372
Revenue Assistance Fund based on its proportionate share of the 97373
total amount received from the fund in such respective month for 97374
the period August 1, 2004, through December 31, 2004. 97375

(4) Each county undivided library and local government 97376
support fund shall receive a distribution from the Library and 97377
Local Government Support Fund based on its proportionate share of 97378
the total amount received from the fund in such respective month 97379
for the period August 1, 2004, through July 31, 2005. 97380

(I) Notwithstanding any other provision of law to the 97381
contrary, the total amount credited to the Local Government Fund 97382
and the Local Government Revenue Assistance Fund in each month 97383
during the period December 2005 through June 2007 shall be 97384
distributed by the tenth day of the immediately succeeding month 97385
in the following manner: 97386

(1) Each county undivided local government fund and each 97387
county undivided local government revenue assistance fund shall 97388
receive the "countywide township and village distribution" for 97389
each respective fund, as determined under divisions (I)(1)(a) and 97390
(b) of this section. 97391

(a) The countywide township and village distribution is 97392
determined as follows: For each county undivided local government 97393
fund and each county undivided local government revenue assistance 97394
fund, the Tax Commissioner shall identify the proportionate shares 97395
of the distributions made from each fund to townships and villages 97396
located partially or entirely in that county, as reported by the 97397

county auditor for calendar year 2005 under division (J) of 97398
section 5747.51 and division (I) of section 5747.62 of the Revised 97399
Code, respectively. For each county and each fund, the Tax 97400
Commissioner shall compute the sum of the proportionate shares of 97401
distributions to townships and villages, and shall next multiply 97402
the sum for each fund by the amount distributed each month to the 97403
county undivided local government fund from the local government 97404
fund and by the amount distributed each month to the county 97405
undivided local government revenue assistance fund from the local 97406
government revenue assistance fund, respectively, during the 97407
period January 2005 through December 2005. 97408

(b) The Tax Commissioner shall multiply each product derived 97409
in division (I)(1)(a) of this section by one hundred per cent to 97410
yield that month's countywide township and village distribution 97411
for each fund and each county. 97412

(c) Only those subdivisions reported as townships and those 97413
municipal corporations reported as villages in the most recent 97414
edition of the Secretary of State's "Ohio Municipal, Township and 97415
School Board Roster," available as of November 1, 2005, shall be 97416
considered to be townships or villages, respectively, for purposes 97417
of this section. Townships and villages that are dissolved or that 97418
merge with another subdivision on or after August 1, 2005, may be 97419
excluded from the calculation of the countywide township and 97420
village distribution. 97421

(2) In addition to the distributions provided in divisions 97422
(I)(1), (I)(3) and (I)(5) of this section, each county undivided 97423
local government fund and each county undivided local government 97424
revenue assistance fund shall receive the "county distribution" 97425
computed for each fund under divisions (I)(2)(a) and (b) of this 97426
section. 97427

(a) The monthly distribution made from the county undivided 97428

local government fund to each county as a subdivision during the 97429
period January 2005 through December 2005, excluding dealer in 97430
intangibles tax distributions, multiplied by ninety per cent. 97431

(b) The monthly distribution made from the county undivided 97432
local government revenue assistance fund to each county as a 97433
subdivision during the period January 2005 through December 2005, 97434
multiplied by ninety per cent. 97435

(3) In addition to the distributions provided in divisions 97436
(I)(1), (I)(2), and (I)(5) of this section, each county undivided 97437
local government fund and each county undivided local government 97438
revenue assistance fund shall receive the "other taxing unit 97439
distribution" computed for each fund under divisions (I)(3)(a) and 97440
(b) of this section. 97441

(a) The sum of the monthly product calculated pursuant to 97442
division (I)(1)(a) of this section, the monthly distribution to 97443
the county as a subdivision from the county undivided local 97444
government fund, excluding dealer in intangibles tax 97445
distributions, during the period January 2005 through December 97446
2005, and the monthly distribution made from the county undivided 97447
local government fund, excluding dealer in intangibles tax 97448
distributions, to municipal corporations not otherwise included in 97449
division (I)(1)(a) of this section during the period January 2005 97450
through December 2005 shall be subtracted from the county 97451
undivided local government fund distribution made from the local 97452
government fund in such respective month during the period January 97453
2005 through December 2005. The difference shall be multiplied by 97454
eighty per cent. 97455

(b) The sum of the monthly product calculated pursuant to 97456
division (I)(1)(a) of this section, the monthly distribution to 97457
the county as a subdivision from the undivided local government 97458
revenue assistance fund during the period January 2005 through 97459

December 2005, and the monthly distribution made from the county 97460
undivided local government revenue assistance fund to municipal 97461
corporations not otherwise included in division (I)(1)(a) of this 97462
section during the period January 2005 through December 2005 shall 97463
be subtracted from the county undivided local government revenue 97464
assistance fund distribution made from the local government 97465
revenue assistance fund in such respective month during the period 97466
January 2005 through December 2005. The difference shall be 97467
multiplied by eighty per cent. 97468

(4) Each municipal corporation identified by the Tax 97469
Commissioner as a village under division (I)(1)(c) of this section 97470
shall receive in each month an amount directly from the Local 97471
Government Fund equal to one hundred per cent of the amount the 97472
municipal corporation received directly from that fund in such 97473
respective month during the period January 1, 2005, through 97474
December 31, 2005. 97475

The Tax Commissioner shall compute for each municipal 97476
corporation, excluding villages receiving amounts pursuant to 97477
division (I)(4) of this section, an "excess amount," which amount 97478
equals the extent to which such municipal corporation's 97479
distributions received directly from the Local Government Fund 97480
during calendar year 2005 and the distributions received from the 97481
county undivided local government fund, excluding dealer in 97482
intangibles tax distributions, during calendar year 2005 exceeded 97483
\$1,000,000. If a positive excess amount is computed for a 97484
municipal corporation, then the Tax Commissioner shall divide the 97485
excess amount by the sum of the amount received by that municipal 97486
corporation directly from the Local Government Fund during 97487
calendar year 2005 plus the amount that municipal corporation 97488
received from the county undivided local government fund, 97489
excluding dealer in intangibles tax distributions, during calendar 97490
year 2005. The result of that calculation shall be the "percentage 97491

excess" for the subject municipal corporation. The 97492
"below-threshold percentage" equals the percentage excess 97493
subtracted from one. Any municipal corporation for which a 97494
percentage excess is computed shall receive a monthly distribution 97495
directly from the Local Government Fund equal to the sum of (1) 97496
the product derived by multiplying the distribution received 97497
directly from the Local Government Fund by the municipal 97498
corporation in such month of calendar year 2005 times the 97499
below-threshold percentage, multiplied by ninety per cent, and (2) 97500
the product derived by multiplying the distribution received 97501
directly from the Local Government Fund by the municipal 97502
corporation in such month of calendar year 2005 times the 97503
percentage excess, multiplied by eighty per cent. Except for 97504
villages receiving amounts pursuant to division (I)(4) of this 97505
section, each municipal corporation whose excess amount computed 97506
under this division is not a positive number and a percentage 97507
excess has therefore not been computed shall receive in each month 97508
an amount directly from the Local Government Fund that is equal to 97509
ninety per cent of the amount the municipal corporation received 97510
directly from that fund in such respective month during the period 97511
January 1, 2005, through December 31, 2005. 97512

(5) Each county undivided local government fund and each 97513
county undivided local government revenue assistance fund shall 97514
receive the total "city distribution" for each respective county 97515
fund, as determined under divisions (I)(5)(a) and (b) of this 97516
section. Notwithstanding divisions (C) to (I) of section 5747.51 97517
or section 5747.53 of the Revised Code to the contrary, each city 97518
shall receive from the county undivided local government fund and 97519
from the county undivided local government revenue assistance fund 97520
its monthly city distribution determined under this section. The 97521
city distribution is determined as follows: 97522

(a) For each municipal corporation otherwise not receiving a 97523

distribution under division (I)(1) of this section and that 97524
received a distribution from the county undivided local government 97525
fund during calendar year 2005, the Tax Commissioner shall 97526
identify the percentage excess and below-threshold percentage 97527
determined under division (I)(4) of this section. If a percentage 97528
excess has been computed for a municipal corporation under 97529
division (I)(4) of this section, its monthly distribution from the 97530
county undivided local government fund shall equal the sum of (1) 97531
the product derived by multiplying the amount distributed to the 97532
municipal corporation from the fund in such month of calendar year 97533
2005, excluding any dealer in intangible tax distributions, by the 97534
below-threshold percentage, multiplied by ninety per cent, and (2) 97535
the product derived by multiplying the amount distributed to the 97536
municipal corporation from the fund in such month of calendar year 97537
2005, excluding any dealer in intangibles tax distributions, by 97538
the percentage excess, multiplied by eighty per cent. Each 97539
municipal corporation whose excess amount is not a positive number 97540
and for which a percentage excess was not computed shall receive 97541
the amount it received from the county undivided local government 97542
fund in such month of calendar year 2005, excluding any dealer in 97543
intangibles tax distributions, multiplied by ninety per cent. 97544

(b) Each municipal corporation not otherwise receiving a 97545
distribution under division (I)(1) of this section shall receive 97546
from the county undivided local government revenue assistance fund 97547
the same amount it received from that fund in such month of 97548
calendar year 2005, multiplied by eighty per cent. 97549

(J) Notwithstanding the distribution method prescribed by 97550
divisions (C) to (I) of section 5747.51 or by section 5747.53 of 97551
the Revised Code, during the period January 1, 2006, through July 97552
31, 2007, the amounts allocated monthly to each county undivided 97553
local government fund from the local government fund shall be 97554
distributed among all subdivisions located wholly or partially in 97555

the county in the manner prescribed by division (J) of this section. 97556
97557

(1) The countywide township and village distribution shall be distributed among townships and villages based on their relative proportionate shares of the sum of the township and village proportionate shares described in division (I)(1)(a) of this section. 97558
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(2) The other taxing unit distribution shall be distributed to subdivisions not otherwise included in divisions (J)(1), (J)(3), and (J)(4) of this section based on their relative proportionate shares of the sum of proportionate shares for such subdivisions based on the calendar year 2005 report submitted by the county auditor to the Tax Commissioner pursuant to division (J) of section 5747.51 of the Revised Code. 97563
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(3) The city distribution shall be distributed according to division (I)(5) of this section. 97570
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(4) The county distribution shall be distributed according to division (I)(2) of this section. 97572
97573

(5) Dealer in intangibles taxes distributed to each county undivided local government fund shall be distributed among subdivisions based on each subdivision's relative share of the total distributions made from the county undivided local government fund according to divisions (J)(1) to (3) of this section. 97574
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(6) By December 20, 2005, the Tax Commissioner shall make such information available to each county auditor deemed reasonable and appropriate for the purposes of making the distributions required by this section. 97580
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(7) Until the county auditor provides the Tax Commissioner the report required by division (J) of section 5747.51 for 97584
97585

calendar year 2005, the amounts distributed to the county 97586
undivided local government fund that are subsequently apportioned 97587
to subdivisions under this section shall be based on the most 97588
recent year for which a report has been submitted. If a county 97589
auditor report for a calendar year preceding calendar year 2005 is 97590
used to make the distributions under this section and the county 97591
auditor report for calendar year 2005 report is subsequently 97592
submitted to the Tax Commissioner, there shall be no adjustment 97593
for any month when such pre-calendar year 2005 report information 97594
was used. 97595

(K) Notwithstanding the distribution method prescribed by 97596
divisions (C) to (H) of section 5747.62 or by section 5747.63 of 97597
the Revised Code, during the period January 1, 2006, through July 97598
31, 2007, the amounts allocated monthly to each county undivided 97599
local government revenue assistance fund from the local government 97600
revenue assistance fund shall be distributed among all 97601
subdivisions located wholly or partially in the county in the 97602
manner prescribed by division (K) of this section. 97603

(1) The countywide township and village distribution shall be 97604
distributed among townships and villages based on their relative 97605
proportionate shares of the sum of the township and village 97606
proportionate shares described in division (I)(1)(a) of this 97607
section. 97608

(2) The other taxing unit distribution shall be distributed 97609
to subdivisions not otherwise included in division (K)(1), (K)(3), 97610
and (K)(4) of this section based on their relative proportionate 97611
shares of the sum of proportionate shares for such subdivisions 97612
based on the calendar year 2005 report submitted by the county 97613
auditor to the Tax Commissioner pursuant to division (I) of 97614
section 5747.62 of the Revised Code. 97615

(3) The city distribution shall be distributed according to 97616

division (I)(5) of this section. 97617

(4) The county distribution shall be distributed according to 97618
division (I)(2) of this section. 97619

(5) By December 20, 2005, the Tax Commissioner shall make 97620
such information available to each county auditor deemed 97621
reasonable and appropriate for the purposes of making the 97622
distributions required by this section. 97623

(6) Until the county auditor provides the Tax Commissioner 97624
the report required by division (I) of section 5747.62 for 97625
calendar year 2005, the amounts distributed to the county 97626
undivided local government revenue assistance fund that are 97627
subsequently apportioned to subdivisions under this section shall 97628
be based on the most recent year for which a report has been 97629
submitted. If a county auditor report for a calendar year 97630
preceding calendar year 2005 is used to make the distributions 97631
under this section and the county auditor report for calendar year 97632
2005 report is subsequently submitted to the Tax Commissioner, 97633
there shall be no adjustment for any month when such pre-calendar 97634
year 2005 report information was used. 97635

(L) For the 2005, 2006, and 2007 distribution years, the Tax 97636
Commissioner is not required to issue the certifications otherwise 97637
required by sections 5747.47, 5747.501, 5747.51, and 5747.61 of 97638
the Revised Code, but shall provide to each county auditor by the 97639
twentieth day of July 2005, July 2006, and July 2007 an estimate 97640
of the amounts to be received by the county in the ensuing year 97641
from the Local Government Fund, Local Government Revenue 97642
Assistance Fund, and Library and Local Government Support Fund 97643
pursuant to this section and any pertinent section of the Revised 97644
Code. For the 2006 distribution year, the Tax Commissioner shall 97645
provide by December 20, 2005, a revised estimate of the amounts to 97646
be received by the county in the ensuing year from the Local 97647

Government Fund, Local Government Revenue Assistance Fund, and 97648
Library and Local Government Support Fund pursuant to this section 97649
and any pertinent section of the Revised Code. At the discretion 97650
of the Tax Commissioner, the Tax Commissioner may report to each 97651
county auditor additional revised estimates of the 2005, 2006, or 97652
2007 distributions at any time during the period July 1, 2005, 97653
through July 31, 2007. 97654

(M) During the period July 1, 2005, through July 31, 2007, 97655
the Director of Budget and Management shall issue such directives 97656
to state agencies that are necessary to ensure that the 97657
appropriate amounts are distributed to the Local Government Fund, 97658
to the Local Government Revenue Assistance Fund, and to the 97659
Library and Local Government Support Fund. 97660

Section 557.13.03. The Tax Commissioner shall review the 97661
calculations of the multipliers used in the determination of oil 97662
and gas valuations, in light of the amendment by this act to 97663
section 5715.01 of the Revised Code, and the enactment by this act 97664
of section 5709.112 of the Revised Code. The review shall be 97665
conducted in sufficient time to be used in the Commissioner's 97666
annual entry adopting the multipliers for tax year 2006, to ensure 97667
that oil and gas properties are uniformly assessed as provided by 97668
law and this act. 97669

Section 557.13.06. Prior to adopting the rule defining 97670
"primarily," as required by division (B)(2) of section 5725.01 of 97671
the Revised Code, the Tax Commissioner shall seek the input of 97672
current dealers in intangibles. 97673

Section 557.13.09. (A) There is hereby created the Joint 97674
Legislative Tax Reform Impact Study Committee. The Committee shall 97675
consist of the following members of the General Assembly: the 97676
chairperson of the Senate's standing committee with primary 97677

responsibility for tax legislation, the chairperson of the House 97678
of Representatives' standing committee with primary responsibility 97679
for tax legislation, four members of the House of Representatives 97680
appointed by the Speaker of the House of Representatives, and four 97681
members of the Senate appointed by the President of the Senate. 97682
Not more than two members appointed by the Speaker and not more 97683
than two members appointed by the President may be of the same 97684
political party. The appointments shall be made not later than 97685
July 31, 2005. The chairpersons of the standing committees with 97686
primary responsibility for tax legislation shall serve as 97687
co-chairpersons of the Committee. The Department of Taxation shall 97688
cooperate with the Committee and, on request, shall provide any 97689
information and assistance that is required by the Committee to 97690
carry out its duties. 97691

(B) The Committee shall study the effects on school districts 97692
and other local taxing units of phasing-out the tangible personal 97693
property tax under this act, and any other matter related to that 97694
phase-out that it considers of significance. As part of the study, 97695
the Committee shall do all of the following: 97696

(1) Estimate the total taxes lost by school districts and 97697
local taxing units as a result of the phase-out; 97698

(2) Estimate the capacity of the commercial activity tax 97699
levied under Chapter 5751. of the Revised Code, as enacted by this 97700
act, to replace lost tangible personal property tax revenues and 97701
to fund the General Revenue Fund; 97702

(3) Estimate the cost for delivery of services by school 97703
districts and other local taxing units and the emerging service 97704
demands for those services arising from demographic and economic 97705
changes to the districts and units; 97706

(4) Identify alternatives for effectively balancing state and 97707
local tax revenues available to school districts and other taxing 97708

units and their responsibilities for delivery of services; 97709

(5) Examine how the commercial activity tax treats for-profit 97710
corporations as compared to nonprofit corporations; 97711

(6) Review the impact of the commercial activity tax on the 97712
various business sectors. 97713

(C) At the call of the co-chairpersons, the Committee shall 97714
hold not less than four meetings. The co-chairpersons shall 97715
determine the time, place, and agenda for each meeting of the 97716
Committee. Not later than January 31, 2006, the Committee shall 97717
issue a report of its findings and shall make recommendations to 97718
the President of the Senate and the Speaker of the House of 97719
Representatives, at which time the Committee shall cease to exist. 97720

Section 557.13.12. There is hereby created the 97721
Telecommunication Personal Property Tax Study Committee to review 97722
the equity of the various personal property tax rates applicable 97723
to different entities providing telecommunication services in the 97724
state. The committee shall be composed of nine members as follows: 97725
three members shall be appointed by the President of the Senate 97726
from the members of the Senate, three members shall be appointed 97727
by the Speaker of the House of Representatives from the members of 97728
the House of Representatives, one member shall be the Chairperson 97729
of the Public Utilities Commission or the Chairperson's designee, 97730
one member shall be the Director of Development or the Director's 97731
designee, and one member shall be the Tax Commissioner or the 97732
Commissioner's designee. Of the members selected from the Senate 97733
and the House of Representatives, not more than two members from 97734
each house may be from the same political party. Members of the 97735
committee shall not receive compensation for their service on the 97736
committee and shall not receive reimbursement for expenses 97737
incurred related to that service. The committee shall make a 97738
report of its study and any findings it has to the General 97739

Assembly not later than December 31, 2005. The committee shall 97740
cease to exist on the date it makes the report. 97741

Section 557.15. The amendment by this act of sections 319.302 97742
and 323.152 of the Revised Code first applies in tax year 2005. 97743

Section 557.21. The amendment by this act of section 5727.81 97744
of the Revised Code first applies to the measurement period that 97745
includes July 1, 2005. 97746

Section 557.24. The amendment by this act of sections 97747
5731.01, 5731.05, 5731.131, 5731.14, 5731.18, and 5731.181 of the 97748
Revised Code, and the repeal by this act of section 5731.20 of the 97749
Revised Code, applies to estates of decedents dying on or after 97750
the effective date of those sections as amended by this act. 97751

Section 557.27. The amendment by this act of section 5733.40 97752
of the Revised Code applies to taxable years ending on or after 97753
the effective date of this act. 97754

Section 557.30. Except as otherwise provided in division 97755
(A)(18) of section 5747.01 and division (A) of section 5747.02 of 97756
the Revised Code, the amendment by this act of sections 5747.01 97757
and 5747.02 of the Revised Code applies to taxable years ending on 97758
or after the effective date of this section. 97759

Section 557.33. The amendment by this act of section 5747.05 97760
of the Revised Code applies to taxable years ending on or after 97761
the effective date of this section. 97762

Section 559.03. (A) Sections 9.23, 9.231, 9.232, 9.233, 97763
9.234, 9.235, 9.236, 9.237, 9.238, and 9.239 of the Revised Code, 97764
as enacted by this act, apply only to disbursements of money that 97765

occur on or after January 1, 2006. 97766

(B) Section 9.241 of the Revised Code, as enacted by this 97767
act, applies only to contracts that are entered into or awarded on 97768
or after the effective date of that section. 97769

Section 560.03. There is hereby created the Ohio Military 97770
Reserve Homeland Security Study Commission to evaluate the role 97771
and effectiveness of the Ohio Military Reserve. The Commission 97772
shall consist of seven members: the Chairperson of the House 97773
Commerce and Labor Committee, who shall serve as chairperson of 97774
the Commission, two members of the House of Representatives whom 97775
the Speaker of the House of Representatives shall appoint, two 97776
members of the Senate whom the President of the Senate shall 97777
appoint, the Adjutant General or a representative the Adjutant 97778
General designates, and the Director of Public Safety or a 97779
representative the Director designates. The chairperson shall call 97780
the meetings of the Commission. The Commission shall report its 97781
findings to the General Assembly before January 1, 2006. 97782

Section 563.03. It is the intention of the General Assembly 97783
that the amendments made by this act to sections 3319.081 and 97784
3319.17 of the Revised Code, and the enactment by this act of 97785
section 3319.172 of the Revised Code, shall not affect collective 97786
bargaining agreements between public employers and public 97787
employees entered into prior to the effective date of this 97788
section. 97789

Section 569.03. (A) As used in this section, "appointing 97790
authority" has the same meaning as in section 124.01 of the 97791
Revised Code, and "exempt employee" has the same meaning as in 97792
section 124.152 of the Revised Code. 97793

(B) Notwithstanding section 124.181 of the Revised Code both 97794

of the following apply: 97795

(1) In cases where no vacancy exists, an appointing authority 97796
may, with the written consent of an exempt employee, assign duties 97797
of a higher classification for a period of time not to exceed two 97798
years to that exempt employee, and that exempt employee shall 97799
receive compensation at a rate commensurate with the duties of the 97800
higher classification. 97801

(2) If necessary, employees exempt from collective bargaining 97802
who are assigned to duties within their agency to maintain 97803
operations during the Ohio Administrative Knowledge System (OAKS) 97804
implementation may agree to a temporary assignment that exceeds 97805
the two-year limit. 97806

Section 569.06. (A) As used in this section, "exempt 97807
employee" has the same meaning as in section 124.152 of the 97808
Revised Code. 97809

(B) Notwithstanding any provision to the contrary in Chapter 97810
124. of the Revised Code, for the period beginning on July 1, 97811
2005, and ending on June 30, 2007, the Director of Job and Family 97812
Services shall have the authority to do the following: 97813

(1) Establish, change, and abolish positions of employment in 97814
the Department of Job and Family Services that are in the 97815
classified civil service; 97816

(2) Assign, reassign, classify, reclassify, transfer, reduce, 97817
promote, and demote exempt employees of the Department who are in 97818
the classified civil service, including, but not limited to, 97819
assigning or reassigning an employee to a bargaining unit 97820
classification if the Director determines that the classification 97821
is the proper classification for that employee. 97822

(C) All actions taken by the Director under division (B) of 97823
this section relative to exempt employees of the Department who 97824

are in the classified civil service and are subject to section 97825
900.603 of Title 5 of the Code of Federal Regulations, 5 C.F.R. 97826
900.603, as amended, shall be consistent with the requirements of 97827
that section. 97828

(D) If an exempt employee of the Department who is in the 97829
classified civil service and paid in accordance with salary 97830
schedule E-1 of section 124.152 of the Revised Code is to be 97831
assigned, reassigned, classified, reclassified, transferred, 97832
reduced, or demoted to a position in a lower job classification by 97833
the Director under division (B) of this section, the Director, or 97834
in the case of a transfer of the employee outside the Department, 97835
the Director of Administrative Services, shall assign the employee 97836
to the appropriate job classification and place the exempt 97837
employee in pay step X. The employee shall not receive an increase 97838
in compensation until the maximum rate of pay for that 97839
classification exceeds the employee's compensation. 97840

(E) Actions taken by the Director under division (B) of this 97841
section shall not be subject to appeal to the State Personnel 97842
Board of Review. 97843

Section 606.03. If any item of law that constitutes the whole 97844
or part of a codified or uncodified section of law contained in 97845
this act, or if any application of any item of law that 97846
constitutes the whole or part of a codified or uncodified section 97847
of law contained in this act, is held invalid, the invalidity does 97848
not affect other items of law or applications of items of law that 97849
can be given effect without the invalid item of law or 97850
application. To this end, the items of law of which the codified 97851
and uncodified sections contained in this act are composed, and 97852
their applications, are independent and severable. 97853

Section 609.03. An item of law, other than an amending, 97854

enacting, or repealing clause, that composes the whole or part of 97855
an uncodified section contained in this act has no effect after 97856
June 30, 2007, unless its context clearly indicates otherwise. 97857

Section 612.03. Except as otherwise specifically provided in 97858
this act, the codified sections of law amended or enacted in this 97859
act, and the items of law of which the codified sections of law 97860
amended or enacted in this act are composed, are subject to the 97861
referendum. Therefore, under Ohio Constitution, Article II, 97862
Section 1c and section 1.471 of the Revised Code, the codified 97863
sections of law amended or enacted by this act, and the items of 97864
law of which the codified sections of law as amended or enacted by 97865
this act are composed, take effect on the ninety-first day after 97866
this act is filed with the Secretary of State. If, however, a 97867
referendum petition is filed against any such codified section of 97868
law as amended or enacted by this act, or against any item of law 97869
of which any such codified section of law as amended or enacted by 97870
this act is composed, the codified section of law as amended or 97871
enacted, or item of law, unless rejected at the referendum, takes 97872
effect at the earliest time permitted by law. 97873

Section 612.06. Except as otherwise specifically provided in 97874
this act, the repeal by this act of a codified section of law is 97875
subject to the referendum. Therefore, under Ohio Constitution, 97876
Article II, Section 1c and section 1.471 of the Revised Code, the 97877
repeal by this act of a codified section of law takes effect on 97878
the ninety-first day after this act is filed with the Secretary of 97879
State. If, however, a referendum petition is filed against any 97880
such repeal, the repeal, unless rejected at the referendum, takes 97881
effect at the earliest time permitted by law. 97882

Section 612.09. The sections of law amended, enacted, or 97883
repealed by this act that are listed in this section are subject 97884

to the referendum. Therefore, under Ohio Constitution, Article II, 97885
Section 1c and section 1.471 of the Revised Code, the sections, 97886
and the items of law of which they are composed, take effect as 97887
specified in this section. If, however, a referendum petition is 97888
filed against any such section as amended, enacted, or repealed, 97889
or against any item of law of which any such section as amended or 97890
enacted is composed, the section as amended, enacted, or repealed 97891
goes into effect at the earliest time permitted by law that is on 97892
or after the effective date specified in this section. 97893

Sections 9.24, 120.52, 120.53, 131.23, 317.08, 317.36, 97894
323.01, 329.051, 340.03, 340.16, 1901.26, 1907.24, 2303.201, 97895
2305.234, 2744.05, 3111.04, 3119.54, 3121.12, 3121.50, 3702.74, 97896
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5111.853, 5111.854, 5111.855, 5111.856, 5111.89, 5111.891, 97901
5111.892, 5111.893, 5111.914, 5111.97 (5111.86), 5112.03, 5112.08, 97902
5112.17, 5115.10, 5115.11, 5115.12, 5115.13, 5115.14, 5115.20, 97903
5115.22, 5115.23, and 5119.61 of the Revised Code take effect 97904
October 1, 2005. 97905

Sections 1711.531, 4753.03, 4753.06, 4753.071, 4753.08, 97906
4753.09, 5107.05, 5107.30, and 5107.301 of the Revised Code take 97907
effect January 1, 2006. 97908

Sections 3301.0710 and 3301.0714 of the Revised Code take 97909
effect July 1, 2006. 97910

Section 612.12. Sections 101.391, 108.05, 109.57, 109.91, 97911
120.36, 121.37, 121.38, 121.381, 121.382, 122.011, 122.083, 97912
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181.55 (5502.65), 181.56 (5502.66), 307.86, 339.72, 339.88, 97918
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3317.23 (3318.49), 3318.33, 3319.06, 3323.091, 3323.14, 3323.16, 97934
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3334.02, 3334.19, 3365.01, 3365.02, 3701.021, 3701.073, 3701.146, 97936
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(4723.91), 4723.64, 4723.65, 4723.66, 4723.67, 4723.68, 4723.69, 97943
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5110.352, 5111.019, 5111.061, 5111.082, 5111.11, 5111.111, 97946

5111.112 (5111.113), 5111.113 (5111.114), 5111.16, 5111.161, 97947
5111.162, 5111.163, 5111.164, 5111.17, 5111.176, 5111.19, 97948
5111.191, 5111.98, 5112.30, 5112.341, 5120.09, 5120.51, 5139.01, 97949
5502.01, 5540.01, 5540.032, 5540.09, 5731.39, and 6109.21 of the 97950
Revised Code as amended or enacted by this act, and the items of 97951
law of which such sections as amended or enacted by this act are 97952
composed, are not subject to the referendum. Therefore, under Ohio 97953
Constitution, Article II, Section 1d and section 1.471 of the 97954
Revised Code, such sections as amended or enacted by this act, and 97955
the items of law of which such sections as amended or enacted by 97956
this act are composed, go into immediate effect when this act 97957
becomes law. 97958

Section 612.12.01. The enactment by this act of new section 97959
4723.63 of the Revised Code, and the items of which it is 97960
composed, are not subject to the referendum. Therefore, under Ohio 97961
Constitution, Article II, Section 1d and section 1.471 of the 97962
Revised Code, the new section, and the items of which it is 97963
composed, go into immediate effect when this act becomes law. 97964

Section 612.12.03. New sections 3317.012, 5111.02, and 97965
5111.112 of the Revised Code as enacted by this act, and the items 97966
of law of which such sections as enacted by this act are composed, 97967
are not subject to the referendum. Therefore, under Ohio 97968
Constitution, Article II, Section 1d and section 1.471 of the 97969
Revised Code, such sections as enacted by this act, and the items 97970
of law of which such sections as enacted by this act are composed, 97971
go into immediate effect when this act becomes law. 97972

Section 612.15. The repeal by this act of sections 181.53, 97973
339.77, 742.36, 3301.31, 3301.33, 3301.34, 3301.35, 3301.36, 97974
3301.37, 3301.38, 3301.85, 3301.87, 3317.012, 3317.0212, and 97975
3317.0213 of the Revised Code is not subject to the referendum. 97976

Therefore, under Ohio Constitution, Article II, Section 1d and 97977
section 1.471 of the Revised Code, the repeals go into immediate 97978
effect when this act becomes law. 97979

Section 612.18. The sections of law amended, enacted, or 97980
repealed by this act that are listed in this section are not 97981
subject to the referendum. Therefore, under Ohio Constitution, 97982
Article II, Section 1d and section 1.471 of the Revised Code, the 97983
sections as amended, enacted, or repealed, and the items of law of 97984
which such sections as amended or enacted by this act are 97985
composed, go into effect as specified in this section. 97986

Sections 125.05, 140.01, 183.28, 3301.80, 3314.074, 3317.06, 97987
3317.50, 3317.51, 3319.22, 3319.235, 3323.021, 3353.01, 3353.02, 97988
3353.03, 3353.04, 3353.06, 3353.07, 3506.17, 3704.035, 3704.14, 97989
3704.142, 3704.143, 3704.17, 3704.99, 3721.01, 3721.19, 3721.50, 97990
3721.51, 3721.511, 3721.52, 3721.56, 3721.561, 3721.58, 3722.01, 97991
3722.02, 4117.24, 4503.103, 5111.041, 5111.042, 5111.20, 5111.21, 97992
5111.22, 5111.221, 5111.222, 5111.223, 5111.23, 5111.231 97993
(5111.232), 5111.235, 5111.24, 5111.241, 5111.242, 5111.243, 97994
5111.244, 5111.25, 5111.251, 5111.254, 5111.255, 5111.257 97995
(5111.258), 5111.26, 5111.261, 5111.262, 5111.263, 5111.264, 97996
5111.265, 5111.266, 5111.27, 5111.28, 5111.29, 5111.291, 5111.30, 97997
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5123.41, 5123.71, 5123.76, 5126.01, 5126.035, 5126.042, 5126.054, 98004
5126.055, 5126.056, 5126.057, 5126.12, 5552.01, and 5705.091 of 98005
the Revised Code take effect July 1, 2005. 98006

New sections 3353.02, 3353.03, 3704.14, 5111.231, 5111.24, 98007

5111.257, and 5123.048 of the Revised Code take effect July 1, 98008
2005. 98009

Section 612.21. The amendment or enactment by this act of 98010
sections 122.17, 122.171, 122.172, 122.173, 122.18, 140.08, 98011
150.07, 150.10, 319.302, 323.152, 325.31, 1548.06, 2921.13, 98012
2927.023, 4301.43, 4505.06, 5703.052, 5703.053, 5703.057, 5703.26, 98013
5703.50, 5703.70, 5703.99, 5707.031, 5709.112, 5711.16, 5711.21, 98014
5711.22, 5711.28, 5715.01, 5715.24, 5725.19, 5725.32, 5727.01, 98015
5727.02, 5727.031, 5727.06, 5727.08, 5727.10, 5727.11, 5727.111, 98016
5727.12, 5727.23, 5727.241, 5727.47, 5727.81, 5727.812, 5727.82, 98017
5727.99, 5728.01, 5728.02, 5728.03, 5728.04, 5728.06, 5728.08, 98018
5728.99, 5729.032, 5729.08, 5731.01, 5731.05, 5731.131, 5731.14, 98019
5731.18, 5731.181, 5731.41, 5731.99, 5733.01, 5733.33, 5733,351, 98020
5733.352, 5733.40, 5733.41, 5733.49, 5733.98, 5733.99, 5735.99, 98021
5737.03, 5739.025, 5739.034, 5739.035, 5739.10, 5739.99, 5741.99, 98022
5743.01, 5743.03, 5743.031, 5743.05, 5743.071, 5743.072, 5743.08, 98023
5743.10, 5743.111, 5743.112, 5743.14, 5743.15, 5743.16, 5743.18, 98024
5743.19, 5743.20, 5743.71, 5743.99, 5747.012, 5747.02, 5747.05, 98025
5747.056, 5747.08, 5747.212, 5747.331, 5747.80, 5747.98, 5747.99, 98026
5751.01, 5751.011, 5751.012, 5751.013, 5751.02, 5751.03, 5751.031, 98027
5751.032, 5751.033, 5751.04, 5751.05, 5751.051, 5751.06, 5751.07, 98028
5751.08, 5751.081, 5751.09, 5751.10, 5751.11, 5751.12, 5751.20, 98029
5751.21, 5751.22, 5751.23, 5751.31, 5751.50, 5751.51, 5751.52, 98030
5751.53, 5751.98, and 5751.99 of the Revised Code provides for or 98031
is essential to implementation of a tax levy. Therefore, under 98032
Ohio Constitution, Article II, Section 1d, the amendments and 98033
enactments, and the items of which they are composed, are not 98034
subject to the referendum and go into immediate effect when this 98035
act becomes law. 98036

Section 612.24. The repeal by this act of section 5731.20 of 98037
the Revised Code provides for or is essential to implementation of 98038

a tax levy. Therefore, under Ohio Constitution, Article II, 98039
Section 1d, the repeal is not subject to the referendum and goes 98040
into immediate effect when this act becomes law. 98041

Section 612.27. The amendment, enactment, or repeal by this 98042
act of the sections of law that are listed in this section 98043
provides for or is essential to implementation of a tax levy. 98044
Therefore, under Ohio Constitution, Article II, Section 1d, the 98045
amendments, enactments, and repeals, and the items of which any 98046
such amendment or enactment is composed, are not subject to the 98047
referendum and go into effect as specified in this section. 98048

Sections 5703.80, 5733.065, 5733.066, 5733.122, 5739.033, 98049
5739.12, 5743.02, 5743.32, and 5743.33 of the Revised Code take 98050
effect July 1, 2005. 98051

Sections 5739.012, 5739.021, 5739.026, 5739.03, 5739.16, and 98052
5741.16 of the Revised Code take effect January 1, 2006. 98053

Section 612.30. (A) Except as otherwise provided in division 98054
(B) of this section, the amendments by this act to section 127.16 98055
of the Revised Code are not subject to the referendum. Therefore, 98056
under Ohio Constitution, Article II, Section 1d and section 1.471 98057
of the Revised Code, the amendments take effect July 1, 2005. 98058

(B) The amendment to division (D)(2) of section 127.16 of the 98059
Revised Code is subject to the referendum. Therefore, under Ohio 98060
Constitution, Article II, Section 1c and section 1.471 of the 98061
Revised Code, the amendment takes effect October 1, 2005. If, 98062
however, a referendum petition is filed against the amendment, the 98063
amendment, unless rejected at the referendum, takes effect at the 98064
earliest time permitted by law that is on or after the effective 98065
date specified in this division. 98066

Section 612.31. (A) Except as otherwise provided in division 98067

(B) of this section, the amendments by this act to section 307.695 98068
of the Revised Code are subject to the referendum. Therefore, 98069
under Ohio Constitution, Article II, Section 1c and section 1.471 98070
of the Revised Code, the amendments go into effect on the 98071
ninety-first day after this act is filed with the Secretary of 98072
State. If, however, a referendum petition is filed against the 98073
amendments, the amendments, unless rejected at the referendum, 98074
take effect at the earliest time permitted by law. 98075

(B) The amendments to section 307.695 of the Revised Code 98076
relating to community improvement corporations provide for or are 98077
essential to implementation of a tax levy. Therefore, under Ohio 98078
Constitution, Article II, Section 1d, the amendments take effect 98079
July 1, 2005. 98080

Section 612.33. (A) Except as otherwise provided in division 98081
(B) of this section, the amendments by this act to section 321.24 98082
of the Revised Code provides for or is essential to implementation 98083
of a tax levy. Therefore, under Ohio Constitution, Article II, 98084
Section 1d, the amendments are not subject to the referendum and 98085
go into immediate effect when this act becomes law. 98086

(B) The amendment to division (F) of section 321.24 of the 98087
Revised Code provides for or is essential to implementation of a 98088
tax levy. Therefore, under Ohio Constitution, Article II, Section 98089
1d, the amendment takes effect July 1, 2005. 98090

Section 612.36. (A) Except as otherwise provided in division 98091
(B) of this section, the amendments by this act to section 329.04 98092
of the Revised Code are not subject to the referendum. Therefore, 98093
under Ohio Constitution, Article II, Section 1d and section 1.471 98094
of the Revised Code, the amendments go into immediate effect. 98095

(B) The amendments to divisions (A)(3) to (9) of section 98096
329.04 of the Revised Code are subject to the referendum. 98097

Therefore, under Ohio Constitution, Article II, Section 1c and 98098
section 1.471 of the Revised Code, the amendments take effect 98099
October 1, 2005. If, however, a referendum petition is filed 98100
against the amendments, the amendments, unless rejected at the 98101
referendum, take effect at the earliest time permitted by law that 98102
is on or after the effective date specified in this division. 98103

Section 612.36.03. (A) Except as otherwise provided in 98104
division (B) of this section, the amendments to section 3301.0711 98105
of the Revised Code are subject to the referendum. Therefore, 98106
under Ohio Constitution, Article II, Section 1c and section 1.471 98107
of the Revised Code, the amendments take effect July 1, 2006. If, 98108
however, a referendum petition is filed against the amendments, 98109
the amendments, unless rejected at the referendum, take effect at 98110
the earliest time permitted by law that is on or after the 98111
effective date specified in this division. 98112

(B) The amendments to division (N) of section 3301.0711 of 98113
the Revised Code are not subject to the referendum. Therefore, 98114
under Ohio Constitution, Article II, Section 1d and section 1.471 98115
of the Revised Code, the amendments go into immediate effect. 98116

Section 612.37. (A) Except as otherwise provided in division 98117
(B) of this section, the amendments to section 3314.02 of the 98118
Revised Code are subject to the referendum. Therefore, under Ohio 98119
Constitution, Article II, Section 1c and section 1.471 of the 98120
Revised Code, the amendments go into effect on the ninety-first 98121
day after this act is filed with the Secretary of State. If, 98122
however, a referendum petition is filed against the amendments, 98123
the amendments, unless rejected at the referendum, take effect at 98124
the earliest time permitted by law. 98125

(B) The amendment striking the paragraph immediately 98126
following division (C)(1)(f)(iii) of section 3314.02 of the 98127

Revised Code is not subject to the referendum. Therefore, under 98128
Ohio Constitution, Article II, Section 1d and section 1.471 of the 98129
Revised Code, the amendment goes into immediate effect when this 98130
act becomes law. 98131

Section 612.38. (A) Except as otherwise provided in division 98132
(B) of this section, the amendments by this act to section 3314.03 98133
of the Revised Code are not subject to the referendum. Therefore, 98134
under Ohio Constitution, Article II, Section 1d and section 1.471 98135
of the Revised Code, the amendments go into immediate effect. 98136

(B) The amendment to division (A)(4) and the amendments 98137
adding divisions (A)(25) and (F) of section 3314.03 of the Revised 98138
Code are subject to the referendum. Therefore, under Ohio 98139
Constitution, Article II, Section 1c and section 1.471 of the 98140
Revised Code, the amendments take effect on the ninety-first day 98141
after this act is filed with the Secretary of State. If, however, 98142
a referendum petition is filed against the amendments, the 98143
amendments, unless rejected at the referendum, take effect at the 98144
earliest time permitted by law. 98145

Section 612.38.03. (A) Except as otherwise provided in 98146
division (B) of this section, the amendments by this act to 98147
section 3314.08 of the Revised Code are not subject to the 98148
referendum. Therefore, under Ohio Constitution, Article II, 98149
Section 1d and section 1.471 of the Revised Code, the amendments 98150
go into immediate effect. 98151

(B) The amendments to division (N) of section 3314.08 of the 98152
Revised Code are subject to the referendum. Therefore, under Ohio 98153
Constitution, Article II, Section 1c and section 1.471 of the 98154
Revised Code, the amendments take effect on the ninety-first day 98155
after this act is filed with the Secretary of State. If, however, 98156
a referendum petition is filed against the amendments, the 98157

amendments, unless rejected at the referendum, take effect at the 98158
earliest time permitted by law. 98159

Section 612.39. (A) Except as otherwise provided in division 98160
(B) of this section, the amendments by this act to section 98161
3317.024 of the Revised Code are not subject to the referendum. 98162
Therefore, under Ohio Constitution, Article II, Section 1d and 98163
section 1.471 of the Revised Code, the amendments go into 98164
immediate effect. 98165

(B) The amendment to division (J) of section 3317.024 of the 98166
Revised Code is subject to the referendum. Therefore, under Ohio 98167
Constitution, Article II, Section 1c and section 1.471 of the 98168
Revised Code, the amendment takes effect on the ninety-first day 98169
after this act is filed with the Secretary of State. If, however, 98170
a referendum petition is filed against the amendment, the 98171
amendment, unless rejected at the referendum, takes effect at the 98172
earliest time permitted by law. 98173

Section 612.45. (A) Except as otherwise provided in division 98174
(B) of this section, the amendments by this act to section 3702.51 98175
of the Revised Code are not subject to the referendum. Therefore, 98176
under Ohio Constitution, Article II, Section 1d and section 1.471 98177
of the Revised Code, the amendments go into immediate effect. 98178

(B) The amendment to division (G)(10) of section 3702.51 of 98179
the Revised Code is not subject to the referendum. Therefore, 98180
under Ohio Constitution, Article II, Section 1d and section 1.471 98181
of the Revised Code, the amendments take effect July 1, 2005. 98182

Section 612.48. (A) Except as otherwise provided in division 98183
(B) of this section, the amendments to section 5101.35 of the 98184
Revised Code are subject to the referendum. Therefore, under Ohio 98185
Constitution, Article II, Section 1c and section 1.471 of the 98186

Revised Code, the amendments take effect on the ninety-first day 98187
after this act is filed with the Secretary of State. If, however, 98188
a referendum petition is filed against the amendments, the 98189
amendments, unless rejected at the referendum, take effect at the 98190
earliest time permitted by law. 98191

(B) The amendment by this act to division (A)(3) of section 98192
5101.35 of the Revised Code adding a reference to "5101.461" is 98193
not subject to the referendum. Therefore, under Ohio Constitution, 98194
Article II, Section 1d and section 1.471 of the Revised Code, the 98195
amendment goes into immediate effect. 98196

Section 612.54. (A) Except as otherwise provided in division 98197
(B) of this section, the amendments to section 5111.02 (5111.021) 98198
of the Revised Code are subject to the referendum. Therefore, 98199
under Ohio Constitution, Article II, Section 1c and section 1.471 98200
of the Revised Code, the amendments take effect October 1, 2005. 98201
If, however, a referendum petition is filed against the 98202
amendments, the amendments, unless rejected at the referendum, 98203
take effect at the earliest time permitted by law that is on or 98204
after the effective date specified in this division. 98205

(B) The amendment by this act to division (B) of section 98206
5111.02 (5111.021) of the Revised Code striking the last sentence 98207
of that division (B) is not subject to the referendum. Therefore, 98208
under Ohio Constitution, Article II, Section 1d and section 1.471 98209
of the Revised Code, the amendment takes effect July 1, 2005. 98210

Section 612.57. (A) Except as otherwise provided in division 98211
(B) of this section, the amendments to section 5111.06 of the 98212
Revised Code are subject to the referendum. Therefore, under Ohio 98213
Constitution, Article II, Section 1c and section 1.471 of the 98214
Revised Code, the amendments go into effect on October 1, 2005. 98215
If, however, a referendum petition is filed against the 98216

amendments, the amendments, unless rejected at the referendum, 98217
take effect at the earliest time permitted by law that is on or 98218
after the effective date specified in this division. 98219

(B) The amendment to division (A)(1) of section 5111.06 of 98220
the Revised Code that inserts a reference to section 5111.061 of 98221
the Revised Code is not subject to the referendum. Therefore, 98222
under Ohio Constitution, Article II, Section 1d and section 1.471 98223
of the Revised Code, the amendment goes into immediate effect when 98224
this act becomes law. 98225

Section 612.63. (A) Except as otherwise provided in division 98226
(B) of this section, the amendment renumbering section 5111.88 as 98227
section 5111.97 of the Revised Code is subject to the referendum. 98228
Therefore, under Ohio Constitution, Article II, Section 1c and 98229
section 1.471 of the Revised Code, the renumbering amendment takes 98230
effect October 1, 2005. If, however, a referendum petition is 98231
filed against the renumbering amendment, the renumbering 98232
amendment, unless rejected at the referendum, takes effect at the 98233
earliest time permitted by law that is on or after the effective 98234
date specified in this division. 98235

(B) The amendment to division (B)(2) of section 5111.88 98236
(5111.97) of the Revised Code striking "eighteen" and inserting 98237
"twelve" is not subject to the referendum. Therefore, under Ohio 98238
Constitution, Article II, Section 1d and section 1.471 of the 98239
Revised Code, the amendment goes into immediate effect when this 98240
act becomes law. 98241

Section 612.66. (A) Except as otherwise provided in division 98242
(B) of this section, the amendments to section 5727.84 of the 98243
Revised Code provide for or are essential to implementation of a 98244
tax levy. Therefore, under Ohio Constitution, Article II, Section 98245
1d, the amendments go into immediate effect when this act becomes 98246

law. 98247

(B) The amendments striking divisions (B)(6) and (7) and 98248
(C)(3) from section 5727.84 of the Revised Code are subject to the 98249
referendum. Therefore, under Ohio Constitution, Article II, 98250
Section 1c and section 1.471 of the Revised Code, the amendments 98251
take effect on the ninety-first day after this act is filed with 98252
the Secretary of State. If, however, a referendum petition is 98253
filed against the amendments, the amendments, unless rejected at 98254
the referendum, take effect at the earliest time permitted by law. 98255

Section 612.69. (A) Except as otherwise provided in division 98256
(B) of this section, the amendments to section 5727.85 of the 98257
Revised Code are not subject to the referendum. Therefore, under 98258
Ohio Constitution, Article II, Section 1d and section 1.471 of the 98259
Revised Code, the amendments go into immediate effect when this 98260
act becomes law. 98261

(B) The amendments to section 5727.85 of the Revised Code 98262
that insert new language into division (F), strike "February" and 98263
insert "May," strike divisions (G) and (H) and the two unlettered 98264
paragraphs following, insert new division (H), and add an internal 98265
cross-reference to division (F) of the section are subject to the 98266
referendum. Therefore, under Ohio Constitution, Article II, 98267
Section 1c and section 1.471 of the Revised Code, the amendments 98268
take effect on the ninety-first day after this act is filed with 98269
the Secretary of State. If, however, a referendum petition is 98270
filed against the amendments, the amendments, unless rejected at 98271
the referendum, take effect at the earliest time permitted by law. 98272

Section 612.69.03. The amendments by this act to section 98273
5739.01 of the Revised Code provide for or are essential to 98274
implementation of a tax levy. Therefore, under Ohio Constitution, 98275
Article II, Section 1d, the amendments are not subject to the 98276

referendum and go into immediate effect when this act becomes law. 98277
However, the amendment to divisions (HHH) and (III) of the section 98278
goes into effect July 1, 2005, and the amendments to division 98279
(H)(1)(a)(vi), adding a new division (H)(1)(b), and adding a new 98280
division (H)(1)(c)(iv) of the section go into effect January 1, 98281
2006. 98282

Section 612.69.06. The amendments by this act to section 98283
5739.02 of the Revised Code provide for or are essential to 98284
implementation of a tax levy. Therefore, under Ohio Constitution, 98285
Article II, Section 1d, the amendments are not subject to the 98286
referendum and go into immediate effect when this act becomes law. 98287
However, the amendment to division (B)(18) of the section goes 98288
into effect July 1, 2005. 98289

Section 612.69.09. (A) Except as otherwise provided in 98290
division (B) of this section, the amendments by this act to 98291
section 5739.17 of the Revised Code are not subject to the 98292
referendum. Therefore, under Ohio Constitution, Article II, 98293
Section 1d and section 1.471 of the Revised Code, the amendments 98294
take effect on July 1, 2005. 98295

(B) The amendments to division (C) of section 5739.17 of the 98296
Revised Code provide for or are essential to implementation of a 98297
tax levy. Therefore, under Ohio Constitution, Article II, Section 98298
1d, the amendments are not subject to the referendum and go into 98299
immediate effect when this act becomes law. 98300

Section 612.69.12. The amendments by this act to section 98301
5741.02 of the Revised Code provide for or are essential to 98302
implementation of a tax levy. Therefore, under Ohio Constitution, 98303
Article II, Section 1d, the amendments are not subject to the 98304
referendum and go into immediate effect when this act becomes law. 98305

However, the amendment to division (E) of the section goes into 98306
effect January 1, 2006. 98307

Section 612.72. (A) Except as otherwise provided in division 98308
(B) of this section, the amendments by this act to section 5747.01 98309
of the Revised Code provides for or is essential to implementation 98310
of a tax levy. Therefore, under Ohio Constitution, Article II, 98311
Section 1d, the amendments are not subject to the referendum and 98312
go into immediate effect when this act becomes law. 98313

(B) The amendment to division (A)(10) of section 5747.01 of 98314
the Revised Code is subject to the referendum. Therefore, under 98315
Ohio Constitution, Article II, Section 1c and section 1.471 of the 98316
Revised Code, the amendment takes effect on the ninety-first day 98317
after this act is filed with the Secretary of State. If, however, 98318
a referendum petition is filed against the amendment, the 98319
amendment, unless rejected at the referendum, takes effect at the 98320
earliest time permitted by law. 98321

Section 615.03. Except as otherwise specifically provided in 98322
this act, the uncodified sections of law amended or enacted in 98323
this act, and the items of law of which the uncodified sections of 98324
law amended or enacted in this act are composed, are not subject 98325
to the referendum. Therefore, under Ohio Constitution, Article II, 98326
Section 1d and section 1.471 of the Revised Code, the uncodified 98327
sections of law amended or enacted in this act, and the items of 98328
law of which the uncodified sections of law amended or enacted in 98329
this act are composed, go into immediate effect when this act 98330
becomes law. 98331

Section 615.06. Uncodified sections of law amended or enacted 98332
in this act, and items of law contained within the uncodified 98333
sections of law amended or enacted in this act, that are marked 98334

with an asterisk are subject to the referendum. Therefore, under 98335
Ohio Constitution, Article II, Section 1c and section 1.471 of the 98336
Revised Code, the uncodified sections and items of law marked with 98337
an asterisk take effect on the ninety-first day after this act is 98338
filed with the Secretary of State. If, however, a referendum 98339
petition is filed against an uncodified section or item of law 98340
marked with an asterisk, the uncodified section or item of law 98341
marked with an asterisk, unless rejected at the referendum, takes 98342
effect at the earliest time permitted by law. 98343

If the amending and existing repeal clauses commanding the 98344
amendment of an uncodified section of law are both marked with 98345
asterisks, the uncodified section as amended is deemed also to 98346
have been marked with an asterisk. 98347

An asterisk marking an uncodified section or item of law has 98348
the form *. 98349

This section defines the meaning and form of, but is not 98350
itself to be considered marked with, an asterisk. 98351

Section 615.90. If the amendment or enactment in this act of 98352
a codified or uncodified section of law is subject to the 98353
referendum, the corresponding indications in the amending, 98354
enacting, or existing repeal clauses commanding the amendment or 98355
enactment also are subject to the referendum, along with the 98356
amendment or enactment. If the amendment or enactment by this act 98357
of a codified or uncodified section of law is not subject to the 98358
referendum, the corresponding indications in the amending, 98359
enacting, or existing repeal clauses commanding the amendment or 98360
enactment also are not subject to the referendum, the same as the 98361
amendment or enactment. 98362

Section 618.03. The amendment of sections 5112.03 and 5112.08 98363
of the Revised Code are not intended to supersede the earlier 98364

repeal, with delayed effective date, of those sections.	98365
Section 618.06. The General Assembly, applying the principle	98366
stated in division (B) of section 1.52 of the Revised Code that	98367
amendments are to be harmonized if reasonably capable of	98368
simultaneous operation, finds that the following sections,	98369
presented in this act as composites of the sections as amended by	98370
the acts indicated, are the resulting versions of the sections in	98371
effect prior to the effective date of the sections as presented in	98372
this act:	98373
Section 122.74 of the Revised Code as amended by both Am.	98374
Sub. H.B. 356 and Am. Sub. S.B. 310 of the 121st General Assembly.	98375
Section 124.26 of the Revised Code as amended by both Am.	98376
Sub. H.B. 117 and Am. Sub. S.B. 99 of the 121st General Assembly.	98377
Section 307.37 of the Revised Code as amended by both Am.	98378
Sub. H.B. 175 and Sub. H.B. 231 of the 125th General Assembly.	98379
Section 307.86 of the Revised Code as amended by both Am.	98380
Sub. H.B. 11 and Sub. H.B. 230 of the 125th General Assembly.	98381
Section 2151.86 of the Revised Code as amended by both Am.	98382
Sub. H.B. 106 and Am. Sub. H.B. 117 of the 125th General Assembly.	98383
Section 2921.13 of the Revised Code as amended by Am. Sub.	98384
H.B. 12, Am. Sub. H.B. 95, and Am. Sub. H.B. 311 of the 125th	98385
General Assembly.	98386
Section 3314.03 of the Revised Code as amended by both Am.	98387
Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly.	98388
Section 3317.023 of the Revised Code as amended by both Am.	98389
Sub. H.B. 3 and Am. Sub. H.B. 95 of the 125th General Assembly.	98390
Section 3317.026 of the Revised Code as amended by both Sub.	98391
H.B. 129 and Sub. S.B. 200 of the 124th General Assembly.	98392
Section 3704.035 of the Revised Code as amended by both Am.	98393

Sub. S.B. 18 and Am. Sub. S.B. 153 of the 120th General Assembly.	98394
Section 4503.571 of the Revised Code as amended by both Am.	98395
Sub. S.B. 120 and Am. Sub. S.B. 232 of the 123rd General Assembly.	98396
Section 5739.01 of the Revised Code as amended by both Am.	98397
Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.	98398
Section 5739.02 of the Revised Code as amended by both Am.	98399
Sub. H.B. 95 and Am. Sub. S.B. 37 of the 125th General Assembly.	98400
Section 5739.99 of the Revised Code as amended by both Am.	98401
Sub. S.B. 143 and Sub. S.B. 200 of the 124th General Assembly.	98402
Section 5741.02 of the Revised Code as amended by Am. Sub.	98403
H.B. 95, Am. Sub. S.B. 37, and Sub. S.B. 47 of the 125th General	98404
Assembly.	98405
Section 5743.03 of the Revised Code as amended by both Am.	98406
Sub. S.B. 242 and Am. Sub. S.B. 261 of the 124th General Assembly.	98407
Section 5743.99 of the Revised Code as amended by both Am.	98408
Sub. S.B. 123 and Am. Sub. S.B. 242 of the 124th General Assembly.	98409
Section 6121.04 of the Revised Code as amended by both Sub.	98410
H.B. 601 and Am. Sub. H.B. 628 of the 123rd General Assembly.	98411